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REGISTER

IN THIS ISSUE "INDEX OF PROPOSED RULES"

VOLUME 15 NUMBER 14
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(Includes rules filed through July 1, 1983)

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The New Jersey Register supplements the New Jersey Administrative Code. To complete your research of the latest State agency rule changes, see the Rule Adoptions in This Issue, the Rule Adoptions in the July 5 issue, and the Index of Adopted Rules beginning on Page 1118 of that issue.

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RULE PROPOSALS

BANKING

(a)

DIVISION OF CONSUMER COMPLAINTS, LEGAL AND ECONOMIC RESEARCH

Home Mortgage Disclosure

Proposed Readoption: N.J.A.C. 3:1-9

Authorized By: Michael M. Horn, Commissioner,
Department of Banking.
Authority: N.J.S.A. 17:16F-11.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Dominick A. Mazzagetti, Deputy
Commissioner
Department of Banking
Division of Banking
CN 040
Trenton, NJ 08625

The Department of Banking thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on September 1, 1983. The readoption of these becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of their readoption.

This proposal is known as PRN 1983-352.

The agency proposal follows:

Summary

The Department of Banking proposes to readopt its antiredlining rules (N.J.A.C. 3:1-9). The rules are scheduled to expire on September 1, 1983 pursuant to Executive Order No. 66.

The Home Mortgage Disclosure rules were originally adopted on

August 21, 1977 to implement and enforce the Antiredlining Act (P.L. 1977, c.1; N.J.S.A. 17:16F-1 et seq.). Section 11 of that Act specifically empowers and authorizes the Commissioner of Banking to promulgate regulations as he may deem necessary for the proper operation and enforcement of the Act.

The antiredlining statutes and rules prohibit geographic discrimination in mortgage and home improvement lending decisions. They also provide for the periodic disclosure and reporting of pertinent data by New Jersey depository institutions to permit monitoring of lending practices for compliance with the substantive requirements of the Act and the rules.

Geographic discrimination by intent or in effect persists into the present as an objective condition, resulting in deteriorating housing opportunities, especially in New Jersey's urban areas. Although Federal laws have been enacted since to encourage community reinvestment and fair lending, they do not specifically prohibit geographic discrimination. Therefore, the extended reporting and disclosure requirements of the regulations are necessary, and have been proven effective as a means of enforcing the Act.

New Jersey State-chartered depositories have enjoyed an exemption from compliance with the Home Mortgage Disclosure Act of 1975 and Federal Reserve Board Regulation C, under a ruling by the Board of Governors of the Federal Reserve System, because the Department's rules were found to be consistent with those of Federal law and regulation. This ruling was reaffirmed in November 1982.

The rules have proven to be a reasonable and efficient means of implementing and enforcing the Antiredlining statute. Their readoption is, therefore, deemed to be in the public interest.

Effective March 21, 1983, the Department of Banking adopted changes in the data compilation and filing requirements of N.J.A.C. 3:1-9.4 through 9.8 (see 15 N.J.R. 439(b)). As a result of these changes certain sections were substantially revised, while others were only renumbered. In order to clarify the current rules, they are briefly outlined below.

N.J.A.C. 3:1-9.1 states the authority and scope of the rules. The rules are specifically authorized by P.L. 1977, c.1; N.J.S.A. 17:16F-1 et seq. They apply to depository institutions that make mortgage loans and home improvement loans.

N.J.A.C. 3:1-9.2 is the definitional section of the rules.

N.J.A.C. 3:1-9.3 lists the exemptions to the requirements of the rules.

N.J.A.C. 3:1-9.4 concerns the compilation of mortgage loan and home improvement loan data. This section was substantially re-

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vised in 1983 by eliminating the compilation of additional data that had previously been filed with the Department. The data now filed are only those which are specifically required by State and Federal law.

N.J.A.C. 3:1-9.5 concerns public disclosure of the mortgage loan disclosure statements. The data must be compiled pursuant to the revised N.J.A.C. 3:1-9.4 and be made available to the public within 90 days of the end of the calendar year during which the data were compiled.

N.J.A.C. 3:1-9.6 sets out the filing requirements for the mortgage loan data. Quarterly reports to the Department are required by N.J.S.A. 17:16F-6. Filing of the annual disclosure statement with the Department is required in order to maintain the exemption from Federal law.

N.J.A.C. 3:1-9.7 through N.J.A.C. 3:1-9.17 concern violations of the Act, powers of the Commissioner, show cause orders, hearing procedures and other miscellaneous matters. The contents of these sections were previously found in N.J.A.C. 3:1-9.9 through N.J.A.C. 3:1-9.21. There have been no substantive changes, only minor revisions and renumberings resulting from the changes made in N.J.A.C. 3:1-9.4 through 9.8.

Social Impact

The Home Mortgage Disclosure rules improve the flow of private mortgage and home improvement funds, especially into urban areas. Because of the socio-economic composition of the urban population, re-adoption will lead to greater social equality in access to these funds.

The rules also provide for greater protection of New Jersey citizens against certain arbitrary credit decisions than comparable Federal laws. Its social impact is, therefore, positive.

Economic Impact

Re-adoption of N.J.A.C. 3:1-9 will not impose an undue economic burden on the depository institutions being regulated. Failure to re-adopt, on the other hand, would not reduce compliance costs substantially, because State-chartered institutions would most likely lose the exemption from compliance with Federal law and regulation they currently enjoy.

Full text of the proposed re-adoption can be found in the New Jersey Administrative Code at N.J.A.C. 3:1-9, as amended in the New Jersey Register.

(a)

DIVISION OF ADMINISTRATION

Revolving Credit Equity Loans

Proposed New Rule: N.J.A.C. 3:1-14

Authorized By: Michael M. Horn, Commissioner,
 Department of Banking.
 Authority: N.J.S.A. 17:9A-24(a), 17:9A-24(b), 17:9A-25.2, 17:12B-155I, and 17:12B-48(21).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Dominick Mazzagetti, Deputy
 Commissioner
 Department of Banking
 Division of Administration
 CN 040
 Trenton, NJ 08625

The Department of Banking thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-359.

The agency proposal follows:

Summary

The purpose of this rule is to authorize banks, savings banks and savings and loan associations to make "revolving credit equity loans" which are secured by liens on real property. A revolving loan agreement may permit a borrower to obtain advances for himself or herself or on behalf of others. The amount of the advance and permitted interest and/or insurance charges are debited to the borrowers account and payments and credits are credited to the same account. Interest is to be computed on the unpaid principal balance and the borrower has the privilege of paying the account in full at any time.

If an agreement governing a "revolving credit equity loan" so provides the terms of the agreement may be changed, at any time including those governing the periodic interest rate, the calculation of interest, or the method of computing the required periodic installment payment. However, the periodic interest rate cannot be changed more than once in each billing cycle nor can the minimum installment payment be less than 1/240 of the outstanding principal balance plus accrued interest at the end of the billing cycle. A change that has the effect of increasing the interest rate or other charges requires the mailing or delivery to the borrower, by the lender of a written notice of such changes at least 15 days before the effective date of the change.

No interest can be paid, deducted or received in advance nor can interest be compounded. Interest can only be computed on the unpaid principal balance except for interest due but unpaid that may be considered part of the unpaid principal balance. In addition, interest can only be charged for the actual number of days elapsed at a daily rate of 1/365th of the yearly rate. In accordance with the agreement between the bank, savings bank, or savings and loan association and the borrower interest may be computed in each billing cycle using one of three alternative methods.

Social Impact

The proposed rule will affect all banks, savings banks and savings and loan associations located in this State by helping to preserve the dual banking system. Additionally the proposed rule affects those borrowers, especially senior citizens, with little collateral other than the equity in their homes with which to secure a loan.

Economic Impact

The economic impact to the public will be beneficial due to the increased amount of funds that will be available to the citizens of the State. For example: senior citizens will be able to gain access to the equity in their homes; parents can use such funds to finance their childrens education; and homeowners can improve their homes on a more flexible basis. Authority to make revolving credit equity loans will enable State-chartered banks, savings banks and savings and loan associations to compete effectively with Federally-chartered institutions.

Full text of the proposed new rule follows.

SUBCHAPTER 14. REVOLVING CREDIT EQUITY LOANS

3:1-14.1 Authorization

A bank, savings bank or savings and loan association shall have authority to make loans secured by a lien on real estate which shall be known as a "Revolving Credit Equity Loan" and may charge, contract for and receive thereon interest at a rate or rates agreed to by the bank, savings bank or savings and loan association and the borrower.

3:1-14.2 Revolving credit equity loan agreement

(a) A revolving credit equity loan shall be made pursuant to an agreement between the bank, savings bank or savings and loan association and the borrower whereby:

1. The bank, savings bank or savings and loan association may permit the borrower to obtain advances of money from the bank, savings bank or savings and loan association from time to time or the bank, savings bank or savings and loan association may advance money on behalf of the borrower from time to time as directed by the borrower;

2. The amount of each advance and permitted interest charges and/or insurance charges are debited to the borrower's account and payments and other credits are credited to the same account;

3. Interest is computed on the unpaid principal balance of the account from time to time; and

4. The borrower has the privilege of paying the account in full at any time or, if the account is not in default, in monthly installments of fixed or determinable amounts as provided in the agreement.

3:1-14.3 Terms of agreement

(a) If an agreement governing a revolving credit equity loan so provides:

1. The bank, savings bank or savings and loan association may at any time or from time to time change the terms of the agreement, including the terms governing the periodic interest rate, the calculation of interest, or the method of computing the required amount of periodic installment payments, provided however, that the periodic interest rate shall not be changed more than once in each billing cycle nor shall the minimum installment payment be less than 1/240 of the outstanding principal balance due plus interest accrued at the end of the billing cycle.

2. The bank, savings bank or savings and loan association may apply any changes made pursuant to (a)1 above to all then outstanding unpaid indebtedness in the borrower's account including any indebtedness which shall have arisen from advances obtained prior to the effective date of the change of the periodic interest rates or required minimum periodic installment.

3:1-14.4 Notification of changes

The bank, savings bank or savings and loan association shall notify each affected borrower or any change in the manner set forth in the agreement governing the plan and in compliance with the requirements of the Truth in Lending act and regulations promulgated thereunder, as in effect from time to time, if applicable; provided, however, that if such change has the effect of increasing the interest rate or other charges to be paid by the borrower, the bank, savings bank or savings and loan association shall mail or deliver to the borrower at least 15 days before the effective date of the change a clear and conspicuous written notice which shall describe the change and the existing term or terms of the agreement affected by the change and shall also set forth the effective date and an explanation, if necessary, of the change.

3:1-14.5 Interest

No interest shall be paid, deducted or received in advance. Interest shall not be compounded and shall be computed only on unpaid principal balances, except that interest due but unpaid may be considered part of the unpaid principal balance. For purposes of

computing interest all installment payments shall be applied no later than the next business day after the date of receipt at the designated office or offices of the bank, savings bank or savings and loan association as set forth in the agreement, and interest shall be charged for the actual number of days elapsed at a daily rate of 1/365th of the yearly rate.

3:1-14.6 Methods of computing interest

(a) Interest may be computed in each billing cycle by any of the following methods, in accordance with the agreement between the bank, savings bank or savings and loan association and the borrower;

1. By converting each yearly rate to a daily rate and multiplying such daily rate by the applicable portion of the daily unpaid principal balance of the account, in which case each daily rate is determined by dividing each yearly rate by 365; or

2. By multiplying 1/12th of each yearly rate by the applicable portion of the average daily unpaid principal balance of the account in the billing cycle, in which case the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycles; or

3. By converting each yearly rate to a daily rate and multiplying such daily rate by the number of days in the billing cycle and then multiplying by the applicable portion of the average daily unpaid principal balance of the account in the billing cycle, in which case each daily rate is determined by dividing each yearly rate by 365, and the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle.

(b) For all the methods of computation in (a)1-3 above, the billing cycle shall be monthly (except that a month may vary from 27 to 35 days) and the unpaid principal balance on any day shall be determined by addition to any balance unpaid as of the beginning of that day all advances, past due interest, and other permissible amounts charged to the borrower and deducting all payments and other credits made or received that day.

OFFICE OF ADMINISTRATIVE LAW NOTE: These rules concerning revolving credit equity loans are currently in effect on an emergency basis. See the July 5, 1983 Register for the notice of emergency adoption.

CIVIL SERVICE

(a)

CIVIL SERVICE COMMISSION

Commission Review and Appeals
Hearing Rules

Proposed Readoption as New Rule: N.J.A.C.

4:1-5

Proposed Repeal: N.J.A.C. 4:1-5, 4:2-5, 4:3-5

Authorized By: Civil Service Commission, Peter J. Calderone, Assistant Commissioner.

Authority: N.J.S.A. 11:1-11, 11:1-12, 11:1-25, 11:1-26, 11:1-27, 11:2A-1, 11:5-1, 11:15-2, 11:15-4, 11:15-6, 11:22-38.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983.

These submissions, and any inquiries about submissions and responses, should be addressed to:

Peter J. Calderone
 Assistant Commissioner
 Department of Civil Service
 CN 312
 Trenton, NJ 08625

The Civil Service Commission thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on September 25, 1983. The new rule and the repeal become effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-346.

The agency proposal follows:

Summary

In accordance with the "sunset" provisions of Executive Order 66(1978), the Civil Service Commission has reviewed the rules codified at N.J.A.C. 4:1-5, 4:2-5 and 4:3-5 which regulate the hearing process at both the departmental and Commission level. N.J.A.C. 4:1-5 sets forth the time period for filing appeals as well as the procedures to be followed by hearing officers appointed by the Commission to conduct disciplinary hearings. After reviewing these rules, the Commission proposes to delete all rules concerning the conduct of hearings by appointed hearing officers and proposes new regulations to comport with the statute creating the Office of Administrative Law, N.J.S.A. 52:14F-1 et seq. The proposal includes rules concerning the issuance of initial decisions by Administrative Law Judges within 45 days of conclusion of the hearing and the prescribed time periods for filing exceptions and cross-exceptions. Further, the Commission is proposing rules to govern hearings which it may conduct as a body or by one of the Commission members.

Presently, N.J.A.C. 4:2-5 and 4:3-5 also concern hearings conducted by hearing officers and rules which specifically govern the conduct of departmental hearings. As noted above, rules dealing with hearing officers have been proposed for deletion since such matters are no longer required due to the creation of the Office of Administrative Law. Since the rules governing departmental hearings are applicable to all Civil Service employees, the Commission is proposing to completely repeal these sections and incorporate them into proposed N.J.A.C. 4:1-5.

Proposed N.J.A.C. 4:1-5.1 sets forth the time period during which petitions for all types of appeals must be filed with the Civil Service Commission.

Proposed N.J.A.C. 4:1-5.2 sets forth the types of appeals considered by the Civil Service Commission. Such appeals must be filed with the Commission within 20 days of notice of the adverse action, as provided for in proposed N.J.A.C. 4:1-5.1. Additionally, subsection (c) codifies the Commission's standard for reviewing minor disciplinary actions in State service.

Proposed N.J.A.C. 4:1-5.3 concerns the filing of Requests for Hearings with the Commission and the granting of such requests. Further, this rule requires that such petitions be made in writing setting forth the basis of the appeal and the relief requested.

Proposed N.J.A.C. 4:1-5.4 sets forth the manner in which hearings will be held which are conducted either by the Commission, a member of the Commission or an Administrative Law Judge. Moreover, the procedure and time requirements which must be met for the filing of exceptions and cross-exceptions are set forth. Currently, these provisions are found in N.J.A.C. 4:1-5.6.

Proposed N.J.A.C. 4:1-5.5, Awarding Back Pay, is currently found in N.J.A.C. 4:1-5.17 and is being readopted in section 5.5 with changes to reflect the fact that the Commission will render the final determination in appeals.

Proposed N.J.A.C. 4:1-5.6, Awarding Reasonable Counsel Fees, is currently found in N.J.A.C. 4:1-5.16 and is being moved

to section 5.6. This section is being modified to provide for an award of counsel fees in appeals where the Commission finds that an appointing authority has acted in bad faith when imposing a reduction in force. Authority for this modification is found in N.J.S.A. 11:15-6 and 11:22-38 and has been the Commission's longstanding administrative practice in such matters.

Proposed N.J.A.C. 4:1-5.7 regulates the review of disciplinary actions against employees who have criminal charges pending against them. These provisions are presently found in and are similar to N.J.A.C. 4:2-5.3 and 4:3-5.3, which are proposed for deletion.

Proposed N.J.A.C. 4:1-5.8, which concerns subpoenas, is proposed as a separate section. Currently, this provision is found in N.J.A.C. 4:1-5.8(a) 2.

Proposed N.J.A.C. 4:1-5.9, Adjournments, sets forth the method to request an adjournment of a Commission hearing or review as well as requiring that such requests be accompanied by good and sufficient reasons. Authority for this rule is found in N.J.S.A. 11:1-25, 11:1-26 and 11:1-27.

Proposed N.J.A.C. 4:1-5.10 sets forth which party has the burden of proof in appeals pending before the Civil Service Commission. Currently, the rule concerning the burden of proof is codified at N.J.A.C. 4:1-5.10(a)6. This provision is being proposed as a separate rule because of its importance.

Proposed N.J.A.C. 4:1-5.11 concerns the process to be followed when seeking Interim Relief before the Civil Service Commission. Presently, there is no such provision, however the Commission has the authority to review matters which are currently pending before it to determine whether any modification of the status quo is required. These proposed rules will clearly instruct parties in such matters.

Proposed N.J.A.C. 4:1-5.12 sets forth the procedure to be followed and the requirements which must be satisfied when requesting reconsideration of a Commission decision. This section codifies longstanding administrative practice in this area.

Proposed N.J.A.C. 4:1-5.13 concerning Public Hearings is currently found in N.J.A.C. 4:1-5.14 and is being readopted.

Proposed N.J.A.C. 4:1-5.14, Compliance with order, is currently found in N.J.A.C. 4:1-5.12 and is being readopted without any substantive changes.

Social Impact

Proposed Subchapter 5 concerns the Civil Service appeal process and will clearly inform affected employers and employees of the appeal process. Moreover, the substance of the present rules is consolidated in clear language under the proposal. The proposal also reflects changes in the law and the development of the Office of Administrative Law.

Economic Impact

Since the proposal reflects current procedure there is no economic impact.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 4:1-5, as amended in the New Jersey Register, 4:2-5 and 4:3-5.

Full text of the proposed new rules follows:

SUBCHAPTER 5. COMMISSION REVIEW AND APPEALS

4:1-5.1 Time limitations

(a) In appeals concerning disciplinary actions set forth in N.J.A.C. 4:1-5.2(a)1, 2 and 3, the affected employee must be served with a Preliminary Notice of Disciplinary Action setting forth the charges.

1. The employee may request a departmental hearing within 10 days of receipt of the Notice. If no request is made within this time, the departmental hearing will be considered to have been waived

and the appointing authority may then issue a Final Notice of Disciplinary Action.

2. In cases where a departmental hearing is requested, such hearing shall be held within 30 days of the request unless adjourned by consent of the parties or stayed pending a criminal complaint or indictment pursuant to N.J.A.C. 4:1-5.7. Within 20 days of the hearing, the appointing authority shall make a final disposition of the charges and furnish the employee either by personal service or certified mail with a Final Notice of Disciplinary Action.

3. An employee may file an appeal with the Civil Service Commission from a Final Notice of Disciplinary Action for a hearing as set forth in N.J.A.C. 4:1-5.2 and 4:1-5.3 within 20 days of receipt of the Notice. If the appointing authority fails to provide the employee with a Final Notice of Disciplinary Action, an appeal may be made directly to the Commission within a reasonable time.

(b) All other petitions or requests to the Commission for a hearing or other relief, unless otherwise required by law or these rules, must be filed with the Commission within 20 days after receipt of the notice by the petitioner of the order, ruling or other action for which the hearing or other relief is requested.

4:1-5.2 Hearings

(a) Permanent employees and employees in their working test period are entitled to a Civil Service Commission hearing in the following categories:

1. Removal;
2. Suspension or fine of more than five days at one time. The last suspension or fine of an employee for five days or less shall be reviewable where an employee's aggregate number of days suspended or fined in any one calendar year is 15 days or more. Where an employee receives more than three suspensions or fines of five or less days in a calendar year, the last suspension or fine is reviewable;
3. Disciplinary demotion;
4. Good faith of a layoff; and
5. Release at the end of the working test period for unsatisfactory performance.

(b) All other appeals shall be decided on a review of the written record unless otherwise provided by law or directed by the Commission.

4:1-5.3 Request for a Civil Service hearing

(a) A request for a hearing shall:

1. Be in writing, signed by the employee or his/her representative and include the address of the person appealing;
2. State the action which is being appealed, the basis and reason for the appeal, and the specific relief requested. The person filing the appeal must provide any additional information requested. Failure to provide such information may result in a dismissal of the appeal.

(b) The Commission shall review requests for a hearing and either grant or deny the request.

(c) Hearings, unless otherwise provided, will be conducted by the Commission, a Commission member or an Administrative Law Judge.

4:1-5.4 Findings and decisions

(a) In hearings conducted by the Commission or a Commission member, the decision shall be announced either orally or in writing, upon the conclusion of the hearing or as soon as possible after the conclusion of the hearing. If an oral decision is initially rendered, a written decision reflecting this determination shall be prepared and forwarded to each party.

(b) In hearings conducted by the Office of Administrative Law, the assigned Administrative Law Judge shall issue a recommended report and decision which contains recommended findings of fact and conclusions of law not later than 45 days after the hearing is concluded.

1. Exceptions may be filed by any party within 10 days of receipt of the recommended report and decision. A copy of the exceptions must be served on all parties and a statement that such service has been made is to be submitted to the Commission. The Commission may extend the period for filing exceptions for good cause.

2. Cross-exceptions or replies may be filed by a party within five days of receipt of exceptions. A copy of the cross-exceptions or replies must be served on all parties and a statement that such service has been made is to be submitted to the Commission. The Commission may extend the period for filing cross-exceptions or replies for good cause.

3. The Commission may adopt, reject or modify the recommended report and decision. Copies of all Commission decisions shall be served personally or by regular mail upon each party to the proceeding and shall be included in the minutes of the Commission meeting in which the decision was rendered.

4:1-5.5 Awarding back pay

(a) The Civil Service Commission may award back pay for persons who have been improperly removed, suspended, laid off, demoted or fined and are restored to employment by order of the Commission.

(b) Unless otherwise ordered, an award of back pay shall be calculated from the effective date of the appointing authority's improper action to the date of the employee's actual reinstatement to the payroll.

(c) An award of back pay shall include but not be limited to unpaid salary, including regular wages and cost of living increments, that the employee would have received if not for the adverse action.

(d) The award of back pay may be reduced by the amount of taxes, social security payments, dues, pension payments, and any other sums normally withheld.

(e) The award of back pay shall be reduced by the amount of money which was actually earned or could have been earned during the separation.

1. If an employee also held other employment at the time of the adverse action, the back pay award shall be reduced only by the increase in income resulting from the additional amount of work time available in such other employment as a result of the action.

2. Funds that must be repaid by the employee shall not be considered when calculating back pay.

(f) An award of back pay shall not include items such as interest, overtime pay, overlap shift time and uniform allowance. The employee would also not receive additional allowances for vacation time, holiday time and administrative leave during the separation period.

(g) When the Commission awards back pay, settlement of the actual amount is to be determined by the parties.

(h) If an agreed amount cannot be reached either party may request, in writing, Commission review of the back pay issue. In a Commission review:

1. The appointing authority shall submit information on the salary the employee was earning at the time of the adverse action plus across the board adjustments and increments that the employee would have received during the separation period; and

2. The employee shall submit an affidavit delineating all income received during the separation except as excluded in (c)2 above.

4:1-5.6 Awarding reasonable counsel fees

(a) The Civil Service Commission may award reasonable counsel fees where an employee has mitigated his/her back pay award and, in disciplinary cases, has been fully exonerated of the charges. Such award shall be limited to the amount of mitigation and in no case shall the award of back pay and reasonable counsel fees exceed the back pay amount without mitigation. However, in cases where a municipal firefighter or a municipal police officer has been fully exonerated of disciplinary charges, reasonable counsel fees will be awarded pursuant to N.J.S.A. 40A:14-28 or N.J.S.A. 40A:14-155, whichever is applicable.

(b) When the Commission awards reasonable counsel fees, settlement on the actual amount is to be determined by the parties.

(c) If an agreed amount cannot be reached, either party may request, in writing, Commission review of the counsel fee issue. In such cases:

1. The employee shall submit an affidavit and record of attorney services; and
2. The parties shall submit information as to the reasonableness of the fees requested.

4:1-5.7 Pending criminal complaint or indictment

(a) When an appointing authority imposes a disciplinary action against an employee based on a pending criminal complaint or indictment the employee must be served with a Preliminary Notice of Disciplinary Action.

(b) Unless waived, the appointing authority shall conduct a hearing within 30 days of serving the employee with the Preliminary Notice of Disciplinary Action. At this hearing the issue should not be the merits of the indictment or complaint, but whether the charges warrant the finding that the public interest would best be served by suspending the employee until disposition of the criminal complaint or indictment.

1. The appointing authority may impose an indefinite suspension to extend beyond six months but not beyond the date of disposition of the criminal complaint or indictment. This provision is an exception to N.J.A.C. 4:1-16.7(a)5.

2. Where the appointing authority determines that an indefinite suspension should be imposed, a Final Notice of Disciplinary Action shall be issued stating that the employee has been indefinitely suspended pending disposition of the criminal complaint or indictment.

(c) If the employee has been suspended indefinitely, the appointing authority shall issue a second Preliminary Notice of Disciplinary Action specifying any charges against the employee upon final disposition of the criminal complaint or indictment. The appointing authority shall then conduct a departmental hearing on the merits of the charges as provided for in N.J.A.C. 4:1-5.1(a)1 and 2.

4:1-5.8 Subpoenas

The Commission may subpoena and require the attendance of witnesses in this State and the production of evidence, documents or other items relevant to any Commission proceeding.

4:1-5.9 Adjournments

(a) Any party may request an adjournment of a hearing or a review conducted by the Commission. The party requesting the adjournment must establish good and sufficient reason for such request. Good and sufficient reason may include, but is not limited to:

1. Unavoidable appearance by one of the attorneys in any court of this State or the United States;
2. Illness of a party evidenced by an affidavit and a doctor's certificate of illness.

(b) Where an adjournment is found to be for reasons not proven to be good and sufficient cause, the Commission may impose such penalty and fine as provided by law.

4:1-5.10 Burden of proof

(a) In appeals concerning disciplinary actions, as set forth in N.J.A.C. 4:1-5.2(a)1, 2 and 3, the burden of proof shall be on the appointing authority.

(b) In appeals concerning an employee's release at the end of a working test period or the good faith issue of a layoff, the burden of proof shall be on the employee.

(c) In all other appeals, the burden of proof shall be on the appellant.

4:1-5.11 Interim relief

(a) Upon the filing of a timely request for a hearing or other relief, a party may petition the Civil Service Commission for a stay or modification of the action from which the appeal is brought pending final disposition of the matter. The President of the Civil Service Commission, may decide such petitions when the Commission is not meeting.

(b) A request for interim relief shall:

1. Be in writing, signed by the party requesting such relief;
2. State the action for which interim relief is requested and the basis and reason for such relief. The person filing the petition for interim relief must provide any additional information requested. Failure to provide such information may result in a dismissal of the petition.

(c) The following factors may be considered in reviewing such requests:

1. Substantial possibility of success on the merits by the petitioner;
2. Danger of immediate or irreparable harm;
3. No substantial injury to other parties; or
4. Required by the public interest.

(d) The filing of a petition for interim relief will not stay the processing of the case.

(e) Each party must serve copies of all materials submitted on all other parties.

4:1-5.12 Reconsideration of Commission decisions

(a) Upon receipt of a Civil Service Commission decision, a party to the appeal may petition the Commission for reconsideration of the determination.

(b) A petition for reconsideration shall:

1. Be in writing, signed by the party or his/her representative;
2. State the action from which reconsideration is requested and the basis and reason for such request. The party filing the petition for reconsideration must provide any additional information requested. Failure to provide such information may result in a dismissal of the petition.

(c) In reviewing such petitions, the following standard is generally applied:

1. The Commission will reconsider a decision if new evidence and/or new argument is presented which if accepted would change the outcome. Before reconsideration is considered, the proponent must satisfy the Commission that it was not possible to present these matters during the original pending of the appeal or that a clear error has occurred.

(d) Each party must serve copies of all materials submitted on all other parties.

4:1-5.13 Public hearing and investigations

The Commission may conduct public hearings and determine the procedural aspects of such hearings, which are generally of a fact-finding nature.

4:1-5.14 Compliance with order

Upon the issuance of a Commission order, the parties shall immediately proceed to comply with the terms and provisions of the order. Failure to comply with the requirement of the order shall subject the non-complying party to the remedies and penalties provided by law.

COMMUNITY AFFAIRS

(a)

THE COMMISSIONER

Nonpublic Records Rooming and Boarding House License and Loan Applications

Proposed Amendment: N.J.A.C. 5:3-2.1

Authorized By: John P. Renna, Commissioner, Department
of Community Affairs.
Authority: N.J.S.A. 47:1A-2, 52:27D-3(f) and 55:13B-4.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael L. Ticktin, Esq.
Administrative Practice Officer
Division of Housing
CN 804
Trenton, NJ 08625

The Department of Community Affairs thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-341.

The agency proposal follows:

Summary

The amendment will add to the existing list of nonpublic records of the Department of Community Affairs all records containing personal and financial information submitted by applicants for rooming or boarding house owner's or operator's licenses or for loans under the Boarding House Life Safety Loan Program or submitted by public agencies or other persons with respect to such applicants.

N.J.S.A. 47:1A-2 provides that all records which are required by law to be made, maintained or kept on file by a department shall be deemed public records, except as otherwise provided by any regulation promulgated under the authority of any statute. The Commissioner of the Department of Community Affairs, pursuant to N.J.S.A. 52:270-3(f), proposes to amend the regulation to classify as nonpublic the records of personal or financial information of applicants for rooming or boarding house licenses.

Social Impact

Applicants for licenses or loans will be able to submit full and truthful applications with confidence that the information in their files which is of an inherently confidential nature will not be subject to unrestricted examination by members of the public pursuant to the Right-to-Know Law (P.L. 1963, c.73, N.J.S.A. 47:1A-1 et seq.).

Economic Impact

There will be no apparent economic impact as a result of this amendment.

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

5:3-2.1 Nonpublic records
(a)-(c) (No change.)

(d) [This regulation has been published at least 15 days prior to the effective date of such regulation in at least ten newspapers published in the State of New Jersey.] **The following records of the Division of Housing and Development are also deemed to be nonpublic records:**

1. All records containing personal or financial information submitted by applicants for rooming or boarding house owner's or operator's licenses or for loans under the Boarding House Life Safety Loan Program or submitted by public agencies or other persons with respect to such applicants.

(e) (No change.)

EDUCATION

(b)

STATE BOARD OF EDUCATION

Physical Education and Athletics Personnel Basic Certification Requirements for Athletic Coaches

Proposed Repeal: N.J.A.C. 6:11-3.12 Proposed Amendments: N.J.A.C. 6:11-4.7 and 6:29-6.3

Authorized By: New Jersey State Board of Education,
Saul Cooperman, Secretary.
Authority: N.J.S.A. 18A:4-15, 18A:6-38 and 18A:35-5.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Lorraine L. Colavita
Executive Assistant for Administrative
Practice and Procedure
Department of Education
225 West State Street
Trenton, NJ 08625

The State Board of Education thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-355.

The agency proposal follows:

Summary

This proposal amends the process for hiring athletic personnel to coach interscholastic athletics.

Under the existing rules, districts must advertise and screen for potential coaches in a series of steps to be able to hire ultimately someone from outside the district. The proposed amendments would eliminate the successive steps and permit districts to advertise once, as widely as possible, and screen all of the applicants at once. This process would reduce the delays that presently exist between the time when a vacancy occurs and is ultimately filled.

In addition, if, after advertising, the district is still unable to secure the services of a certified person, a person possessing a county substitute certificate could be hired if all of the applicable conditions in Title 6 of the New Jersey Administrative Code had been met.

The amendments do not alter the intent of the existing rules to require, whenever possible, the use of certified teachers as athletic personnel. Instead, they permit a district to search with minimal delays beyond its boundaries for the best qualified certified person. Under the present process there have been instances where the step-by-step process delayed locating a coach until the season was almost over.

Social Impact

Declining enrollments, reduced staff, expanded athletic programs and the economy have all contributed to a shortage of athletic coaches within many districts throughout the State. While districts would prefer to have a certified teacher from their own staff coach an athletic activity, sometimes this is not possible.

The amendments to the rules will permit a district to advertise locally, in constituent and neighboring districts, and Statewide if desired, at one time in an effort to locate a certified teacher to serve as a coach. If this does not result in locating a certified person, someone with a county substitute certificate would be used. The intent of the amendment is to expand the pool of athletic personnel available to coach in a district, thus avoiding the necessity of eliminating an activity due to the lack of suitable supervision.

Economic Impact

The amendments will have no direct or indirect economic impact on either the State or local school districts. The proposal amends the process of obtaining a coach and does not alter the fact that coaches will be hired, whether from within or outside the school district.

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

6:11-3.12 [Athletic coaches] **(Reserved)**

(a) No person not certified as a teacher and not in the employ of a board of education shall be permitted to organize public school pupils during school time or during any recess in the school day for purposes of instruction; or coaching or for conducting games, events or contests in physical education or athletics.

(b) Every person appointed subsequent to June 1, 1960, to coach, teach, or train individual pupils or school teams for interschool athletic competition shall be a certificated member of a school faculty in that same school district and shall be employed full-time during the regular school day when classes are in session. He/she shall be officially designated by the district board of education for the duties for which he/she is to be held responsible, except as expressly provided in subsections (c), (d) and (e) of this section.

(c) School districts shall be permitted to employ certified, full-time employees of their constituent or sending districts, or of a vocational school within the same county as designated in N.J.S.A. 18A:54-11, to work on a part-time basis in the interscholastic program, providing the superintendent of schools of the receiving district certifies an emergency exists to the county superintendent, upon whose approval the individual may be employed for one year.

(d) School districts shall be permitted to employ certified and qualified, full-time teaching staff members of other New Jersey school districts to work on a part-time basis in the co-curricular interscholastic athletic program, provided that:

1. The employing district can demonstrate annually to the county superintendent that an emergency situation exists;
2. The part-time position has been properly advertised within the district;
3. Both local boards of education are in agreement regarding such part-time employment;
4. Approval of the county superintendent shall be obtained prior to such employment by the local board of education.

(e) In addition, school districts shall also be permitted to employ holders of New Jersey certification not presently employed in a school district, provided that:

1. The employing district can demonstrate annually to the county superintendent that an emergency situation exists;
2. That the part-time position has been properly advertised within the district;
3. The district superintendent will provide a letter to the county superintendent attesting to the prospective employee's knowledge and experience in the sport which he/she will coach;
4. Approval of the county superintendent shall be obtained prior to such employment by the local board of education.

(f) The holder of a county substitute certificate is authorized also to serve as an athletic coach in the district in which he or she is employed. The 20-day limitation noted in N.J.A.C. 6:11-4.7(c) shall not apply to such coaching situations.

1. Before the holder of a county substitute certificate can coach, the local district shall:

1. Demonstrate that an emergency exists;
- ii. Properly advertise the vacant coaching position;
- iii. Secure the approval of the county superintendent of schools to use the holder of the county substitute certificate in a coaching position.]

6:11-4.7 County substitute certificate

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

(i) The holder of a county substitute certificate is authorized also to serve as an athletic coach in the district in which he or she is employed. The 20-day limitation noted in (c) above shall not apply to such coaching situations. Issuance of a certificate under these conditions shall be subject to the approval of the county superintendent of schools as specified in N.J.A.C. [6:11-3.12] **6:29-6.3.**

6:29-6.3 Athletics personnel

(a) (No change.)

(b) [Every person appointed subsequent to June 1, 1960, to coach, teach or train individual pupils or school teams for interschool athletic competition shall be a certified member of a school faculty in that same school district and shall be employed full-time during the regular school day when classes are in session. He/she shall be officially designated by the district board of education for the duties for which he/she is to be held responsible.] **School districts shall be permitted to employ any holder of a New Jersey teaching certificate to work in the interscholastic athletic program provided that the position has been advertised.**

(c) [School districts shall be permitted to employ certified, full-time employees of their constituent or sending districts, or of a vocational school within the same county as designated in N.J.S.A. 18A:54-11, to work on a part-time basis in the interscholastic program, providing the superintendent of schools of the receiving district certifies an emergency exists to the county superintendent, upon whose approval the individual may be employed for one year, except as expressly provided in subsections (d) and (e) of this section.] **In the event there is no qualified and certified applicant, the holder of a county substitute certificate is authorized to serve as an athletic coach in the district in which he or she is employed for a designated sports season, provided that:**

1. **The district superintendent demonstrates to the county superintendent that:**
 - ii. **The vacant coaching position had been advertised; and**
 - iii. **There was no qualified applicant based on the written standards of the district board of education.**
2. **The district superintendent will provide a letter to the county superintendent attesting to the prospective employee's knowledge and experience in the sport in which he or she will coach;**
3. **Approval of the county superintendent shall be obtained prior to such employment by the district board of education. The 20-day limitation noted in N.J.A.C. 6:11-4.7(c) shall not apply to such coaching situations.**

[(d) School districts shall be permitted to employ certified and qualified, full-time teaching staff members of other New Jersey school districts to work on a part-time basis in the co-curricular interscholastic athletic program, provided that:

1. The employing district can demonstrate annually to the county superintendent that an emergency situation exists;
2. The part-time position has been properly advertised within the district;
3. Both local boards of education are in agreement regarding such part-time employment;
4. Approval of the county superintendent shall be obtained prior to such employment by the local board of education.

(e) In addition, school districts, shall also be permitted to employ holders of New Jersey certification not presently employed in a school district, provided that:

1. The employing district can demonstrate annually to the county superintendent that an emergency situation exists;
2. That the part-time position has been properly advertised within the district;
3. The district superintendent will provide a letter to the county superintendent attesting to the prospective employee's knowledge and experience in the sport which he/she will coach;
4. Approval of the county superintendent shall be obtained prior to such employment by the local board of education.]

[(f) The holder of a county substitute certificate is authorized also to serve as an athletic coach in the district in which he or she is employed. The 20-day limitation noted in N.J.A.C. 6:11-4.7(c) shall not apply to such coaching situations.

1. Before the holder of a county substitute certificate can coach, the local district shall:
 - i. Demonstrate that an emergency exists;
 - ii. Properly advertise the vacant coaching position;
 - iii. Secure the approval of the county superintendent of schools to use the holder of the county substitute certificate in a coaching position.]

(a)

STATE BOARD OF EDUCATION

**Teacher Certification
Types of Certificates**

Proposed Readoption: N.J.A.C. 6:11-4

Authorized By: New Jersey State Board of Education,
Saul Cooperman, Secretary.
Authority: N.J.S.A. 18A:4-15 and 18A:6-38.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Lorraine L. Colavita
Executive Assistant for Administrative
Practice and Procedure
Department of Education
225 West State Street
Trenton, NJ 08625

The State Board of Education thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on November 1, 1983. The readoption of these rules becomes effective upon acceptance by the Office of Administrative Law of a notice of their readoption.

This proposal is known as PRN 1983-354.

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), which provides for the expiration of amended or new rules within five years, the Department of Education proposes to readopt without change N.J.A.C. 6:11-4, Types of Certificates, which governs certificates issued by the State Board of Examiners. The expiration date of the subchapter is November 1, 1983, which was set at the time of the amendment to N.J.A.C. 6:11-4.5, Intern Certificates.

Changes are contemplated in teacher certification as part of the State's commitment to upgrade the quality of the preparation of teachers. Until changes are completed, readoption of Subchapter 4 without change is necessary so that appropriate certificates may be issued to legalize employment of teaching staff members, interns, substitutes and paraprofessionals in the schools. "Teaching staff member", as defined in N.J.S.A. 18A:1-1, "means a member of the professional staff or any district or regional board of education, or any board of education of a county vocational school, holding office, position or employment of such character that the qualifications, for such office, position or employment, require him to hold a valid and effective standard, provisional or emergency certificate, appropriate to his office, position or employment, issued by the State Board of Examiners, and includes a school nurse".

Rules for types of certificates were adopted June 24, 1955 and amended in January 1967, May 1967, April 1972, June 1972, February 1977, February 1979, March 1980 and December 1982.

Historically, this subchapter has provided the mechanism for the issuance of regular certificates, substandard certificates to applicants not eligible for regular certification, intern certificates, and certificates to paraprofessionals and substitutes. The subchapter has provided for certification in cases of unforeseen shortage.

N.J.A.C. 6:11-4.1 provides for the issuance of lifetime validity to applicants who meet requirements for regular certification. Prior to the issuance of lifetime certificates, limited certificates were issued that were valid for five years.

N.J.A.C. 6:11-4.2, Temporary certificate; N.J.A.C. 6:11-4.3, Provisional certificate; N.J.A.C. 6:11-4.4, Emergency certificate; and N.J.A.C. 6:11-4.5, Intern certificate; provide for the issuance of certificates of one year duration to applicants who are not eligible for regular certificates. The rule was adopted so that these substandard certificates could be issued and that renewal could be granted if the State Board of Examiners was satisfied that conditions were such as to warrant issuance or renewal. Provisional certificates are available only when a local superintendent of schools offers the applicant a position for which the certificate is required. The intern certificate provides for the certification of interns in approved graduate internship programs. The emergency certificate was not considered appropriate since the intern is not placed in a school because of an emergency situation, but rather as a participant in an approved teacher education program.

N.J.A.C. 6:11-4.6, Two-month certificate, provides for the issuance of a certificate to an applicant who appears to be eligible for a regular certificate but who needs additional time to secure official credentials and complete application for certification. The rule was adopted in order to legalize the employment of applicants for teaching positions. The license could be given by the county superintendent of schools upon approval of the Chairman and Secretary of the State Board of Examiners. The rule was amended to include the addition of teaching staff member which provides for the issuance of the certificate to all school staff, not just to teachers.

N.J.A.C. 6:11-4.7, County Substitute certificate, provides for the issuance by the county superintendent of schools of certificates to serve as substitutes in the schools. The rule was adopted so that persons who do not hold a teaching certificate and who are not eligible to receive one may be granted a county substitute's certificate. The rule provides for issuance of the certificate upon application by the district board of education to the county superintendent of schools, the recommendation of the county

superintendent of schools and completion of a minimum of 60 semester hour credits in an accredited college. County substitute certificates are designed only for emergency purposes when the supply of properly certificated personnel is inadequate to staff the schools. They are issued for a three year period to authorize day-to-day substituting and for not more than 20 consecutive days in the same position in one district during the school year.

N.J.A.C. 6:11-4.7 was amended to require that the district board of education submit to the county superintendent of schools the applicant's credentials and a statement of need regarding employment of the applicant on an emergency basis. An applicant with an instructional certificate may serve as a substitute and must record the certificate in the county office of education prior to employment as a substitute. The rule was amended to include the issuance of the certificate to registered nurses to substitute as school nurses and to athletic coaches.

N.J.A.C. 6:11-4.8, Certification in cases of unforeseen shortage, provides for the issuance of substandard certificates in designated areas of shortage or in situations in which extenuating circumstances exist. Each year areas of teacher shortage are determined by the Commissioner of Education. Certificates may be renewed on a yearly basis. The certificates are issued if a shortage creates a situation in which classes may have to be discontinued unless such certificates are issued.

N.J.A.C. 6:11-4.9, Paraprofessional approval, provides for approval by the county superintendent of schools of teacher aides to assist in the supervision of pupil activities.

In compliance with Executive Order No. 66(1978), the subchapter was subject to internal review by the State Department of Education to determine its applicability to applicants who apply for certification for employment in the schools. Since this subchapter specifies the types of certificates that may be issued to applicants to staff the public schools in instructional, educational services and administrative areas, and until anticipated changes are in place at a later date, it is important that the subchapter be readopted in order to preclude expiration on November 1, 1983.

Social Impact

Pursuant to N.J.S.A. 18A:26-2, no teaching staff member is entitled to salary unless he or she is the holder of an appropriate certificate. Subchapter 4 specifies the type of certificate that may be issued to an applicant based on eligibility for the certificate or function including interns, paraprofessionals or substitutes. Readoption of the subchapter will have a positive social impact on school staff since it regulates the types of certificates to legalize employment. Professional education associations are affected since the rules govern the licensing of constituents. There is social impact on the public since the subchapter assures the issuance of appropriate certificates to staff who manage school districts, teach children and serve as substitutes and aides in conducting classroom activities. Teacher education programs are affected in the colleges since completion of approved programs by applicants results in determination by colleges of eligibility for appropriate certificates. Thus, failure to readopt Subchapter 4 will seriously jeopardize the issuance of appropriate certificates for employment in the public schools. Over 17,000 endorsements are issued per year to eligible applicants in administrative, education services and instructional areas. Approximately 7,000 county substitutes certificates are issued annually. There would be significant negative social impact if the rules expire.

Economic Impact

N.J.S.A. 18A:26-2 requires that no teacher shall be entitled to any salary unless he or she is the holder of an appropriate certificate.

N.J.S.A. 18A:27-2 prohibits employment if a teacher is not in possession of a proper certificate in full force and effect. Subchapter 4 governs the issuance of appropriate certificates for employment and salary entitlement.

There are fees accrued from the issuance of certificates. Fees

accrued total over \$450,000 per year for regular certificates, substandard certificates and county substitute certificates. All fees are collected by the Bureau of Teacher Certification and submitted to the Department of the Treasury. From an economic standpoint, fees would not accrue if certificates are not issued as a result of not readopting Subchapter 4. Readoption will not result in additional costs to applicants for certificates for employment in the schools.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 6:11-4.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

**Water Pollution Control
Installation of Sewerage Facilities in Critical
Areas**

Proposed Repeal: N.J.A.C. 7:9-10

Authorized By: Robert E. Hughey, Commissioner,
Department of Environmental Protection.
Authority: N.J.S.A. 13:1D-9 and 58:11-47.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

John Trela, Chief
Bureau of Groundwater
Discharge Permits
Division of Water Resources
CN 029
Trenton, NJ 08625

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-345.

The agency proposal follows:

Summary

N.J.A.C. 7:9-10.4, 10.5 and 10.6 of the rules proposed for repeal are presently suspended under a one year trial program (see 14 N.J.R. 504(a) and 979(a)). This trial program has shown that the existing review of sewerage facility installation in critical areas is adequate to protect the public interest. Presently, local boards of health review applications for installation of sewerage facilities in the coastal areas; the Pinelands Commission does the same in the Central Pine Barrens. Therefore, adequate review of the proposed facilities takes place and there is no need for the Department to review each and every proposal. However, the Department will still review all applications as appropriate pursuant to the Realty Improvement Sewerage and Facilities Act (N.J.S.A. 58:11-23 et seq.) and N.J.A.C. 7:9-2 and also shall retain ultimate enforcement authority over the local boards of health.

Social Impact

The proposal will not be detrimental to the public welfare since the interests are being adequately protected by the local boards of

health and the Pinelands Commission. Furthermore, the safeguards of the Pinelands Protection Act (N.J.S.A. 13:18A-1 et seq.) and the Wetlands Act (N.J.S.A. 13:9A-1 et seq.) make review of each application by the Department unnecessary.

Economic Impact

The proposal will eliminate wasteful duplication of work. In addition, applicants will be saved the expense and delay of the application procedure. Finally, the Department will have more time to work in other areas.

Environmental Impact

The environment will not be adversely affected because the review conducted by local boards of health and the Pinelands Commission, in conjunction with the protection provided by the Wetlands Act (N.J.S.A. 13:9A-1 et seq.) adequately protect the environment.

Full text of the rule proposed for repeal can be found in the New Jersey Administrative Code at N.J.A.C. 7:9-10.

HUMAN SERVICES

(a)

DIVISION OF MENTAL RETARDATION

Standards for Public Institutions for the Mentally Retarded

Proposed Readoption with Amendments: N.J.A.C. 10:44

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 30:4-1 et seq.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Administrative Practice Officer
Division of Mental Retardation
CN 700
Trenton, NJ 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), these rules would otherwise expire September 18, 1983. The readoption of the existing rules becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of their readoption. The concurrent amendments to the existing rules become effective upon publication in the Register of a notice of their adoption.

This proposal is known as PRN 1983-358.

The agency proposal follows:

Summary

N.J.S.A. 30:1-15 and 30:1-15.1 invests the Commissioner and the State Board of Human Services with the responsibility for inspection of all residential facilities within the State. As a prerequisite, the Commissioner is required to set standards and to assign agents to make on-site inspections at least once a year of all residential facilities which provide diagnosis, care or treatment of

the mentally ill or mentally retarded, whether state, county, municipal, public or private, in order to determine the conditions under which such persons are lodged, cared for, maintained or treated, and to assure that adequate standards of care and treatment are maintained; that civil liberties of individuals receiving care are preserved, and that the public may be informed of the adequacy of these facilities.

The present chapter, which is scheduled to expire on September 18, 1983, pursuant to Executive Order No. 66(1978), commonly known as the "Sunset" Executive Order, is hereby proposed for readoption with amendments.

The existing rule established mandated operating Standards for Public Institutions for the Mentally Retarded. It was seen as, and continues to be, necessary. This proposal, with amendments, readopts this chapter. The amendments are not substantive in nature. They reflect organizational changes in the operations of the Division of Mental Retardation.

Since the Standards for Public Institutions for the Mentally Retarded were adopted in 1978, the Division of Mental Retardation and its several agencies has undergone a systematic change. For example, the Bureau of Field Services was incorporated into a much larger operating unit identified as Community Services. Also, institutions in the Division of Mental Retardation were administratively restructured from a departmental to a unitized system.

Finally, several department and division policy manuals previously referenced in the rules are no longer appropriate. Thus, amendments were made to reflect these changes.

Social Impact

The proposal, with amendments should have limited social impact since they represent rather minor changes in the language of the code, and the deletion of several unnecessary references. The amendments will in no way serve to reduce requirements for care, treatment and training afforded the mentally retarded.

Economic Impact

The proposed amendments will not have an adverse economic impact, since they will not result in either a raising or lowering of requirements. The amendments that reflect additional requirements are primarily qualitative standards that would not force the agency to incur additional costs.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 10:44.

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

10:44-1.2 Goals

(a) In developing goals, the institution shall be guided by its obligation to provide:

1.-13. (No change.)

14. [Interdepartmental] **Interinstitutional** coordination.

10:44-2.2 Program objectives

A statement of program objectives written in conformance with statutes, administrative orders, Division circulars and Division standards describing plans and schedules for attainment of objectives shall be developed by [department heads] **facility managers** [of the institution] and shall be made part of the institution's file with a copy submitted to the Director of the Division of Mental Retardation. This statement shall be reviewed and amended annually to conform with changes in techniques, regulations and so forth.

10:44-2.4 Table of organization

A table of organization shall be incorporated in the procedures

manual to clearly define functions and lines of authority of each employee by which [inter and intradepartmental] **intra-institutional** cooperation is maintained and achieved.

10:44-2.5 Internal administrative audit

An internal administrative audit procedure shall be developed and implemented on a continuing basis to assure compliance with existing regulations and procedures. Specific assignments shall be made in the various institutional [departments] **service sections** to carry out this function.

10:44-2.7 Unusual incidents

A procedure for reporting and investigation of unusual incidents shall be developed. Corrective action taken to eliminate the cause of the incident shall be a part of the report. A description of the incident and corrective actions taken shall be communicated to the Division Director[’s office per Administrative Order 1:44 and Division Circular Number 12].

10:44-2.10 Reward and restriction

(a) A reward and restriction program shall be developed and implemented providing procedures for effective positive and negative reinforcement in the continuous process of developing the highest degree of self-discipline in the resident.

1. Corporal punishment [training measures] shall be prohibited.
2. [Isolation or] Restraints shall be used only upon medical authority.

10:44-2.11 Vacation and visiting

Procedures and criteria shall be established for [the effective] implementation of a vacation and visiting program.

10:44-2.12 Implementation of policy

(a) (No change.)
 (b) The administrator of the institution shall be responsible for the efficient and economic utilization of resources at his disposal. In the instance of unmet goals, the institutional administrator is further responsible for identification of specific deficiencies in programs, evaluation of causes for such deficiencies, and development of plans to correct them through internal adjustments or, if required, through development of sound justifications for budget requests [based on the principles of performance program budgeting].

10:44-2.14 Evaluation committee

A resident evaluation committee shall be created with responsibility for the comprehensive evaluation of all new admissions and the routine reevaluation of residents in accordance with the schedule established by the institution. The minimal professional personnel for this committee shall include a qualified physician, clinical psychologist, social workers, and representatives from education and training and [cottage life] **resident living**. Additional specialists shall participate in response to the needs of the individual.

10:44-3.1 Admission and release

- (a)–(c) (No change.)
- (d) Release procedures shall conform to [RS] N.J.S.A. 30:4-107, [Division Circular Number 5, and routine evaluation procedures] **and shall be effected through evaluation processes**. Release shall be predicted upon serving the best interests of the individual and society.
- (e) (No change.)

SUBCHAPTER 4. [COTTAGE LIFE PROGRAM]
RESIDENT LIVING SERVICES

10:44-4.2 Services offered

- (a) [Cottage life] **Resident living** services offered shall include:
 - 1.–5. (No change.)

10:44-4.3 Personal hygiene

- (a) (No change.)
- (b) The following health activities shall be included:
 - 1.–9. (No change.)
 10. Personnel shall be taught personal hygiene techniques [consistent with those developed in the Attendant Training Manual Division].
 11. (No change.)

10:44-4.4 Clothing; linens

- (a) (No change.)
- (b) The objectives, standards and organization shall include routine implementation procedures of purchasing, records of receipt, distribution, laundering, mending, cleaning, condemning and “par” needs peculiar to the institution and its separate units.
 - 1.–2. (No change.)
 3. The type or style of clothing shall [be of simple design,] conform to current fashions, and shall be compatible with needs of individual residents.

10:44-4.5 Housekeeping; safety; sanitation

- (a) [Routine h] **Housekeeping** schedules and structured procedures of implementation shall be developed, maintained, and integrated with other programs.
 1. (No change.)
 2. The techniques applied shall conform to those developed in the Attendant Training Manual of the Division.]
 - 3.–4. (No change.)

10:44-4.6 Recreation

- (a) The recreation program of [cottage life] **Resident living** shall be an integral part of the overall institution’s recreation program. Procedures of implementation shall be developed and integrated with the other programs of the institution.
 1. [Cottage life] **Resident living** personnel shall participate actively in training individual skills in recreation.
 - 2.–3. (No change.)

10:44-5.5 General medical and health care

- (a) (No change.)
- (b) Daily medical supervision shall be as follows:
 1. A nurse shall be assigned, on a daily basis, to visit cottages housing residents confined to bed or wheelchair for the purpose of assessing residents’ general state of health and to provide consultative assistance to [Cottage Life] **Resident living** personnel in the area of general health care and personal hygiene of the resident population.
 2. (No change.)
 3. Procedures for the proper storage, accurate administration and recording of medications shall be developed and implemented in accordance with Federal and State drug laws [and Administrative Orders 5:07 and 5:08].
 - 4.–6. (No change.)
 7. Hospital medical-surgical services shall be available on the grounds, or through prearrangements with nearby hospital facilities capable of providing these services in the event of severe illness or surgical need. These services shall be obtained from State hospitals within the Department of [Institutions and Agencies] **Human Services** whenever feasible.
 - 8.–11. (No change.)
- (c) The following special treatment services shall be made available to all residents who can derive benefit therefrom:
 - 1.–3. (No change.)
 4. Ancillary medical services:
 - i.–ii. (No change.)
 - iii. A system of controls for narcotics, alcohol, and other drugs shall be maintained in accordance with Federal and State laws [and Administrative Order 5:07 and 5:08].
 - iv.–v. (No change.)
 - 5.–6. (No change.)

10:44-5.6 Medical records

- (a) (No change.)
- (b) Each record shall contain:
 - 1.-7. (No change.)
- 8. All papers authorizing treatment (surgery and autopsy when performed [, Administrative Order 1.58]);
- 9. (No change)
- (c) (No change.)

10:44-6.1 Psychological services

- (a) Provisions shall be made to provide the following services to institutional populations:
 - 1. Psychological classification in accordance with established procedures for implementation:
 - i. (No change.)
 - ii. A schedule for reevaluation of each resident to conform with [the Division Circular Number 6,] **Division Policy** concerning determination of mental deficiency, shall be maintained to reassess intellectual and emotional development, and adequacy of program involvement leading to specific recommendations for each resident.
 - 2. (No change.)
 - 3. In-Service Training:
 - i. A formal internship program shall be carried out [in accordance with guidelines established in Administrative Order 4:04].
 - ii. (No change.)
 - 4.-5. (No change.)

10:44-6.2 Education and training services

- (a)-(d) (No change.)
- (e) All children of school age shall be in a learning training situation [, except those who cannot profit from such experiences].
- (f) All adult residents shall be included in organized learning training program [except in the instance of those who cannot profit from the experience].
- (g)-(k) (No change.)
- (l) Teacher schedules shall provide a daily minimum of four hours of formal teaching. Where they do not teach a full day, teachers shall be involved in related professional activities, including direct participation in [cottage life] **Resident living** learning training situations.
- (m)-(n) (No change.)

10:44-6.3 Social services

- (a) The social service program shall provide a liaison and coordinating service between the institutions, the family [,the Bureau of Field Services] and community [resources] **services**. Social casework, group work therapy and placement programs shall be developed in conjunction with [the Bureau of Field Services] **Community Services** and closely coordinated with other programs of the institution. The social service program shall provide:
 - 1.-6. (No change.)
 - 7. Consultation shall be made with community agencies to facilitate identification of existing and needed resources for the resident and his family. These resources shall be sought in conjunction with [the Bureau of Field Services] **Community Services**.

10:44-6.5 Chaplaincy services

- Chaplaincy service programs for residents [consistent with Administrative Order 1:53] shall be maintained by employment of full-time chaplains if possible, or at least by utilization of part-time chaplains from local communities. Basic chaplaincy services shall include provisions for:
 - 1.-7. (No change.)

10:44-7.1 Method

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

(c) All research projects shall be processed and conducted in a manner consistent with the appropriate [Administrative Order] **Departmental Policies**. The procedure to be followed in all services shall be developed and implemented.

10:44-8.1 Goals

- (a) The institution shall maintain a public relations program [consistent with Administrative Order 1:20,] aimed at:
 - 1.-3. (No change.)

10:44-10.1 Personnel standards

- (a) Comprehensive personnel services shall be developed in each institution to maximize recruitment efforts, staff and employee training, retention of competent employees, and development of safe, adequate and attractive working conditions. The personnel program shall include the following standards:
 - 1.-5. (No change.)
 - 6. Routine schedules and procedures of implementation for the orientation of all new employees shall be developed. The training shall acquaint them with:
 - i. The structure and goals of the Department of [Institutions and Agencies] **Human Services** and the Division of Mental Retardation;
 - ii.-iv. (No change.)
 - 7.-9. (No change.)
 - 10. The health and physical welfare of employees shall be safeguarded by implementation of a sound safety program with procedures developed [to comply with Administrative Order 2:03].
 - 11.-13. (No change.)

10:44-10.2 Professional standards

- (a) Requirements for professional program and service personnel shall include application of ethical standards adopted by the various professions and education and experience qualifications established by the New Jersey Department of Civil Service. The following positions shall be considered basic to an institution's table of organization:
 - 1.-4. (No change.)
 - 5. Each institution shall include on its staff an individual possessing the educational and certification requirements established by the New Jersey Department of Education and the Department of [Institutions and Agencies] **Human Services** to administer the educational and training program of the institution.
 - 6. Psychological services in institutions shall be administered by a supervising psychologist, preferably with a doctorate in psychology or at least a master's degree in psychology and specialization in clinical psychology with corresponding experience requirements established by the Department of Civil Service and the Department of [Institutions and Agencies] **Human Services**. The chief of psychological services shall be responsible for psychological evaluations of all new admissions, periodic review of all residents in accordance with the schedule established by the institution, clinical services for emotionally disturbed residents, and participation in the institution's clinical review or evaluation committee and in-service training program.
 - 7. (No change.)
 - 8. Each institution shall appoint an individual possessing the qualifications established by the Department of Civil Service [to the position of supervisory of cottage life,] to manage and administer all aspects of residential services in cottages. This shall include supervision over all employees assigned to resident living and functions involving integration and coordination of specialized programs in the cottages such as: in-service training, resident training, food service, housekeeping, nursing and medical care, recreation, and regular resident evaluation.
 - 9.-17. (No change.)
 - 18. A qualified person certified by Civil Service shall be

appointed to administer the Affirmative Action Program of the Institution.

10:44-10.3 Staffing ratios

(a) Assignment of specific staffing ratios must recognize a variety of fixed conditions and limitations beyond the control of individual institutions, such as: characteristics of resident populations served, geographic location of institution, and design of physical plant. [Definite standards, however, shall be applied to those program areas providing direct treatment, care and training to residents. In the instance of ancillary services, those ratios suggested for individual institutions by service divisions of the Department of Institutions and Agencies, and endorsed by the Division of Mental Retardation shall be considered the minimum standards for the individual institution.]

(b) [Minimum] Staffing ratios [for those programs dealing with direct treatment, care and training of residents] shall be as follows:

1. Medical: [In addition to a full-time medical director, the ratio of staff physicians to residents shall be 1:200 Profound and severe; 1:250 Moderate; 1:350 Mild.] The institution shall employ [such additional] **sufficient** physicians as required for medical, surgical, psychiatric treatment, out-patient evaluation services and medical consultant services described in the medical program section.

2. Professional nursing services:

i. (No change.)
 ii. [Supportive personnel] **Sufficient** licensed practical nurses, [technicians or attendants] shall be available to provide **supportive** [a ratio of 1:1.6] **nursing services**.

3. [For each 1,000 residents,] There shall be [one dentist, one dental hygienist and two dental aides] **sufficient dentists, dental hygienists and aides to provide dental services**.

4. [Resident care (cottage life)] **Resident living:**

i. There shall be available [one supervisor of cottage life supplemented by] **sufficient** [additional] supervisory personnel to complete post trick analysis requirements;

ii. The **on duty** ratio for nonsupervisory [personnel] **direct care staff** [to residents] shall be: [Profound and severe 1:1.6; Moderate and mild 1:3.6] **Days 1:8.5; Evenings 1:8.5; Nights 1:17 in each living unit**.

5. Education and training: In addition to the supervisor of educational programs and two assistant supervisors of educational programs, academic and vocational, [the ratio of certified teachers to classified residents in the chronological age range 5-20 inclusive, in the following categories, shall be:

- i. Educable – 1:15 (maximum overall IQ minimum overall IQ of 50);
- ii. Trainable – 1:10 (maximum overall IQ of 49 to minimum overall IQ of 25);
- iii. Subtrainable – 1:50 (maximum overall IQ of 24);
- iv. Emotionally disturbed – 1.8;
- v. Adults – 1:100 (chronological age over 21).

6. Certified teaching staff assigned to these residents will serve primarily as master teachers assisted by cottage life and other ancillary employees involved in a learning-training situation.

7. The above ration of teaching staff shall be supplemented by at least one specialist for each of the following special training areas appropriate to the institution's population: music, arts and crafts, training and visually handicapped, speech and hearing, vocational and physical education.] **There shall be a sufficient and appropriately certified teaching staff to provide education and vocational training programs**.

[8.] **6.** In addition to the chief of psychological services, [the following ratio of psychologists to residents, based upon levels of retardation shall obtain:

- i. Profound and severe 1:400;
- ii. Moderate 1:200;
- iii. Mild and borderline 1:100.]

there shall be sufficient psychology personnel to provide psychology services.

[9.] **7.** Social Service – In addition to the Chief of Social Services [the following ratio of social workers to residents shall apply:

- i. Profound and severe 1:400;
- ii. Moderate 1:300;
- iii. Mild and borderline 1:100.]

there shall be sufficient number of social workers to provide social work services.

[10.] **8.** Recreation:

i. In addition to the supervisor of recreation, [institutions shall provide a minimum ratio of 1:125 recreation workers for residents capable of benefiting from recreation programs;] **there shall be a sufficient number of recreation staff to provide recreational services;**

[ii. These ratios may not meet requirements for programs which carry specialized missions of evaluation, therapy and outpatient services; and where the populations served present severe or extensive psycho-social problems. In such instances ratios shall be established by joint consideration of the Division of Mental Retardation and the institution.]

10:44-11.1 [Filing requirements] **General requirements**

(a) Each institution shall maintain centralized filing of current residents' records for completeness and consistency. Minimum standard requirements for subsidiary records pertaining to specialized services are referred to in the separate program areas.

1. Individual records shall be kept on all residents admitted, discharged, transferred and deceased.

2. All active records shall be maintained on the premises and shall be complete, current and readily available for review by authorized persons.

3. Individual resident folders shall be conspicuously and appropriately marked with the resident's name.

4. The residents' record shall be appropriate for:

i. **Planning and continuous evaluation of the residents' program.**

ii. **Furnishing documentary evidence of the resident's progress and his/her response to his/her program.**

iii. **Protecting the legal rights of the resident, facility and inspection will be made only by authorized personnel.**

5. All entries in the resident's record shall be legible, dated and authenticated by the signature and title of the individual making the entry.

6. The facility must provide a legend to explain any symbol or abbreviation used in a resident's record.

10:44-11.4 Retention of records

All records, subsidiary or centrally filed, shall be retained for the period of time specified by the records retention schedule [,Division Circular Number 11].

10:44-11.5 Trust funds

Trust funds provided for residents shall be retained in the institution's business office. Procedures of requests for withdrawal with limits established for purchases, and so forth, shall be developed. [Funds held in trust for residents shall be deposited according to Administrative Order 5:04.]

10:44-11.6 Perpetual daily census

A procedure shall be established to compile a consolidated perpetual daily census from daily cottage and ward reports listing residents admitted, discharged, transferred and going or returning from the institution [to conform with the statistics program of the Bureau of Social Research and Administrative Order 1:30].

10:44-12.3 Health and sanitation

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

(d) Personnel who work in the preparation of service of food shall be trained in food sanitation [to conform with the Standard

Operating Procedure for Institutions and Agencies' Sanitarians' Manual].

(e)-(h) (No change.)

10:44-12.4 Safety

(a)-(f) (No change.)

(g) Fire drills shall be conducted monthly. The nature of each drill shall be in compliance with an established evacuation plan approved by the State Fire Marshal [as per Administrative Order 4:08].

(h) (No change.)

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Manual for Dental Services Orthodontic Treatment

Proposed Amendments: N.J.A.C. 10:56-1.14, 1.21, 2.2, 3.3, 3.6, 3.7 and 3.15

Authorized By: George J. Albanese, Commissioner, Department of Human Services. Authority: N.J.S.A. 30:4D-6b(4), 7 and 7b.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Administrative Practice Officer
Division of Medical Assistance and Health Services
324 East State Street
CN 712
Trenton, NJ 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-342.

The agency proposal follows:

Summary

This proposal will allow dentists who are general practitioners and not specialists in the field of orthodontia to provide orthodontic services to Medicaid patients, and be reimbursed for those services. This will represent a change in Medicaid policy, which currently limits reimbursement to specialists in orthodontia. There is no limitation placed upon the delivery of orthodontic care by general practitioners in dentistry. Standards of dental practice are set by the New Jersey State Board of Dental Examiners.

General practitioners who wish to provide comprehensive orthodontic treatment must be enrolled as Medicaid providers. If a dentist is currently enrolled, no additional action is required. In addition, all dentists must follow the Medicaid policies and procedures regarding assessment, diagnostic work-up, and obtaining prior authorization before commencing treatment, because the proposal does not change these requirements.

The New Jersey Medicaid Program uses a Handicapping Malocclusion Assessment System to determine if a Medicaid patient qualifies for orthodontic treatment. The dental practitioner may conduct an assessment of the patient and, if there is a sufficient number of points, may also perform a diagnostic work-up without

obtaining prior authorization. Once the assessment and diagnostic work-up have been done, prior authorization must be obtained before Medicaid will make reimbursement for further treatment.

Social Impact

The social impact on Medicaid patients should be minimal, because orthodontic treatment has always been available under the Medicaid program. Patients may have a wider choice of available providers since all dentists (participating in the Medicaid program) will be able to provide this service.

The social impact on dentists will vary, but there will be a greater impact on general practitioners, who will now be reimbursed by Medicaid for providing orthodontic treatment.

Economic Impact

The prevailing fee schedules for comprehensive orthodontic treatment are listed in the text below (10:56-3.15). The new fees for general practitioners appear in boldface, and are approximately 15 percent lower than the current specialist provider fee. The economic impact on individual providers will vary, depending on the amount of Medicaid patients being treated.

The Division's expenditures for orthodontic treatment should remain fairly constant so long as utilization remains the same. The Division is not increasing the range of services, just the number of providers able to render the service.

There is no cost to the Medicaid patient.

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

10:56-1.14 Diagnostic services

(a) Examination rules are:

1.-3. (No change.)

4. Handicapping Malocclusion Assessment Examination (refer to N.J.A.C. 10:56-1.21).

i. Since orthodontic treatment will not be authorized for individuals age 20 or older, (see N.J.A.C. 10:56-1.21(b)iii) the Handicapping Malocclusion Assessment Examination is not reimbursable for individuals age 20 or older.

[i.] ii. For reimbursement purposes, a Handicapping Malocclusion Assessment Examination [is limited to the Orthodontist who is a qualified specialist (refer to N.J.A.C. 10:56-1.1). This examination] is limited to once every 12 months unless authorized. In addition, reimbursement is limited to the provider or provider group who does such an examination with the intention of personally providing any orthodontic treatment necessary.

(b) (No change.)

10:56-1.21 Orthodontic treatment

(a) (No change.)

[(b) Orthodontic evaluation and treatment may be performed only by an orthodontist who is a qualified specialist. Orthodontic treatment will be authorized on a very selective basis.]

(b) Authorization for orthodontic treatment shall be selective and limited to handicapping malocclusions as determined by the Medicaid Dental Consultant.

1. (No change.)

[2. The following factors must be considered by the referring dentist before making the referral and also by the orthodontist before assessing the patient and performing the diagnostic workup:]

2. The following factors must be considered by a dentist before making any referral and also by the practitioner who may render orthodontic treatment before assessing the patient and performing the diagnostic workup:

i.-iv. (No change.)

(c) The New Jersey Medicaid Program [handicapping malocclusion assessment system¹] Handicapping Malocclusion Assessment System¹ is to be utilized [by orthodontists] to

determine the need for [orthodontic treatment] a **diagnostic workup**.

1. (No change.)

(d) Procedures to be followed by [orthodontist] **the practitioner** are:

1. The [orthodontist,] **practitioner**, after considering the factors in this section, performs a visual/oral examination of the patient, and completes the [assessment record form] **Assessment Record Form (FD-10)** to determine if the severity of the malocclusion will qualify (24 points) for further diagnostic workup and submission of a proposed treatment plan.

2. If the malocclusion does not meet the minimum number of assessment points (24), do not proceed with the diagnostic workup since reimbursement will be denied.

i.-ii. (No change.)

iii. For reimbursement of the [assessment examination] **Assessment Examination** only, submit the **contractor copy of a [dental claim form] Dental Claim Form (MC-10)** directly to:

The Prudential Insurance Company
Medicaid Claims Division II
 P.O. Box 1900
 Millville, New Jersey 08332

[with a copy of the FD-10] identifying by procedure code 0140, the service that has been rendered. **A copy of the Assessment Record Form (FD-10) must accompany this submission** (Limitation – see [section 1 of this subchapter] **N.J.A.C. 10:56-1.14(a)4i.**)

iv. **Submission of requests for treatment with assessments below the minimum number of points required without sufficient justification (see N.J.A.C. 10:56-1.21(d)2 above), or due to incorrect calculation, will necessitate denial of reimbursement for the diagnostic materials submitted.**

3. If the malocclusion meets or exceeds the minimum number of assessment points (24), the [orthodontist should] **practitioner may** proceed with the diagnostic workup without obtaining prior authorization.

(e) Rules concerning prior authorization for orthodontic treatment are:

1. Upon completion of the diagnostic workup, submit the following to the [Dental Section,] Division of Medical Assistance and Health Services, [P.O. Box 2706, Trenton, New Jersey 08625.] **Bureau of Dental Services, CN 713, Trenton, N.J. 08625.**

i.-iii. (No change.)

iv. Diagnostic aids must include and reimbursement will be limited to:

(1)–(4) (No change.)

(5) Photographs (minimum size 2 inches by 2 inches) or slides – maximum reimbursable – six.

Note: All the diagnostic aids will be returned to the [orthodontist,] **practitioner**, but must be made available upon the request of the [Office of the Dental Director], Division of Medical Assistance and Health Services, **Bureau of Dental Services**. It is suggested that models and x-rays be duplicated before submission to enable you to retain a set in your office should there be breakage or loss in mailing.

2. (No change.)

3. The [orthodontist] **practitioner** will be notified by the Medicaid Program of the action taken on the treatment request following review by the [dental consultant(s)] **Medicaid Dental Consultant(s)**.

(f) Periodically the [Office of the Dental Director] Division of Medical Assistance and Health Services, **Bureau of Dental Services**, will request a progress report from the provider, and if necessary progress models and other appropriate records to determine whether authorization should be continued. **Failure to respond to this request in writing, personally signed by the provider, may result in suspension of authorization and reimbursement to the provider.**

(g) Final records similar to diagnostic aids described in subsection (e) above, [taken at termination of treatment] must be submitted [together with the last dental claim form (MC-10) to:] **with the claim for the last six monthly visits to:**

[Office of the Dental Director
 Division of Medical Assistance
 & Health Services
 P.O. Box 2706
 Trenton, New Jersey 08625]

**Division of Medical Assistance
 and Health Services
 Bureau of Dental Services
 CN 713
 Trenton, New Jersey 08625**

In no instance will any of the last six monthly visits be payable until final records are received.

(h) Failure to submit the records referred to in (g) above, may result in the recovery, by the Division of Medical Assistance and Health Services, of an amount not to exceed that paid for the previous 12 months of treatment actually reimbursed to the provider.

¹The [assessment system] **Assessment System** is a modification of the work of Dr. J. A. Salzmann who has consented to allow the **New Jersey Medicaid [program] Program** to modify and utilize it. The major difference from Dr. Salzmann's original work is that the **New Jersey Medicaid [program] Program** does not allow the eight additional points to denote aesthetic handicap for the anterior segment.

10:56-2.2 Dental [services form] **claim form (MC-10)**

(a)–(f) (No change.)

(g) Rules for payment are as follows:

1.–2. (No change.)

3. Orthodontic treatment:

i. Following utilization of the [handicapping malocclusion assessment system,] **Handicapping Malocclusion Assessment System**, when the malocclusion does not meet the minimum number of points, the [orthodontist] **practitioner** should not proceed with the diagnostic workup, but should bill for the [assessment examination] **Assessment Examination** only by submitting the contractor copy of a [dental claim form] **Dental Claim Form (MC-10)** directly to:

The Prudential Insurance Company
 Medicaid Claims Division II
 P.O. Box 1900
 Millville, New Jersey 08332

[with a copy of the FD-10] identifying by procedure code 0140 the service that has been rendered. **A copy of the Assessment Record Form (FD-10) must accompany this submission** (limitation – see [subchapter 1 of this chapter.] **N.J.A.C. 10:56-1.14(a)4i.**)

ii.–iii. (No change.)

iv. As each stage of authorized orthodontic treatment is finished, complete a new **Dental Claim Form (MC-10)**, insert treatment dates, procedure codes and descriptions, complete sections requiring patient and provider signature and submit the contractor copy directly to the Prudential Insurance Company **at the address above**, for reimbursement. Claims may be submitted monthly or quarterly until the authorized treatment is completed.

v. Reimbursement for the monthly fee is based on one or more visits to the practitioner during any calendar month. Reimbursement must not be requested for any month in which there is no patient visit.

vi. When authorized, reimbursement for comprehensive orthodontic treatment will include retention, as required, at no additional charge.

[v.] **vii. Request for payment must be received by the Contractor, the Prudential Insurance Co. [within 90 days from**

the last treatment date on each claim] **no later than (90) days from the last date of service, and (12) months from the earliest date of service indicated on the Dental Claim Form (MC-10).**

10:56-3.3 Clinical oral examination

(a) Procedure code 0110, comprehensive clinical oral examination has maximum allowance of \$7.00, S and \$6.00, NS:

- 1. (No change.)
- 2. For reimbursement of the examination:
 - [i. It must be limited to once every six months unless prior authorized;]

i. A comprehensive clinical oral examination shall be limited to once every six months for those patients through age 17, and once every 12 months for those patients 18 years of age or older except as authorized by a Dental Consultant of the New Jersey Medicaid Program.

ii. All items on the [dental form] **Dental Claim Form (MC-10)** must be completed;

iii. If no treatment is indicated, this fact must be noted on the [dental form] **Dental Claim Form (MC-10)** in the diagnosis box.

- (b) (No change.)
- (c) [Procedure code 0140, Orthodontic assessment, using handicapping malocclusion assessment system (assessment form (FD-10) must accompany dental form (MC-10) when requesting reimbursement) has a maximum allowance of \$6.00, S.] **Procedure Code 0140, Orthodontic Assessment, using the Handicapping Malocclusion Assessment System has a maximum allowance of \$6.00 S and \$5.00 NS. The Assessment Form (FD-10) must accompany the Dental Claim Form (MC-10) when requesting re-imburement.**

[1. Limited to the orthodontist who is a qualified specialist. (See section 201.6)]

[2.] **1. Reimbursement limited to once every [six] 12 months unless [prior] authorized.**

10:56-3.6 Dental prophylaxis

(a) Dental prophylaxis is the removal of calculus and stains from the exposed and unexposed surfaces of the teeth by scaling and polishing [and is limited to once every six calendar months unless prior authorized].

1. For reimbursement purposes, dental prophylaxis shall be limited to once every six months for those patients through age 17 and once every 12 months for those patients 18 years of age or older except as authorized by a Dental Consultant of the Medicaid Program.

- [1.] i. (No change in text.)
- [2.] ii. (No change in text.)
- [3.] iii. (No change in text.)

(b) Scaling over and above that necessary under prophylaxis above[. The], **the** calculus must be abnormal and visible to the [dental consultant] **Dental Consultant** on X-ray(s). Such scaling [must require an additional visit and] must be [prior] authorized.

- 1.-2. (No change.)

10:56-3.7 Fluoride treatment – including prophylaxis

(a) Topical application of stannous fluoride or acid fluoride phosphate – one treatment following a complete prophylaxis (fee includes both services).

[1. Limited to once every six calendar months without prior authorization for persons 20 years of age and under. (Not a covered service for persons 21 years of age and over). A complete prophylaxis must be performed prior to the topical fluoride treatment.]

1. Reimbursement for topical fluoride treatment shall be limited to once every six months without authorization for those patients through age 17 and once every 12 months for those patients 18 years of age up to and including 20 years of age. (Not a service for persons 21 years of age and over). A complete prophylaxis must be performed prior to the topical fluoride treatment.

2.-4. (No change.)

10:56-3.15 Orthodontics

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

(c) Retention appliances – orthodontic retaining appliances (following comprehensive treatment by a previous dentist) has the following procedure codes and maximum allowances for S and NS respectively:

*8310	Removable	\$69.00	60.00
*8320	Fixed or cemented	69.00	60.00
*8330	Adjustment – [()maximum 12 visits, per visit	6.00	5.00

(d) [Comprehensive orthodontic treatment: Case type–fixed or removable appliances–itemize fee for diagnostic procedures and formal treatment separately (indicate anticipated time under treatment–maximum treatment plus retention, three years) has the following procedure codes and maximum allowances for S and NS respectively:]

Comprehensive orthodontic treatment: Case type – fixed or removable appliances. Itemize fee for diagnostic procedures and formal treatment separately. Indicate anticipated time under treatment – maximum treatment including retention, three years. When authorized, reimbursement for comprehensive orthodontic treatment will include retention as required at no additional charge. The procedure codes and maximum allowances for S and NS are as follows;

*8410	Appliances	\$162.00	140.00
*8420	First through 12th month of treatment (to start on day insertion of appliance(s) is completed), per month	30.00	26.00
*8430	13th through 24th month of treatment, per month	28.00	24.00
*8440	25th through 30th month of treatment, per month	11.00	9.00
*8450	31st through 36th month (maximum of treatment), per month	11.00	9.00
*8999	Any other uncoded orthodontic services, by report	IC	IC

Note: An asterisk (*) as used in the Manual of Dental Services denotes those procedures which normally require prior authorization in order to be eligible for reimbursement in the New Jersey Medicaid Program.

(a)

DIVISION OF PUBLIC WELFARE

**Monthly Reporting Policy Handbook
Treatment of Income; Benefit Computation
Involving Income; Changes in Household
Composition; Overpayments;
Underpayments and Changes in
Circumstances**

**Proposed Amendment: N.J.A.C. 10:90-2.2,
2.4, 4.1, 4.2, 4.3, 4.4, 4.6, 5.3 and 6.1
Proposed New Rule: N.J.A.C. 10:90-4.8, 5.6**

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.

Authority: N.J.S.A. 44:7-6, 44:10-3 and 30:4B-2; 45 CFR 233.20(a)(13).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Audrey Harris, Acting Director
 Division of Public Welfare
 CN 716
 Trenton, NJ 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-351.

The agency proposal follows:

Summary

The proposed rule establishes policy for monthly reporting (MR) in the Aid to Families with Dependent Children (AFDC) and Food Stamp Programs for families who fail to file complete report forms timely. It provides that issuance of AFDC or food stamps may be delayed up to 10 days after the regular payment date. It clarifies the procedure for reinstatement to recipient status of families or households terminated from assistance, and establishes a penalty of prorated food stamp benefits in the reinstatement period.

The proposed rule also reflects current Federal interpretation of existing retrospective budgeting (RB) regulations concerning overpayments and underpayments of AFDC benefits. It sets forth procedures for averaging income from self-employment, and clarifies the treatment of income in the eligibility determination, changes in family or household composition and changes in AFDC Program segment.

Social Impact

The proposed rule will improve agency administration of the MR/RB system in the AFDC and Food Stamp Programs by establishing uniform statewide policies for situations previously resolved by individual agency interpretation. AFDC grants will more accurately reflect a family's current available income. Due to the overriding Federal regulation, however, more families may have their AFDC grants reduced to recover previous overpayments of assistance.

Economic Impact

The proposed rule will result in savings in AFDC assistance costs, through recovery of all overpayments of assistance, regardless of fault or date of occurrence. Inasmuch as this is a redefinition of Federal policy, the economic impact cannot be measured with any degree of accuracy at this juncture.

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

10:90-2.2 Definitions

(a) The following terms and their definitions apply to MR:

1.-7. (No change.)

8. Extension Period: The period of time (10 calendar days) after the Filing Deadline during which the eligible unit/household may still file a complete MSR and have its eligibility determined and benefits computed for a Payment Month.

i. (No change.)

ii. **Delayed issuance of benefits: If an eligible unit/household files a complete monthly report during the Extension Period, and is determined eligible to receive AFDC/food stamp benefits for the Payment Month, issuance of these benefits may be delayed. However, the CWA shall provide benefits no later**

than 10 calendar days after the eligible unit's/household's normal Payment Date.

9.-10. (No change.)

10:90-2.4 Income, employment and deductions

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

(f) Income from self-employment received other than monthly: The CWA shall annualize self-employment income which is received other than monthly, in accordance with (f)1 through (f)3 below, **following the procedures in N.J.A.C. 10:90-2.4(h).** Therefore, the CWA shall use the monthly annualized self-employment income amount to determine eligibility and compute the assistance payment/food stamp benefit. Self-employed individuals are still required to report income and circumstances monthly to the CWA.

1.-3. (No change.)

(g) (No change.)

(h) Procedures for annualizing income from self-employment received other than monthly: The CWA shall annualize income from self-employment received other than monthly according to (h)1 through 6 below.

1. **Frequency:** The CWA shall compute the total annual self-employment income amount for purposes of determining eligibility prospectively and calculating the assistance payment/food stamp benefit no less than once a year (or once in any 12-month period). The determination of this annual amount should be done at the redetermination (case review) or recertification. The annual amount should be based on verification of the prior year's earnings according to N.J.A.C. 10:82-4.3(a)1, and should consider the client's/household's best estimate of earnings that will exist in the current year. The CWA shall then divide the total annual income by 12 months (or number of months the income is intended to cover) to determine the monthly annualized amount to be used in the eligibility determination and assistance payment/food stamp benefit calculation.

2. **Documentation:** Whenever the CWA computes or recomputes the annual self-employment income amount, the worker shall document in the case record the estimated annual income, the monthly annualized income amount, supporting verification and the reason for the calculation.

3. **Review:** At a minimum of once every six months, the CWA should compare the six months of MSRs and reported or verified income actually received in the budget months with the monthly annualized amount used in the eligibility determination and grant calculation. The CWA should determine if, given the eligible unit's/household's type of employment, seasonality, etc., the monthly annualized amount continues to accurately represent the family's/household's annual income. If so, the CWA shall note this determination. If not, the CWA should contact the client to determine the reason for the variance and the expected earnings for the rest of the 12-month period on which the annual estimate was based.

4. **Recalculation:** If it can be demonstrated at any time in the 12-month period that the initial estimated monthly annualized income amount no longer applies, that is, the eligible unit/household will either receive more or less than the estimated annual amount, the CWA may recompute the annual earnings estimate and monthly annualized self-employment income amount. If the CWA does recalculate the estimate, it shall document this recalculation in the case record according to (h)2 above.

5. **Overpayments and underpayments:** When the CWA recomputes both the annual and monthly annualized self-employment income amounts, it shall review the actual income received in the prior (12-month) period. The CWA shall compare the total annual income actually received with the annual and monthly estimates. If the amounts differ, the CWA shall determine the grants that actually should have been

issued, and treat the differences as either an overpayment or underpayment. The CWA shall move to recover the overpayment or correct the underpayment.

6. Treatment of self-employment income received other than monthly at application: At the time of application for AFDC/food stamps, if an applicant was recently self-employed and received the income other than monthly, the CWA shall follow (h)6i and ii below to determine if a monthly annualized income amount must be used in the eligibility determination and benefit calculation.

i. If there is continued self-employment, that is, the individual expects to receive income from the self-employment enterprise in future months, the CWA shall use the monthly annualized income amount in the eligibility determination and benefit calculation.

ii. If self-employment will not be continued, that is, the self-employment enterprise is dissolved or the individual will not receive income from this self-employment in future months, the CWA shall not apply this income to the eligibility determination or benefit calculation.

10:90-4.1 Determining eligibility prospectively in all payment months

(a) (No change.)

(b) Income eligibility: For any payment month, the CWA shall identify the number of individuals in the eligible unit/household and determine income eligibility prospectively according to (b)1 or (b)2 below. Prospective income eligibility is based on the anticipated income from all individuals whose income must be counted in determining eligibility, for example, members of the unit/household, sanctioned members who would otherwise be eligible, and individuals not receiving assistance but whose income is deemed (stepparents, alien sponsors).

1. AFDC Program: Income eligibility is established when the eligible unit meets both the maximum income eligibility test and the needs test.

[1. AFDC Program] i. Maximum income eligibility test: Determine the total monthly income (including gross earned income) available to the eligible unit and compare it to the maximum income level in N.J.A.C. 10:82-1.2(d). If total income equals or is less than the maximum for the appropriate eligible unit size, maximum income eligibility has been established.

ii. Needs test: An eligible unit must be in need of assistance for any payment month. The CWA shall determine need prospectively for any payment month by comparing total countable income anticipated in that payment month, less appropriate disregards, to the allowance standard. If the countable income remaining after disregards is less than the amounts in Schedules I and II of N.J.A.C. 10:82-1.2 for the appropriate eligible unit size and program segment, need for assistance has been established.

(1) If the anticipated payment month income is equal to or less than the actual income received in the corresponding budget month, the CWA may use the assistance payment computation of N.J.A.C. 10:90-4.2 and 4.3 as the needs test.

(2) If the anticipated payment month income exceeds the actual income received in the budget month, the CWA must perform a separate needs test. The CWA shall also perform a separate needs test when the \$30.00 and 1/3 disregard will be applied to earnings retrospectively but not prospectively, for example, in the third and fourth budget months of eligibility.

[i] iii. (No change in text.)

2. (No change.)

(c) (No change.)

10:90-4.2 Computing the assistance payment/food stamp benefit in the initial two payment months of eligibility

(a) The CWA shall use prospective budgeting to compute the

assistance payments/food stamp benefits for the initial two payment months of eligibility, except in situations detailed in (b) below. See N.J.A.C. 10:90-2.4(a)2i for determination of gross monthly income in these two months. The CWA will compute the assistance payment by counting the budget month income of the same individuals whose income was considered in the prospective eligibility decision in N.J.A.C. 10:90-4.1.

1. (No change.)

(b) (No change.)

10:90-4.3 Computing the assistance payment/food stamp benefit after the initial two payment months of eligibility

(a) After the initial two payment months of eligibility, the CWA shall use retrospective budgeting to compute the amount of each subsequent month's assistance payment/food stamp benefits, based on income, deductions and other relevant circumstances in the corresponding Budget Month, except for contract income, self-employment income received other than monthly, and certain educational grants (see N.J.A.C. 10:90-2.4(e), (f) and (g)).

1. (No change.)

2. Assistance payment/food stamp benefit computation involving income: The CWA will compute the assistance payment/food stamp benefit by counting the budget month income of the same individuals whose income was considered in the prospective eligibility decision in N.J.A.C. 10:90-4.1 above. Thus the amount of the assistance payment/food stamp benefit for any payment month is computed:

i. By counting income received by an individual during the corresponding budget month if that individual's income was used to determine prospective eligibility for the payment month.

ii. Without counting income received by an individual during the corresponding budget month if that individual's income was not also used to determine prospective eligibility for that payment month.

iii. Example: A sanctioned parent's income in July is used to determine the unit's eligibility for the July Payment Month. The CWA shall therefore count the parent's income received in the corresponding May Budget Month in the retrospective calculation of the July 1 AFDC grant.

iv. Example: A parent dies during the June Processing Month. The CWA will not include the parent in the prospective eligibility determination for the July Payment Month, and therefore will not count the parent's May Budget Month income in the retrospective calculation of the July 1 AFDC grant.

(b) First and second months of retrospective budgeting: Except as provided in N.J.A.C. 10:90-4.2(b)1 above, for the first and second payment months for which retrospective budgeting is used, the CWA shall not count income from the Budget Month already considered for any Payment Month determined prospectively which is not of a continuous nature (income from a terminated source).

1. Example: A family/household applies for AFDC/food stamps on April 14. A family/household member [had received a bonus of \$50.00 from his employer on April 10, but this bonus was a one-time payment which he did not expect to receive in future months.] worked part-time during the week of April 14 and received \$50.00. He stopped working for this employer on April 20, and received no other income from this employer. The CWA would not include [the] this \$50.00 [bonus] in the April Budget Month's income for use in computing the June 1 assistance payment (the June Payment Month is the first month for which retrospective budgeting is used).

2. (No change.)

(c) (No change.)

10:90-4.4 Changes in circumstances

(a) (No change.)

(b) Individual added to a food stamp household: If a household

gains a member in the processing month between the budget month and payment month, the CWA shall determine eligibility using the household's composition during the payment month. The CWA shall compute the household's payment month food stamp benefit by prospectively budgeting the new member's income and circumstances. The CWA shall not issue a supplemental food stamp benefit for the new member's processing month eligibility. However, the processing month will become the first budget month in which retrospective budgeting is applied to the new member's income and circumstances.

(c) **Deleting an individual from an eligible unit/food stamp household:** If an individual leaves an eligible unit/food stamp household, the CWA must prospectively delete this person from the AFDC grant/food stamp benefit for the next payment month, with proper notice. Refer to N.J.A.C. 10:90-4.1(b) for treatment of income of the departing eligible unit/household member.

1. The CWA shall be alert to changes in eligibility of the remaining members and possible AFDC overpayments caused by the departing individual.

2. If the AFDC payment was to have been suspended for a payment month to recover an overpayment in the corresponding budget month, but the individual whose income caused the overpayment left the eligible unit, the CWA shall not suspend assistance of the remaining eligible unit. The CWA shall institute recovery from the individual responsible for the overpayment according to the methods in N.J.A.C. 10:82-2.19(a).

3. If an individual with income leaves an eligible unit during a processing month, but no change in AFDC program segment results, the CWA shall not issue an additional AFDC payment to the remaining eligible unit members to compensate for the loss of the departing individual's income.

(d) **Change in AFDC program segment caused by a change in eligible unit size:** If a change in eligible unit size during a processing month causes a change in AFDC program segment, and the family will meet all new eligibility requirements, the CWA shall make the segment change effective according to (d)1 through 3 below.

1. **Change between AFDC-C and -F:** If an individual to be added to the unit results in a change between Federally-funded AFDC-C and -F segments, the CWA will make the segment change effective upon the addition of the individual. The grant for the ongoing unit will be calculated using retrospective budgeting, and the new member's benefits calculated according to (a) above. When an individual leaves the eligible unit, the segment change will be effective for the corresponding payment month, according to (c) above. The grant for the remaining eligible unit will continue to be calculated using retrospective budgeting.

2. **AFDC-C or -F to AFDC-N:** If the change in unit size (addition or deletion) will result in a change from a Federally-funded AFDC-C or -F segment to the non-Federally-funded -N segment, the CWA shall treat the change as any other ineligibility factor and determine the unit prospectively ineligible for AFDC-C or -F for the corresponding payment month. Eligibility for AFDC-N can begin on the first day of this payment month. The grant for the initial two payment months of eligibility for AFDC-N shall be calculated using prospective budgeting.

3. **AFDC-N to AFDC-C or -F:** If the change in unit size (addition or deletion) results in a change from the non-Federally-funded AFDC-N segment to the federally-funded AFDC-C or -F segment, it will be treated as an application for AFDC-C or -F. The processing month's initial AFDC-C or -F grant will be computed using prospective budgeting, prorated according to N.J.A.C. 10:82-2.2(a)1. The CWA will then deduct from this initial grant the prorated share of the AFDC-N grant already issued that covers the time period corresponding

to the new AFDC-C or -F eligibility period. The CWA will issue the difference to the eligible unit either as an additional payment or included in the next payment month's benefit.

i. **Example:** A four-member family is determined eligible for AFDC-N and receives a grant of \$276.00 on March 1. On March 16 the wife reports that the husband just left the home, and is not expected to return. The CWA will treat this as an application for AFDC-C, eligible to receive \$180.00 (prorated share of \$360.00 AFDC-C standard for a three-member eligible unit). The prorated share of the AFDC-N grant already issued covering eligibility from March 16 through 31 is \$138.00. Deducting \$138.00 from \$180.00 results in an additional payment of \$42.00 for March's eligibility for AFDC-C.

10:90-4.6 Reinstatement

(a) [If a family/household was terminated from assistance because it failed to file a complete MSR for a Budget Month, the family household may apply for reinstatement.] **Reinstatement defined:** A reinstatement is an action whereby a family/household determined prospectively ineligible and terminated from assistance is returned to active recipient status without completing a formal application form.

1. **Failure to file a complete MSR:** A family/household terminated from assistance for failure to file a complete MSR for a Budget Month may request reinstatement by submittal of a completed MSR form during the Reinstatement Period, thus obviating the need for a formal application. The CWA shall follow the policy in this section to reinstate assistance.

2. **Correction of an underpayment in the AFDC Program:** Assistance must be reinstated if a family was determined prospectively ineligible and later, circumstances changed which, viewed retrospectively, allowed the family to actually be eligible for that same period. The family must provide documentation of this change to be reinstated. The CWA will follow policy in N.J.A.C. 10:82-2.19(b) and N.J.A.C. 10:90-4.8(b) to correct such underpayments.

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

(d) **CWA action on applications for reinstatement and required notices:** The CWA need only act on complete MSRs received during the Reinstatement Period. Incomplete MSRs received during the Reinstatement Period are not considered applications for reinstatement and require no action by the CWA.

1. **Prospectively ineligible for the payment month of termination:** If the family/household submits the completed MSR for the relevant budget month, but is determined prospectively ineligible for assistance for the payment month of termination, assistance may not be reinstated. The CWA shall advise the family/household of its continued ineligibility. Written adequate notice of this decision is not required. Since the CWA already determined the family/household ineligible prospectively (for failure to file a complete MSR) and terminated benefits with adequate notice, a second notice affirming the ineligibility decision is not necessary. Should the family/household request a fair hearing on this denial of reinstatement, continuation of unreduced assistance pending a hearing is governed by the time frames of the last adequate notice (Extension Notice or form PA-15) sent to the family/household.

i. If, after the denial of reinstatement, the family/household decides to formally reapply for assistance during the payment month of termination, the CWA shall advise that the family/household will be determined ineligible for assistance for this payment month.

2. **Prospectively eligible for the payment month of termination:** If the family/household submits the completed MSR for the relevant budget month, and is determined prospectively eligible for assistance for the payment month of termination, assistance may be reinstated. The CWA will

calculate the assistance payment by retrospectively budgeting the budget month's income and circumstances, applying the penalty of loss of earned income disregards where required (N.J.A.C. 10:90-2.3(a)7).

i. If the benefits to be issued for the payment month are changed from those issued in the previous payment month, the CWA shall issue an adequate notice of the change (form PA-15).

ii. If benefits will not be issued for the payment month due to the loss of earned income disregards or a circumstance which rendered the family/household temporarily ineligible for the budget month, for example, receipt of five pays, the CWA shall issue an adequate notice (PA-15). The CWA shall treat this situation as a temporary suspension according to N.J.A.C. 10:90-4.5, and will calculate benefits to be issued for the first payment month following the payment month of reinstatement using retrospective budgeting.

(1) Example: A family is terminated from assistance for the March Payment Month for failure to file a complete MSR for the January Budget Month. On March 3 the family applies for reinstatement for March by submitting a complete January Budget Month MSR. The CWA determines the family prospectively eligible for March, but determines that the five pays received in January rendered the family ineligible for assistance in January. The CWA does not issue a grant for the March Payment Month, and provides a PA-15 notification of this action and the February Budget Month MSR. If the family submits this completed MSR April benefits will be calculated by retrospectively budgeting February's income and circumstances.

[(d)] (e) (No change in text.)

[(e)] (f) (No change in text.)

10:90-4.8 Recovery of overpayments and correction of underpayments for AFDC cases

(a) **Overpayment:** An overpayment is defined as a financial assistance payment received by or for an eligible unit which exceeds the amount for which that unit was eligible, according to proper application of prospective/ retrospective budgeting policy. CWAs must recover all overpayments of assistance, including overpayments resulting from assistance paid pending hearing decisions. Due to the frequency of changes in circumstances reported in monthly reporting, CWAs must be alert to changes in eligibility and the possibility of resultant overpayments.

1. **Overpayments and changes reported on the MSR:** No assistance payment is payable for any month in which a family is not eligible for AFDC. The prospective eligibility determination is an estimate of a family's circumstances for a payment month. Whenever the MSR reports an actual change in circumstances for that month (payment month is now a budget month), the CWA must apply factors of eligibility (including the maximum income eligibility test and needs test) to the month(s) in which the changed circumstance actually existed, to determine if the family was in fact eligible for assistance. Therefore, for changes reported on the MSR, the CWA must perform both a prospective and a retrospective eligibility determination.

i. If a CWA subsequently determines that a family is ineligible for the budget month of change, the family is not entitled to receive a grant for the corresponding payment month, even though the family may be prospectively eligible. If the CWA erroneously issues a grant for this payment month, the grant is an overpayment. The CWA must move to recover the overpayment(s).

ii. Example: An AFDC-C eligible unit of two receives a \$200.00 monthly RSDI benefit. In the February Processing Month the CWA determines that the family is eligible prospectively for the March Payment Month, because the \$200.00 is less than the \$410.00 maximum income level and

\$273.00 need standard. However, in the April Processing Month MSR the CWA receives the family's March Budget Month MSR which shows a change from the previous month—a total of \$273.00 in income (\$200.00 RSDI, \$50.00 income tax refund and \$23.00 from a relative). The client states in the MSR that this income will change; the \$73.00 is one-time income which she does not expect to receive in future months. In addition to determining eligibility prospectively for the May Payment Month, the CWA must reevaluate the eligibility determinations for the March and April Payment Months in view of this actual change. In the retrospective determination, the CWA finds that March's income equalled the allowance standard, so the family was ineligible for assistance in March. However, April's income appeared to fall below the maximum income level and schedule allowances, so the family was eligible for the April AFDC payment. The family is not entitled to receive an AFDC grant in March's corresponding payment month of May, even though it may be prospectively eligible for May.

2. **Overpayment recovery by suspending assistance:** The CWA may deny (suspend) assistance for the corresponding payment month rather than terminate assistance to recover an overpayment if all of the following exist:

- i. The family was ineligible for a budget month;
- ii. The CWA becomes aware of the ineligibility when the monthly report is submitted;
- iii. The client accurately reported the budget month's income and other circumstances; and
- iv. The family will be eligible for the following payment month.

(1) Example: Given the circumstances in (a)1ii above, the family appears to be prospectively eligible for assistance for the April Payment Month (following payment month). Consequently, March's overpayment may be recovered by denying assistance for the May Payment Month, because ineligibility lasted for only one budget month. In this situation, the CWA would suspend assistance for the May Payment Month and issue the family an MSR on May 1.

3. **Overpayment and changes reported by means other than the MSR:** When a change in eligible unit circumstances is reported by means other than the MSR, the CWA must act on the change by determining eligibility prospectively for the next payment month. If the reported change results in eligibility for the payment month the CWA shall wait until the month of change becomes a budget month to reflect a change in the assistance payment. (However, changes in eligible unit size shall be reflected in a changed assistance payment according to N.J.A.C. 10:90-4.4). Should the reported change result in ineligibility for the payment month, the CWA shall terminate assistance effective with the first day of the payment month and issue a timely (10-day) and adequate notice of termination to the family. If there is insufficient time to issue timely notice, the CWA shall issue a grant for the first payment month of ineligibility and shall terminate assistance for the second payment month of ineligibility with corresponding notice. However, the payment issued to the family for the first payment month of ineligibility is an overpayment that must be recovered.

i. Example: An AFDC-C family submitted its September Budget Month MSR on October 7, and the CWA determined the family prospectively eligible for the November Payment Month. On October 25, the client reports a change in circumstances, for example, the only child has permanently moved out of the home. The CWA acts on this change by determining the family prospectively ineligible for the November Payment Month, but must issue the November 1 grant because there is insufficient time to issue a 10-day timely notice terminating assistance. The CWA will close the case effective December 1; however, the AFDC grant issued on

November 1 is an overpayment that must be recovered.

(b) **Underpayment:** An underpayment is defined as a financial assistance payment received by or for an eligible unit for a payment month which is less than the amount for which the family was eligible, according to proper application of retrospective/prospective budgeting policy, or failure by the CWA to issue a financial assistance payment for the payment month to an eligible unit if such payment should have been issued.

1. CWAs must promptly correct any underpayments to current AFDC recipients and those who would have continued as AFDC recipients if the error causing the underpayment had not occurred. For purposes of determining continued eligibility and amount of assistance, such retroactive corrective payments shall not be considered as income, or as a resource in the month paid nor in the next following month.

2. If a prospective ineligibility decision were made, and later, circumstances changed which, viewed retrospectively, allowed the family to actually be eligible for that same period, the unit is eligible and assistance must be reinstated.

i. **Example:** A client reports on the January Budget Month MSR earnings of \$100.00 per week or \$400.00 per month (eligible unit of four). She states that she will get a raise in salary in February to \$200.00 per week (\$800.00 per month), which she expects to continue into subsequent months. In the February Processing Month, the CWA determines the family prospectively ineligible for the March Payment Month, closes the case effective March 1, and grants four-month Medicaid Extension. On March 15 the client comes into the CWA, reports that she never received the raise in pay, shows current paystubs indicating earnings of \$100.00 per week, and requests reinstatement. If otherwise eligible, the CWA must reinstate the family and issue the March AFDC payment, calculated retrospectively based on the January Budget Month income and circumstances.

(c) **Underpayment and overpayment for the same eligible unit:** For eligible units which have both an underpayment and an overpayment, the CWA may offset one against the other in correcting the payment.

(d) **Correction of assistance payments computed using prospective budgeting:** When the CWA issues assistance payments for the initial two payment months of eligibility, calculated using prospective budgeting according to N.J.A.C. 10:90-4.2(a), but subsequently learns that circumstances actually existing in either of these two months were different than those used in the prospective assistance payment computations, the CWA shall correct the assistance payment(s).

1. **Overpayment:** If the eligible unit was overpaid in these payment months, the CWA shall move to recover the overpayment, according to N.J.A.C. 10:82-2.19(a).

2. **Underpayment:** If the eligible unit was underpaid in these payment months the CWA shall promptly correct the underpayments, according to N.J.A.C. 10:82-2.19(b).

i. **Example:** An individual (family of four) stops working on December 10, and on January 16 applies for both AFDC and unemployment insurance benefits (UIB). The applicant does not know the amount of UIB or the date she will begin receiving UIB. Therefore, the CWA's best estimate of income for January will be \$0. As of January 21, (the last day timely notice of adverse action can be issued for February 1), the applicant has no further information about her UIB. The CWA's best estimate of income for February remains \$0. The grants issued for January and February are \$212.00 and \$414.00, respectively. On February 5 the CWA receives the January Budget Month MSR showing receipt of one week of UIB (\$50.00 or \$200.00 monthly), which is expected to continue. The CWA uses the \$50.00 to compute the grant to be issued on March 1. However, the family was overpaid in the January and February

payment months, because the UIB actually received in these months had not been used to compute the assistance payments. The CWA must move to recover the overpayments.

ii. **Example:** An individual (family of four) applies for assistance on January 4. She is employed full-time and receives \$100.00 per week (\$400.00 per month); employment is expected to continue. The CWA computes her January and February AFDC grants as \$267.00 and \$297.00, respectively. On February 5 the CWA receives the January Budget Month MSR, showing receipt of three weeks of earnings (\$300.00), plus a layoff notice from the employer covering the fourth week. The recipient does not know when she will return to work. The January earnings are considered income from a terminated source (N.J.A.C. 10:90-4.3(b)) and so are not used to compute the March 1 grant. However, the family was underpaid for the January and February payment months, because income never actually received in these months had been used to compute the respective assistance payments for these months. The CWA must correct the underpayments.

(e) **Calculation of an overpayment or underpayment:** The CWA shall calculate an overpayment or underpayment according to (e)1 and 2 below. In general, the CWA shall apply prospective and retrospective budgeting policy as it would have been applied if the eligible unit had reported the change timely. However, for AFDC-C and -F segment cases, the CWA shall apply the penalty of loss of disregards (N.J.A.C. 10:90-2.3(a)7) to any budget month earnings not reported timely, by the relevant processing month's Extension Deadline.

1. **Eligibility determination:** Upon discovery of change in circumstances, the CWA shall determine if the family was eligible, according to N.J.A.C. 10:90-4.1, for the payment months in which the changed circumstances existed.

i. For any payment month in which the family was ineligible the entire amount of the assistance payment issued for that month is an overpayment.

ii. If a family was determined prospectively ineligible but was actually eligible for any payment month, the entire amount of the assistance payment that should have been issued for that month is an underpayment.

iii. For the payment months in which the family remained eligible, the CWA will recompute the assistance payment according to (e)2 below.

2. **Assistance payment recomputation:** After a family has been determined eligible for a payment month, the CWA shall recompute the correct assistance payment according to N.J.A.C. 10:90-4.2 and 4.3, applying the earnings penalty of N.J.A.C. 10:90-2.3(a)7. The difference between the assistance payment that was issued for that month and the recomputed payment is the amount of the overpayment or underpayment.

3. **Example:** An ongoing eligible unit of three reports zero income for a seven-month period, November through May, and receives a monthly AFDC grant of \$360.00. In June the CWA discovers and verifies unreported earnings of \$600.00 in January, \$600.00 in February, and \$300.00 in March. In the eligibility determination, the CWA finds the family ineligible for January and February (\$600.00 exceeded the \$540.00 of maximum income test) but eligible for March (\$300.00 was less than maximum income test and needs test). The overpayments for January and February are \$360.00 each. The AFDC grant that should have been issued for the March Payment Month is calculated using prospective budgeting (N.J.A.C. 10:90-4.2), because there was a two-month break in eligibility (January and February). Applying no disregards because earnings were not reported timely, the correct grant for March is \$30.00 (\$360.00 minus \$330.00 earnings plus EIC). The overpayment for March is \$330.00 (\$360.00 issued minus \$30.00 recomputed payment). The total overpayment to be recovered is \$1,050 (\$360.00 January, \$360.00 February, \$330.00 March).

4. **Example:** Given the family in (e)3 above, but applying the

income in reverse order, the total overpayment is a different amount. In June the CWA discovers and verifies unreported earnings of \$300.00 in January, \$600.00 in February and March. The CWA finds the family eligible for January, but ineligible for the February and March Payment Months. The overpayments for February and March are \$360.00 each. The CWA recomputes the AFDC grant that should have been issued for the January Payment Month using retrospective budgeting (N.J.A.C. 10:90-4.3) because of prior continuous eligibility. The correct January grant using zero November Budget Month income remains \$360.00; there is no overpayment for January. The \$300.00 January earnings would have been used in the March grant calculation. However, since the full March payment is already being recovered, the CWA can recover no more money from that Payment Month. This example illustrates the normal two-month lag of retrospective budgeting. The total overpayment is \$720.00 (\$0.00 January, \$360.00 February, \$360.00 March).

10:90-5.3 During the Reinstatement Period
(a)-(b) (No change.)

(c) Proration of food stamp benefits: If a household requests reinstatement after the first day of the payment month of termination and is determined eligible for participation, the CWA shall calculate the food stamp benefit using retrospective budgeting and shall prorate the benefit to be issued according to N.J.A.C. 10:87-12.5, from the date a complete MSR was received by the CWA.

10:90-5.6 Changes in circumstances during a period of ineligibility

(a) AFDC family terminated from assistance for a reason other than monthly reporting becomes eligible in payment month of termination: If an eligible unit is terminated from AFDC for a payment month for failure to meet an eligibility factor other than filing a complete MSR, but during the payment month of termination becomes eligible and applies for assistance, the CWA shall proceed according to (a)1 and 2 below.

1. Income eligibility: Income eligibility of N.J.A.C 10:90-4.1(b) is based on income received by an eligible unit throughout a payment month. If the CWA determined the family prospectively ineligible for a payment month due to expected excess income but the family never received this total income and was actually eligible for assistance, the CWA shall treat the family's application as an underpayment situation according to N.J.A.C. 10:90-4.8(b)2. The CWA will correct the underpayment by issuing a full month's AFDC benefits, calculated using retrospective budgeting.

2. Non-income eligibility: Non-income eligibility, including the resource evaluation, is based on factors as they are expected to exist on the first day of the payment month. If the CWA determined a family prospectively ineligible for failure to meet a non-income eligibility factor on the first day of the payment month, but circumstances changed and the family became eligible during the payment month of termination, the CWA shall treat the family's AFDC application as a reopened case. The family's AFDC grant will be calculated by retrospectively budgeting all countable income received in the budget month and comparing it to the appropriate Schedule Allowance I or II (N.J.A.C. 10:82-1.2). The difference so obtained will be prorated from the date of application, according to the proration factors listed after N.J.A.C. 10:82-2.2(a)1, and issued as the assistance payment.

10:90-6.1 Redeterminations/Recertifications
(a)-(c) (No change.)

(d) Overdue redeterminations: If the redetermination is overdue, that is, the interview and obtaining required verification are completed after the scheduled effective

redetermination date, the CWA shall redetermine the unit's eligibility for the next payment month. However, the CWA must be alert to any changes in circumstances that occurred in the intervening month(s) and must recover any overpayments of assistance made.

1. Example: A non-MR case is due for redetermination effective March 1. However, the CWA does not conduct the interview until March 5. During the interview, the three-member eligible unit reports one-time receipt of \$200.00 unearned income in January. This income is not expected in future months. The CWA redetermines eligibility for the April Payment Month, and calculates the grant to be issued on April 1 by retrospectively budgeting February's zero income and circumstances. However, the \$200.00 must be examined for overpayment purposes. This \$200.00 did not make the family ineligible in January, but should have been retrospectively budgeted in the March grant. The family received \$360.00 on March 1 but should have received only \$160.00. The CWA must recover the \$200.00 overpayment.

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

Rooming Houses County Welfare Agency Responsibility

Proposed Amendment: N.J.A.C. 10:123-2.4

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 44:7-87.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Gail Tishman
Office of Policy and Planning
Division of Youth and Family Services
1 South Montgomery Street
CN 717
Trenton, NJ 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-347.

The agency proposal follows:

Summary

The proposed amendment reduces the required outreach services provided to rooming houses by County Welfare Agencies from once every six months to once annually. Outreach visits are conducted by County Welfare Agency staff for the purpose of providing information to rooming and boarding house residents about service availability, referral to appropriate service providers when necessary, and provisions of direct services as needed.

In the course of their outreach visits, County Welfare Agencies have found that the majority of rooming houses are populated primarily by employed, independent, or self-sufficient individuals not generally in need of services. This proposed change will not prohibit the County Welfare Agencies from more frequent visits to these facilities, if they are deemed necessary.

Social Impact

Reducing caseworkers' requirement to outreach rooming houses will have a positive social impact. The proposed amendment will redirect services away from a population identified as being self-sufficient.

Economic Impact

There is no discernible economic impact as the proposal will not change the number of staff assigned to the Rooming and Boarding House Program, nor alter the variety of services offered.

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

10:123-2.4 County Welfare Agency responsibility

(a) (No change.)

1. Outreach: The County Welfare Agency shall visit [rooming houses,] boarding houses and residential health care facilities at a minimum of two visits per year. **Rooming houses shall be visited at a minimum of once per year.** [These visits shall be for the purpose of:] **This does not prohibit County Welfare Agencies from more frequent visits to these facilities, if they are deemed necessary. These visits shall be for the purpose of:**

i.-ii (No change.)

2.-5 (No change.)

(b) (No change.)

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

Maintaining and Establishing Shelters for Victims of Domestic Violence Through Marriage License Fees

Proposed New Rule: N.J.A.C. 10:130-3

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.

Authority: N.J.S.A. 37:1-12.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Thomas Blatner, Director
DYFS Management Team
Division of Youth and Family Services
1 South Montgomery Street
CN 717
Trenton, NJ 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-357.

The agency proposal follows:

Summary

The enactment of the State Marriage Licensing Law, N.J.S.A. 37:1-12 et seq., provides for an additional \$5.00 fee to be charged with the issuance of a marriage license. The revenues generated through these fees must be used to maintain and establish shelter programs for victims of domestic violence. These rules have been

developed to set forth a clear policy on how these new funds will be distributed.

Social Impact

The proposed rules will provide the framework to be used in making services for victims of domestic violence more readily accessible to persons who need them. The funds will be used to enhance geographic accessibility and expand services.

Economic Impact

The proposed rules are not expected to have a significant economic impact, in additional costs, to either the public or the Department as a result of such rules.

Full text of the proposed new rule follows.

SUBCHAPTER 3. MAINTAINING AND ESTABLISHING SHELTERS FOR VICTIMS OF DOMESTIC VIOLENCE THROUGH MARRIAGE LICENSE FEES

10:130-3.1 Legal authority; applicability, scope, purpose

(a) This chapter is promulgated pursuant to the State Marriage Licensing Law (N.J.S.A. 37:1-12 et seq.).

(b) Under N.J.S.A. 37:1-12.1 and 12.2, the Department of Human Services is authorized to receive revenues from additional \$5.00 fees charged with the issuance of a marriage license, for purposes of maintaining and establishing shelters for victims of domestic violence.

(c) Responsibility for ensuring that revenues are used according to the provisions of the statute cited in (a) above of this chapter is hereby delegated by the Department of Human Services to the Division of Youth and Family Services.

(d) The rules governing the distribution of collections made through N.J.S.A. 37:1-12 et seq. are available for the continued support of programs serving victims of domestic violence and for the development of new programs. These programs are essential to provide persons, who have been subject to or threatened with violence at home, with a safe refuge where they can examine alternatives and receive supportive services.

10:130-3.2 Funding priorities of programs

(a) Existing shelter programs (e.g., those providing initial response, linkage to other services, and emergency residential shelter), and programs funded in the past under section (b) below shall be eligible to receive at least 80% of marriage license fee collections. Donor match of 25% will be required.

(b) New program development.

1. New program development may receive up to a maximum of 20% of marriage license fee collections.

2. Eligibility will be limited to counties which do not have emergency residential shelter programs.

3. Donor match will not be required.

4. Proposals received for programs including an emergency residential shelter component in addition to initial response and linkage to other services, will be given first priority for funding.

5. Second priority will be given to non-residential programs which include initial response, linkage to other services, and emergency housing provisions.

6. Applications for new program funding shall be solicited through a formal request for proposals process and reviewed on the basis of program and fiscal criteria established in the proposal request.

10:130-3.3 Program fiscal responsibility

(a) Funding is contingent on the ability of programs to meet sound fiscal and programmatic practices.

(b) All programs are subject to fiscal and programmatic review by the Division of Youth and Family Services.

(c) All emergency residential shelter programs must comply with the Standards for Shelters Serving Victims of Domestic Violence (N.J.A.C. 10:130-2.1 et seq; above) which became effective May 3, 1982.

INSURANCE

(a)

DIVISION OF ADMINISTRATION

Automobile Insurance Automobile Rate Filers: Flattening of Premium Taxes and Assessments made for the Unsatisfied Claim and Judgment Fund

Proposed New Rule: N.J.A.C. 11:3-12

Authorized By: Joseph F. Murphy, Commissioner,
Department of Insurance.
Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e) and the New
Jersey Automobile Insurance Reform Act of 1982,
P.L. 1983, c.65, N.J.S.A. 17:29A-33 et al.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

W. Morgan Shumake
Executive Director of Insurance
Department of Insurance
CN 325
Trenton, NJ 08625

The Department of Insurance thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-356.

The agency proposal follows:

Summary

The New Jersey Automobile Insurance Reform Act of 1982 (P.L. 1983, c. 65, N.J.S.A. 17:29A-33 et al.) requires that insurers flatten the tax portion contained in automobile insurance premiums so as to distribute this charge among policyholders on a flat and uniform fee basis per insured automobile statewide. Currently, the premium tax which insurers must pay pursuant to N.J.S.A. 54:18A-1 et seq. (two percent premium tax) is, in turn, apportioned among policyholders in a direct relationship to the premium generated by the policy.

The flattening requirements of the Act also extend to certain assessments made in accordance with N.J.S.A. 39:6-64, 66 and 67 (which pertain to the operations of the Unsatisfied Claim and Judgment Fund). Excluded from the requirements, however, are assessments made to reimburse an insurer for medical benefits payable under N.J.S.A. 39:6A-4 (personal injury protection coverage) in excess of \$75,000.

In accordance with the Act, this proposed new rule requires that automobile filers calculate and collect these taxes and assessments in a manner consistent with the flattening provisions set forth therein. In order to accomplish this goal, the proposal requires that each automobile filer amend its rating system currently on file with the Department in order to place the premium structure in

compliance with the Act. Automobile filers must submit rate filings reflecting this change to the Department for approval within 30 days of the effective date of the adopted rule. Such rate filings shall be prepared in accord with the Department's existing filing procedures.

This proposal also contains various provisions relating to the charging of the uniform tax and assessment fee. It specifies, for instance, that each filer shall apply its flattened tax and assessment fee to all new and renewal policies issued on or after January 1, 1984. Provisions relating to the treatment of newly acquired and substitute automobiles are also included.

Finally, the proposal specifies that it is not intended to supersede or modify any existing law or regulation. Accordingly, its requirements do not affect the collection or remittance of premium taxes paid pursuant to N.J.S.A. 54:18A-1 et seq. nor any assessments to be made in connection with the Unsatisfied Claim and Judgment Fund.

Social Impact

The premium taxes required to be paid pursuant to N.J.S.A. 54:18A-1 et seq. are based upon a fixed percentage (two percent) of the taxable premiums collected by a company during the preceding calendar year. With respect to the individual policyholder, the premium charge developed on the policy is a function of the characteristics of the risk. The premium, accordingly, will reflect the application of various classification factors, such as the personal characteristics of drivers, geographical location and vehicle usage; the premium charge is, therefore, based upon factors which are essentially unrelated to the proper apportionment of tax liability.

The flattening requirements of the New Jersey Automobile Insurance Reform Act of 1982, together with these proposed rules for the implementation of its requirements, will provide for a more equitable distribution among policyholders of the tax portion of the insurance premium charge based upon a flat and uniform fee per insured automobile statewide, as calculated by each filer.

Economic Impact

An insurer's obligations with respect to premium taxes assessed and collected pursuant to N.J.S.A. 5:18A-1 et seq., as well as the assessments made pursuant to N.J.S.A. 39:6-64, 66 and 67, are not changed by the Act or this proposal. The tax portion contained in the insurance premium, as it applies to individual policies, will, however, be altered. In moving toward equalization of this charge on the basis of a flat fee per automobile, the tax portion currently reflected in premium charges will be lowered for some policyholders and increased for others.

Full text of the proposed new rule follows.

SUBCHAPTER 12. AUTOMOBILE RATE FILERS: FLATTENING OF PREMIUM TAXES AND ASSESSMENTS MADE FOR THE UNSATISFIED CLAIM AND JUDGMENT FUND

11:3-12.1 Purpose

The New Jersey Automobile Insurance Reform Act of 1982 (P.L. 1983, c.65, N.J.S.A. 17:29A-33 et al.) requires that each insurer calculate and collect, on a flat and uniform basis per insured automobile statewide, the taxes which are paid pursuant to N.J.S.A. 54:18A-1 et seq. and certain assessments made pursuant to N.J.S.A. 39:6-64, 66 and 67. This subchapter provides rules for the implementation of these requirements.

11:3-12.2 Scope

(a) This subchapter applies to every insurer authorized to transact the business of automobile insurance in this State and every rating organization engaged in the business of rate-making for such insurers.

(b) The provisions of this subchapter are not intended to supersede or amend any other law or regulation.

11:3-12.3 Definitions

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

“Assessments” mean any assessments to be made pursuant to N.J.S.A. 39:6-64, 66 and 67, excluding assessments made to reimburse a filer for medical benefits payable under N.J.S.A. 39:6A-4 in excess of \$75,000.

“Commissioner” means the Commissioner of Insurance.

“Filer” means a rating organization or any insurer making its own rates.

“Insurer” means any person or persons, corporation, association, partnership, or company authorized by the laws of this State to transact the business of insurance in this State.

“Rating organization” means every person or persons, corporation, partnership, company, society, or association engaged in the business of rate-making for two or more insurers.

“Taxes” mean those taxes required to be paid pursuant to N.J.S.A. 54:18A-1 et seq.

11:3-12.4 Tax and assessment fees; general provisions

(a) Pursuant to N.J.S.A. 17:29A-33 et seq., each automobile filer shall calculate and collect taxes and assessments for its insureds on a flat uniform fee basis per insured automobile statewide.

1. The flat and uniform fee per insured automobile required in (a) above shall be included in all new or renewal automobile policies issued on or after January 1, 1984.

(b) The fee shall be charged on any additional automobile which is acquired during the policy period.

(c) The fee shall not be charged on any replacement automobile acquired during the policy period.

(d) In the event of the cancellation of the policy or the deletion of an automobile from a policy, no refund of the fee shall be made.

11:3-12.5 Filing and reporting requirements

(a) Within 30 days of the effective date of this subchapter, each automobile filer shall submit to the Commissioner for approval a rate filing designed to place the premium structure of the filer in compliance with the requirements of the New Jersey Automobile Insurance Reform Act of 1982 and this subchapter.

1. The rate filing submitted to the Commissioner shall include the uniform tax and assessment fee to be used by the filer in the calendar year commencing January 1, 1984.

(b) Effective for calendar years commencing January 1, 1985 and thereafter, every automobile filer shall submit to the Commissioner for approval its calculation of the tax and assessment fee to be used in that calendar year by October 1 of the preceeding year.

(c) All filings required to be submitted pursuant to this subchapter shall be prepared in accordance with insurance laws and regulations including applicable provisions of N.J.S.A. 17:29A-1 et seq. and N.J.A.C. 11:1-2 and the Department’s existing filing procedures.

(d) The filing of a rating organization shall be applicable to the members and subscribers of the organization.

1. Members or subscribers may submit to the Commissioner for approval a separate filing which deviates from the rating organization’s filing. Such filings shall be prepared and submitted in accordance with the requirements of this subchapter.

(e) The Commissioner may require the filing of such additional data or information as he deems necessary to implement the provisions of this subchapter, including, but not limited to, premium information on miscellaneous coverages such as rental reimbursement, additional personal injury protection and underinsured motorists as well as excess limits premiums for bodily injury and property damage liability coverages.

LAW AND PUBLIC SAFETY

(a)

STATE BOARD OF EXAMINERS OF MASTER PLUMBERS

General Rules and Regulations
Bona Fide Representative, Responsibilities and Limitations

Proposed Repeal: N.J.A.C. 13:32-1.5
Proposed New Rule: N.J.A.C. 13:32-1.5

Authorized By: State Board of Examiners of Master Plumbers, Sidney Crane, Chairman.

Authority: N.J.S.A. 45:14C-2(d) and 45:14C-7.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

John S. LeMaire
Executive Secretary
State Board of Examiners
of Master Plumbers
1100 Raymond Boulevard
Room 503
Newark, NJ 07102

The State Board of Examiners of Master Plumbers thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-349.

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 45:14C-2, a corporation, firm or other legal entity may engage in the plumbing business if a licensed master plumber owns at least 10 percent of the business. The license holder is denominated as the bona fide representative for the entity. N.J.S.A. 45:14C-2(d). This proposed regulation provides a mechanism by which the Board may keep a record of all licensees serving as bona fide representatives and determine whether, in fact, such representatives hold the requisite 10 percent interest in a corporation, firm or other entity which is engaging in the business of master plumbing. The regulation also imposes on the bona fide representative responsibility for the supervision of all plumbing work undertaken by that entity, as well as the responsibility for any violations which might be committed by any employee who is under his supervision. Under the present regulatory scheme, no such supervisory responsibilities are imposed on bona fide representatives, though N.J.A.C. 13:32-1.5 does provide that a bona fide representative may only serve in that capacity for one entity. This proposed regulation also contains such a limitation to ensure that the level of supervision is sufficient to assure compliance with acceptable standards within the occupation. Finally, the proposed regulation expressly provides that individual licensees who may be working under the supervision of a bona fide representative may also be held accountable for violations of the State Plumbing Licensing Act.

This proposed regulation would appear to be within the lawful authority of the Board, since it clarifies the role that a bona fide representative should play and thus is “necessary” to carry out the provisions of the Act.

Social Impact

The amendment will ensure that plumbing work done by a corporation, firm or entity who has a 10 percent shareholder holding a master plumber license will be performed in accordance with the standards required of licensed master plumbers. Pursuant to this amendment consumers will have recourse against the entity through the bona fide representative's bond, for work which is performed by an unlicensed employee of the entity in a manner which violates the Act. The bona fide representative will be subject to disciplinary action for violations committed by the entity's employees and an action on his bond may be maintained for such violations.

Economic Impact

Corporations, firms or entities which are now engaged in the business of master plumbing may experience some costs as a result of this regulation. To the extent that an entity may be doing more plumbing jobs than its bona fide representative is able to adequately supervise, some reorganization may be required. The rule, however, does not mandate that a bona fide representative exercise constant on-site supervision, but only requires a level of supervision necessary to ensure compliance with standards which the Board deems applicable to the occupation.

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

[13:32-1.5 Dual representation prohibited

A master plumber shall not qualify as a "bona fide representative" for more than one firm, partnership, corporation or other legal entity.]

13:32-1.5 Bona fide representative, responsibilities and limitations

(a) A licensee seeking to act as a bona fide representative for any firm, partnership, corporation or other legal entity contemplated by N.J.S.A. 45:14C-2 shall comply with the following:

1. Register with the Board, providing the name of the entity, its business address and if the entity is a corporation, the names of the officers of record.

2. Provide documentation which shall establish that said licensee holds at least 10 percent of the outstanding stock of the corporation or 10 percent of the capital of an entity.

(b) A bona fide representative registered with the Board pursuant to (a) above shall comply with the following:

1. Give notice to the Board in writing concerning any change in the name or address of the entity.

2. Secure or instruct an authorized employee to secure all necessary permits as may be required by State and local law for the performance of plumbing work to be performed by the entity for which the licensee acts as a qualified bona fide representative. In making an application for permit issuance, the authorized employee shall have in his possession a letter authorizing him to make the application. A letter of authorization may authorize a permit application for a specific period of time, not to exceed 60 days, and shall have affixed to it the seal of the bona fide representative.

3. Supervise the performance of all plumbing work performed by the entity for which the licensee acts as the qualified bona fide representative. Such supervision shall assure the effective compliance with State and local plumbing codes and the performance of work in accordance with proper plumbing practice. The supervision contemplated by this paragraph shall be such as to assure compliance with the standards established herein, but shall not be construed to require constant on-site oversight unless the circumstances of the job indicate the need for such supervision.

4. Be responsible for any and all violations of N.J.S.A. 45:14C-1 et seq. committed by employees of the entity for which

he is serving as a bona fide representative if said violations were committed during the course of work which he was required to supervise.

5. Serve as a bona fide representative for only one entity.

(c) Nothing herein shall preclude the Board from proceeding against both the bona fide representative for an entity or any other licensee employed by such an entity who can be shown to have violated the Board's enabling legislation or any regulation adopted thereunder. Nothing shall preclude any person entitled to maintain an action on a bond from proceeding pursuant to N.J.A.C. 13:32-1.4 against the bona fide representative and any other licensee who has failed to perform the duties required by N.J.S.A. 45:14C-1 et seq.

(a)

BOARD OF PHARMACY**Administrative and Registration Requirements****Proposed Readoption with Amendments:
N.J.A.C. 13:39-5**

Authorized By: State Board of Pharmacy, Sanford Luger, Treasurer.

Authority: N.J.S.A. 45:14-3, 45:14-6, 45:14-7, 45:14-8, 45:14-8.1, 45:14-11 and 45:26.2.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Sanford Luger, Treasurer
Board of Pharmacy
1100 Raymond Boulevard
Room 325
Newark, NJ 07102

The Board of Pharmacy thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), these rules expired on June 21, 1983. The readoption of these rules becomes effective upon publication in the Register of a notice of their readoption.

This proposal is known as PRN 1983-348.

The agency proposal follows:

Summary

The rules proposed for readoption provide requirements for the registration of pharmacists. They also provide for methods of obtaining or changing information contained in registration records, requirements for reciprocal registration of pharmacists registered in other states, registration renewal, reinstatement after lapse of registration, and a requirement that all registrants must notify the Board of change of address or employment. The proposal also eliminates sections of the regulations that are now considered obsolete, such as those relative to registered assistant pharmacists, a category of licensees not registered in New Jersey since 1932.

Social Impact

The readoption is consistent with the Board's intent to protect the public by requiring high standards of education and experience for registration as a pharmacist. The regulations have been helpful in the past in screening qualified applicants for practice. For example, the English language comprehension requirement (TOEFL examination) assures the ability of all pharmacists to communicate

clearly with consumers. The continuation of reciprocity with all States that reciprocate with New Jersey recognizes the mobility of our population while insuring that pharmacists are properly prepared to practice in New Jersey.

The registration regulations also protect the public by requiring a registered pharmacist to notify the Board of his change of address or employment. Thus the Board will be able to locate licensees who have complaints lodged against them relating to former employment.

Economic Impact

The proposed re adoption brings the fees involved in registration into conformity with amendments already promulgated regarding fees (see N.J.A.C. 13:39-9.16). Therefore changes in the registration fees have no appreciable economic impact. The costs associated with such requirements as taking the TOEFL examination or requiring evidence of practical experience as a condition precedent to reciprocal registration are fully justified by the need to assure that pharmacists have the ability to communicate with consumers and the practical experience and education necessary for safe and competent pharmaceutical services.

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

SUBCHAPTER 5. REGISTRATION

13:39-5.1 Certificate of registration

An applicant who has successfully passed all of the examinations of the Board will receive a letter signed by the Secretary of the Board granting to him the right to practice pharmacy in the State of New Jersey until such time as a certificate of registration may be prepared for him.

13:39-5.2 Duplicate certificate of registration

A duplicate certificate of registration may be issued by the Board upon payment of a fee of [~~\$5.00~~] **\$10.00** only if proof of identity of the applicant is furnished and reasonable proof of the loss or destruction of the original certificate of registration is submitted or the damaged original certificate is returned to the Board.

13:39-5.3 Change of name

If a registered pharmacist changes his or her name legally, the change of name will be recorded upon the records only if proof of the change of name is submitted in the form of the original or a certified copy of the court order or marriage certificate to be retained by the Board. If the original certificate can be corrected to show the new name, the change will be made for a fee of [~~\$2.00~~] **\$5.00**. If it is necessary to issue a duplicate certificate, the original certificate must be returned for cancellation.

13:39-5.4 Certification of records

A certification of any of the information concerning an applicant for registration or a registered pharmacist or [registered assistant pharmacist] on file in the Board records will be supplied only upon payment of a certification of \$1.00.

13:39-5.5 Reproduction of original certificate of registration

It shall be unlawful to print, photograph, photostat, duplicate or copy by any other means the whole or any part of the original certificate of registration issued by the Board to any pharmacist [or assistant pharmacist].

13:39-5.6 Limitation of reciprocal registration

Reciprocal registration shall be limited to fully registered pharmacists as there are no reciprocal relations between states or territories on registered assistant pharmacist certificate and no assistant pharmacists have been registered in the State of New Jersey since July 1, 1932.

13:39-5.7 States reciprocating

(a) Pharmacists registered in every state of the United States with the exception of those registered in [the states of California and Florida] **those states that do not reciprocate with New Jersey shall be eligible to apply for reciprocal registration.** [the Boards of Pharmacy of which do not reciprocate with other states, and pharmacies] **Pharmacists** registered in the District of Columbia and in the territories of the United States shall **also** be eligible to apply for reciprocal registration **provided that reciprocal registration privileges are available in such jurisdiction to licensees of the New Jersey Board of Pharmacy.**

1. Applicants who have graduated from pharmacy schools [have] not [been] accredited by the American Council on Pharmaceutical Education and who have been licensed by the District of Columbia, a reciprocating state or a United States territory shall be eligible for reciprocity pursuant to N.J.A.C. 13:39-5.14 if the Board of Pharmacy is satisfied that the licensing procedures applicable to graduates of non accredited schools in the state of original licensure provide for an adequate evaluation of the applicant's education, training and experience.

13:39-5.8 Basic requirement for reciprocity

An applicant for reciprocal registration must have met fully all of the requirements in effect in the State of New Jersey on the date of registration in the state of original licensure.

13:39-5.9 Practice under legal conditions

An applicant for reciprocal registration must have practiced his profession under legal conditions at least for a period of one year subsequent to registration and be in good standing in the state from which he is reciprocating.

13:39-5.10 Clear record of law observance

No person shall be eligible [to] for reciprocal registration against whom there is pending any indictment of any alleged violation of the laws governing the practice of pharmacy, dispensing narcotics, alcohol or other regulated drugs or any other law or who has been convicted of any crimes within the past 10 years **and all applicants must meet proof of character requirements as set forth in N.J.A.C. 13:39-3.6.**

13:39-5.11 Language comprehension requirement

All pharmacy applicants from non-English speaking countries or countries wherein the primary language is other than English, prior to being granted licensure as a professional pharmacist in the State shall submit to the Board evidence that they have successfully completed the Test of English as a Foreign Language (TOEFL) examination with a minimum score of 600. This test [should] **shall** have been taken within two years of application.

13:39-5.12 Physical and mental fitness

(a) An applicant for reciprocal registration must be physically **and mentally** fit to perform all of the duties normally required of a registered pharmacist working in a pharmacy operating under a full permit in the State of New Jersey.

(b) **At the discretion of the Board an applicant shall be required to prove his fitness to practice pharmacy.**

13:39-5.13 [Residence or employment in New Jersey] **(Reserved)**

[An applicant for reciprocal registration must certify that he expects to reside or to obtain employment in the State of New Jersey within a reasonable period of time after registration by reciprocity, which period of time shall not be later than six months of the date of the approval of the application.]

13:39-5.14 Preliminary application

A preliminary application for reciprocal registration [should] **shall**

be made to [the Board on a form furnished for that purpose to determine the applicant's eligibility for reciprocal registration after which, if eligible, a formal application must be made through] the National Association of Boards of Pharmacy, [77 West Washington Street,] **1 East Wacker Drive**, Chicago, Illinois, [60602] **60601**.

13:39-5.15 New Jersey law examination

The applicant for reciprocal registration shall pass a written test on the laws governing the practice of pharmacy in this State. A grade of not less than 75 must be achieved.

13:39-5.16 Applicants not satisfying internship requirements

(a) Any applicant for reciprocal registration who became registered in the state of original licensure subsequent to graduation from a four-year course given in an approved college [or] of pharmacy prior to registration in the state of original licensure and who fully met all of the other requirements with the exception of the internship requirement, may apply for registration on a partial basis whereby the record in the written subjects may be accepted from the Board of Pharmacy of the state of original licensure.

(b) Such applicants must submit evidence of having obtained practical experience acceptable to the Board in lieu of the required one year of internship training and the Board may grant credit for experience obtained as a registered pharmacist on the basis of one month's credit for each [three] month[s] of such experience. [In addition such applicant must pass the regular examination in practical pharmacy and laboratory work given by the Board to applicants for registration by examination.]

[(c) A fee of \$25.00 must be paid in advance for each examination taken. A grade of 75 shall be considered passing and no further fee shall be charged by the Board for a reciprocal certificate of registration obtained in this manner upon passing the examination in practical pharmacy and laboratory work.]

13:39-5.17 [Applicants not satisfying practical pharmacy examination requirement] **(Reserved)**

[(a) Any applicant for reciprocal registration who became registered in the state of original licensure subsequent to July 19, 1928, who otherwise meets all of the requirements for such registration but who did not make a grade of 75 in the examination in practical pharmacy and laboratory work given in the state of original licensure may be permitted, at the discretion of the Board, to complete his application for registration in this State by taking the regular examination in practical pharmacy and laboratory work given to applicants for registration by examination.]

(b) Such applicants must pay a fee in advance of \$25.00 for each examination taken. A grade of 75 shall be considered passing and no further fee shall be charged by the Board for a reciprocal certificate of registration obtained in this manner upon passing the examination in practical pharmacy and laboratory work.]

13:39-5.18 [Applicants not satisfying grade average in written subjects] **(Reserved)**

[(a) Any applicant for reciprocal registration who is not eligible to take the examination for registration as a pharmacist but who was fully eligible at the time of registration in the state or original licensure, who did not make an average of 75 in the written subjects passed in the state of original licensure, may be permitted, at the discretion of the Board, to complete his application for registration in this State, if otherwise eligible, by taking the regular examination in practical pharmacy and laboratory work given to applicants for registration by examination.]

(b) These applicants must pay a fee in advance of \$25.00 for each examination taken. A grade of 75 shall be considered passing and no further fee shall be charged by the Board for a reciprocal certificate of registration obtained in this manner upon passing the examination in practical pharmacy and laboratory work.]

13:39-5.19 Date of bi-annual renewal

Every registered pharmacist [and every registered assistant pharmacist] shall on or before [January 1,] **April 30**, of [each year] **every odd year** renew his certificate of registration through the payment of a registration renewal fee of [\$3.00] **\$80.00** and the filing of a renewal application to be [supplied by] **obtained from** the Board listing the name, home address, number of original certificate of registration, date of issuance of original certificate of registration, places and hours of employment and other information requested by the Board, which must be signed by the person making the application, unless he is unable to sign for reasons of health.

13:39-5.20 Duplicate renewal certificate of registration

If a renewal certificate of registration is lost or destroyed a duplicate renewal certificate may be obtained upon payment of a fee of [\$3.00] **\$5.00** and submission of proof of identity and proof of loss or destruction of the renewal certificate originally issued.

13:39-5.21 Reinstatement into good standing

(a) If a registered pharmacist [or registered assistant pharmacist] permits his registration to lapse through failure to renew his certificate of registration because [of the fact] he is not practicing pharmacy in the State of New Jersey, he may bring his registration into good standing through payment of all renewal fees in arrears and payment of the current renewal fee upon submission of proof of identity and the filing of an application to be furnished by the Board.

(b) If the registration has been permitted to lapse for a period of five years or longer, the applicant for such reinstatement must satisfy the Board that he is well versed on the laws governing the practice of pharmacy in the State of New Jersey, copies of excerpts of which will be supplied to the applicant by the Board beforehand for study purposes.

13:39-5.22 Certification of records

Certification as to the latest home address and placement of employment of registered pharmacists [and registered assistant pharmacists] on record in the Board files will be supplied only upon payment of a certification fee of [\$1.00] **\$5.00**.

13:39-5.23 Reproduction of renewal certificates

It shall be unlawful to print, photograph, photostat, duplicate, or copy by any means a renewal certificate of registration issued by the Board to any **registered** pharmacist [or assistant pharmacist].

13:39-5.24 Change of employment

Whenever a registered pharmacist [or registered assistant pharmacist] changes his residence, he [should] **shall** notify the Board office immediately of his new address **in writing**. If he changes his place of employment, he [should] **shall** notify the Board office, **in writing**, of his new place of employment and the number of hours he will work per week.

13:39-5.25 [Registration by endorsement] **(Reserved)**

[(a) Registration by endorsement shall be limited to fully registered pharmacists.]

(b) An applicant for registration must have practiced his profession under legal conditions for a minimum period of one year subsequent to his registration.

(c) The applicant must be in good standing in all states in which he is licensed.

(d) Candidates for endorsement must have practiced as a registered pharmacist for at least one year during the last five years or shall be required to pass the complete practical examination.

(e) An applicant for licensure by endorsement must be physically and mentally fit to perform all of the duties normally required of a registered pharmacist working in a pharmacy operating under a permit in the State of New Jersey.

(f) Each applicant must submit a preliminary application for

endorsement licensure to the National Association of Boards of Pharmacy, 77 W. Washington Street, Chicago, Ill. 60602, on a form prescribed and furnished by the National Association of Boards of Pharmacy. In return the applicant will be furnished a further form and instructions for filing credentials for licensure, qualifications at the time for licensure and proper identification to the New Jersey Board of Pharmacy. Based upon the information contained therein, the New Jersey Board of Pharmacy will determine the applicant's eligibility for licensure in this State by endorsement.

(g) All applicants for endorsement registration shall be interviewed by the Board and pass with a grade of not less than 75 percent a written examination on the laws governing the practice of pharmacy in this State.

(h) No person shall be eligible for licensure by endorsement against whom there is pending any indictment or complaint alleging a violation of any law governing the practice of pharmacy, dispensing narcotics, alcohol or other drugs.]

(a)

BOARD OF VETERINARY MEDICAL EXAMINERS

**Approved Colleges
Licensure by Examination**

**Proposed Repeal: N.J.A.C. 13:44-1.1 and 1.2
Proposed New Rules: N.J.A.C. 13:44-1.1 and 1.2**

Authorized By: David Eisenberg, D.V.M., President.
Authority: N.J.S.A. 45:16-3, 45:16-4 and 45:16-7.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Maurice W. McQuade
Executive Secretary
Board of Veterinary Medical
Examiners
1100 Raymond Boulevard
Room 331
Newark, NJ 07102

The Board of Veterinary Medical Examiners thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-350.

The agency proposal follows:

Summary

The proposed amendments are intended to consolidate and clarify the policies of the Board of Veterinary Medical Examiners pertaining to the licensing examination. In addition, the proposal sets forth the procedure for approval of veterinary schools.

The proposal changes N.J.A.C. 13:44-1.1 from dealing with examination application to specifying the criteria a veterinary college or university must meet to be approved. Subsection (a) defines as approved those schools which are accredited by the American Veterinary Medical Association (A.V.M.A.) or which offer a program deemed equivalent by the Board. Subsection (b) establishes procedures for application by unapproved schools for approval.

Proposed N.J.A.C. 13:44-1.2 completely revises the present regulation. Subsection (a) defines what constitutes the New Jersey veterinary licensing examination. Subsection (b) establishes the qualifications required to sit for the National Board Examination in New Jersey and requires that completed applications be submitted at least one month prior to the examination. Subsection (c) sets forth the prerequisites for the practical examination, including a passing National Board score within the previous three years, and permits acceptance of a passing score from a National Board examination taken in another state if the candidate has met the requirements of subsection (b).

New subsection (d) establishes the application procedure for the practical examination, setting a deadline of 30 days before the examination. Under subsection (e), a grade of 70 on the practical exam is necessary for licensure. Subsections (f) and (g) delineate the review and appeal procedures, respectively, for unsuccessful candidates.

Social Impact

The proposed amendments will clarify application procedures. In addition, the examination grade requirement is liberalized. Thus, applicants for licensure should find it easier to meet the Board's requirements.

Since only those schools which meet the standards for accreditation by the A.V.M.A. are approved by the Board, the quality of a candidate's education in veterinary medicine is assured. At the same time a procedure is provided whereby a school not presently approved may demonstrate that its program meets the Board's standards and thus gain approval.

Economic Impact

The proposal may increase the expenses of the Board to some extent in the event that unapproved schools apply for approval since the staff would then become involved in more clerical work. These regulations should have no significant economic effect on either consumers or most licensure applicants since the application procedures provided generally are those now required by the Board. In limited cases, they will force candidates to take additional National Board Examinations to meet the three-year requirement.

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

[13:44-1.1 Application for examination

Applications for examination accompanied by the required fees and proof that the applicant has the necessary educational qualifications shall be filed with the secretary at least one month before the day of the examination.]

13:44-1.1 Approved colleges

(a) **A veterinary college or university approved by the board is a veterinary college or university accredited by the American Veterinary Medical Association (A.V.M.A.) or a veterinary college or university that has met the requirements of (b) below and offers a program determined by the Board to be equivalent to those accredited by the A.V.M.A.**

(b) **A veterinary college or university which is not accredited by the A.V.M.A. may apply to the Board for approval by submitting the following documents:**

- 1. A description in English of each course offered;**
- 2. A description in English of the clinical experience its students receive;**
- 3. The name or names of the degree or degrees offered and a description of the requirements for each; and**
- 4. A certification by the department of higher education or other appropriate department of its national government that the information submitted is correct.**

(c) **The Board may in its discretion send such documents to an agency selected by it for an evaluation as to equivalency with the standards of accredited schools.**

[13:44-1.2 Examination grades

(a) Applicants shall be required to attain a grade of 70 in all examination subjects as a prerequisite to licensure, except that an applicant attaining a grade of less than 70 in only one subject may be reexamined in that subject at a time and place designated by the board. An applicant attaining a grade of less than 70 in two or more subjects shall be required to retake the entire examination.

(b) Where an applicant has failed two or more subjects but has passed the practical examination, the board, at its discretion, may allow the successful grade of the practical examination to apply through the next examination scheduled by the board.

(c) An unsuccessful candidate may apply to the board for a review of his or her examination papers. Such application must be submitted to the board secretary in writing within two months following notification of examination results, and the secretary shall subsequently arrange a date for the candidate to review his or her examination papers and grades in the board office with an examiner.]

13:44-1.2 Examinations

(a) The licensure examination shall consist of at least two parts:

1. The National Board Examination; and
2. The New Jersey practical examination.

(b) To be eligible for the National Board Examination, an applicant must be eligible for examination by the Board and must submit to the Board at least one month prior to the examination a certified copy of his or her transcript including a certified English translation if the transcript is in a language other than English, an application, such other credentials as the Board may require and the requisite fee. An applicant who will graduate from an approved school during the month that the National Board Examination will be given may sit for that examination upon submission of the aforesaid items and a letter of the dean of the school indicating that the applicant is a student in good standing and will graduate during that month.

(c) As a prerequisite to taking the New Jersey practical examination, an applicant shall have attained a grade of 70 on the National Board Examination, calculated according to New Jersey criteria, within three years preceding application for the New Jersey practical examination. A passing grade from a National Board Examination taken outside of New Jersey shall be accepted if the applicant satisfies the criteria listed in (b) above for admission to examination.

(d) Applications for the New Jersey practical examination, accompanied by the required fees and proof of the required National Board score and credentials, shall be filed with the Board's executive secretary at least one month prior to the examination.

(e) Applicants shall be required to attain a grade of 70 on the New Jersey practical examination as a prerequisite to licensure.

(f) An unsuccessful candidate may apply to the Board for a review of his or her practical examination papers. Such application must be submitted to the Board secretary in writing within 14 days following notification of examination results, and the Secretary shall subsequently arrange a date for the candidate to review his or her examination papers and grades in the Board office.

(g) An unsuccessful candidate may file in writing with the Board's executive secretary an appeal of his or her practical examination grade within 14 days following the review of his or her examination papers. Such notice of appeal must include any documentation, including references, which the candidate claims supports his or her appeal. The Board shall consider such appeal within 30 days of filing and may invite the candidate to appear for a hearing on the appeal.

TRANSPORTATION**(a)****ADMINISTRATION****Award of Contracts for Professional Services****Proposed Readoption: N.J.A.C. 16:2**

Authorized By: John P. Sheridan Jr., Commissioner,
Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 27:7-21.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
Trenton, NJ 08625

The Department of Transportation thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on August 1, 1983. The readoption of these rules becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of their readoption.

This proposal is known as PRN 1983-344.

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order 66(1978), the Department of Transportation proposes to readopt N.J.A.C. 16:2 concerning Award of Contracts for Professional Services. These rules were filed and became effective on August 1, 1978, with a scheduled expiration date of August 1, 1983.

The rules provide the criteria to be followed in the selection process of consultants and the awarding of contracts to consultants for professional services. The services of consultants are utilized to supplement the efforts of the Department's staff, and not to substitute them. The Department maintains a listing of consultants who provide services normally not available from the Department's personnel. Examples of services contracted by the Department are environmental, air, noise and water pollution, archeologists' and ecological studies, landscapes, architecture, oceanography and other disciplines.

Social Impact

The rules will impact on consultants who are required to be in compliance with established guidelines once selected for professional services and establishes confidence in the State government's ability to ensure that the public's interest is adequately protected.

Economic Impact

The Department will incur direct and indirect cost for the selection of and fees to be paid to consultants for their services, based upon the terms of the contractual agreement. Fees are based upon the area of specialty and vary between consultants.

Full text of the rules proposed for readoption appear in the New Jersey Administrative Code at N.J.A.C. 16:2.

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

Teachers' Pension and Annuity Fund Insurance Liability for Unenrolled Members

Proposed Repeal: N.J.A.C. 17:3-2.8

Authorized By: Board of Trustees, Teachers' Pension and Annuity Fund, Mary C. Conrey, Secretary.
Authority: N.J.S.A. 18A:66-56.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Mary C. Conrey, Secretary
Teachers' Pension and Annuity Fund
Division of Pensions
20 West Front Street
CN 295
Trenton, NJ 08625

The State Health Benefits Commission thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-339.

The agency proposal follows:

Summary

This proposal repeals the current rule concerning the insurance liability for unenrolled members who die while employed. Such repeal is being made upon advice of the Attorney General's office which has determined that the pension system will be liable for a larger portion of the insurance benefit amount while the employer will have to contribute a lesser sum. Therefore, the amount a beneficiary receives will not be changed but the source from which they come will.

Social Impact

This proposal will affect current and future members of the retirement system and their designated beneficiaries. The proposal also affects the retirement system and public employers who ultimately pay the insurance benefits.

Economic Impact

The retirement system and public employers may experience economic effects as a result of this proposal. Both may be liable for a portion of certain death benefits payable to beneficiaries of deceased employees who were not enrolled in the retirement system in a timely manner. The benefits payable to the deceased employee's beneficiaries are not affected by this proposal.

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

17:3-2.8 [Insurance liability for unenrolled members]
(Reserved)

[(a) In the event of the death of an individual prior to enrollment and on account of whom the Board of Trustees has determined that insurance benefits are payable:

1. The employer shall be charged directly for the full amount of

the insurance benefit when no application was completed by the employee and the employee was required to enroll.

2. The employer will not be charged directly if an application for enrollment was filed with the pension fund prior to the employee's date of death.

3. The fund may assume the liability when an application has been executed by the employee but not received by the fund prior to his demise provided satisfactory evidence concerning the filing delay has been presented to the Board of Trustees.

4. When a contributor insurance benefit is payable under paragraphs 2 or 3 of this subsection, contributions will be collected from the beneficiary, for premiums covering the period the member would have normally contributed, before the benefit is paid.]

OTHER AGENCIES

(b)

CASINO CONTROL COMMISSION

Accounting and Internal Controls Casino Licensee's Organization

Proposed Amendment: N.J.A.C. 19:45-1.11

Authorized By: Casino Control Commission, Theron G. Schmidt, Executive Secretary.
Authority: N.J.S.A. 5:12-63(c), 5:12-69 and 5:12-70(i).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael A. Santaniello
Deputy Director - Operations
Casino Control Commission
Division of Financial
Evaluation & Control
3131 Princeton Pike Office Park
Building No. 5, CN 208
Trenton, NJ 08625

The Casino Control Commission thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1983-343.

The agency proposal follows:

Summary

The proposed amendment would permit casinos, through their Security Departments, to detain persons only in accordance with Section 121 of the Casino Control Act.

Social Impact

The proposed amendment limits detainment by casino security guards for only those acts specifically detailed in the Casino Control Act.

Economic Impact

There may be a slight economic impact due to the amending of casinos' N.J.A.C. 19:45 submissions and retraining of security personnel.

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)-(b) (No change.)

(c) Each casino licensee shall, at a minimum, establish the following departments with respect to the casino operation:

1.-6. (No change.)

7. (See proposal at 14 N.J.R. 1087(b).)

i.-v. (No change.)

vi. The **questioning and/or** detainment [for probable cause] of persons [that may be involved in illegal acts for the purpose of notifying law enforcement or Commission authorities] **in accordance with section 121 of the Casino Control Act;**

vii.-viii. (No change.)

ix. (See proposal at 14 N.J.R. 1087(b).)

8.-9. (No change.)

(d)-(g) (No change.)

RULE ADOPTIONS

BANKING

(a)

DIVISION OF BANKING

Automated Teller Machines

Adopted New Rule: N.J.A.C. 3:6-13

Proposed: February 22, 1983 at 15 N.J.R. 190(a).

Adopted: June 29, 1983 by Michael M. Horn,
Commissioner, Department of Banking.

Filed: June 29, 1983 as R.1983 d.286, **with technical and language changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 17:9A-20(g), 17:9A-315 et seq. and 17:9A-333 et seq.

Effective Date: July 18, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978):
July 18, 1988.

Summary of Public Comments and Agency Responses:

In the February 22, 1983 New Jersey Register, the Department of Banking proposed rules governing the establishment, maintenance, and operation of automated teller machines (see: 15 N.J.R. 190(a)). Public comments received regarding the proposed rules were generally supportive, but did contain three major areas of concern.

First, it was consistently stated that requiring New Jersey banks and savings banks to file a list of all other financial institutions that would share access to an automated teller machine was an onerous and unrealistic requirement. Due to the existence of nationwide shared access networks, some of which contain thousands of financial institutions, the Department agrees with the commentators. Accordingly, proposed rules N.J.A.C. 3:6-13.1(b)(2) and N.J.A.C. 3:6-13.2(a)(2) have been replaced by new rules that require a list of all New Jersey institutions that will share access, and a list of any networks that will share access. Individual members of the networks need not be listed. N.J.A.C. 3:6-13.2(a)(2) and 3:6-13.3(a)(2).

Second, the definition of "automated teller machine," found in proposed rule N.J.A.C. 3:6-13.1(a), has been amended to specifically refer only to customer-operated equipment.

Third, proposed rule N.J.A.C. 3:6-13.4 required that if more than three automated teller machines are installed at a previously approved site, then notice must be sent to the Department and a fee paid prior to establishment of the additional machines. It was pointed out that Federally-chartered institutions have no notice or fee requirements in connection with additional machines. In order to maintain substantial competitive parity between State-chartered and Federally-chartered institutions, the Department has eliminated this requirement.

In addition, the rules have been restructured so that all defined terms are now found in one section at N.J.A.C. 3:6-13.1. Due to the change in format as a result of the public comments and changes

to the rules, the entire subchapter has been republished with this notice of adoption for purposes of clarity and conciseness.

Full text of the adopted rule follows:

SUBCHAPTER 13. AUTOMATED TELLER MACHINES

3:6-13.1 Definitions

(a) For purposes of these regulations an "automated teller machine" means a facility, or terminal at which any business that may be conducted in a principal office of a bank or savings bank may be transacted, and which consists of customer-operated equipment, structure or systems by means of which information relating to financial services rendered to the public is transmitted and through which transactions with banks and savings banks are consummated, instantaneously or otherwise, unless restricted to an individual customer's exclusive use.

(b) For purposes of these regulations the term "sharing access" shall encompass the ability of any financial institution, other than the applying bank, to allow its customers to utilize a machine for the purpose of consummating transactions or initiating inquiries on accounts or lines of credit or otherwise conducting business with such financial institutions regardless of the financial arrangement between or among the institutions whose customers can use the automated teller machine(s).

(c) For purposes of these regulations, a "foreign financial institution" shall mean a State or Federally chartered bank, savings bank, or savings and loan association with principal offices outside the State of New Jersey.

3:6-13.2 On-site location

(a) Any bank or savings bank may establish, maintain or operate an automated teller machine or machines at a location within 200 feet of the premises (measured from the perimeter of any parking area owned, leased or shared by the bank or savings bank) of its principal office, auxiliary office, or any of its full branch or minibranch offices by filing a letter notice with the commissioner which indicates:

1. The location of the principal office, auxiliary office, full branch or minibranch office at which the automated teller machine or machines is to be established.

2. A listing of all other New Jersey financial institutions which will share access to the machine or machines, all State, regional and national networks with which the machine or machines will be associated, and the basis on which compensation for such access will be calculated.

3. The date it is anticipated that the automated teller machine or machines will commence operation.

(b) A filing fee of \$10.00 must accompany each such letter notice.

3:6-13.3 Off-site location

(a) Any bank or savings bank may apply to establish, maintain, or operate an automated teller machine or machines at a location more than 200 feet from the premises (measured from the perimeter of any parking area owned, leased or shared by the bank or savings bank) of its principal office, auxiliary or any of its full branch or minibranch offices by filing an application to the Department of Banking on a form prescribed by the Commissioner including the following:

1. The proposed location of the automated teller machine or machines and an executed indicia of title to the property to be used for the machine (for example, lease, option, deed).

2. A listing of all other New Jersey institutions which will share

access to the machine or machines, all state, regional and national networks with which the machine or machines will be associated, and the basis on which compensation for such access will be calculated.

3. The number of machines to be established at the location.

4. Such other information as prescribed by the Commissioner.

(b) The following items must accompany each application:

1. A filing fee of \$250.00 plus an additional \$50.00 if one or more other financial institutions will share access to the automated teller machine(s).

2. A certified copy of a resolution of the board of the applying bank authorizing the application.

(c) Within 45 days after receipt of a completed application the Commissioner will issue a decision and order approving or denying the application.

3:6-13.4 Shared ownership

An application for the establishment and operation of each automated teller machine shall be made by only one bank or savings bank, provided however, that should any other financial institution share in the ownership, costs of installation or maintenance of the machine, either directly or indirectly (on other than a transaction fee basis) then, in that event the notice or application shall so clearly indicate and a certified board resolution from each such financial institution shall accompany the application. The application fee need only be paid by the applying bank or savings bank, but the machine shall be a branch of every bank or savings bank sharing ownership or costs of installation and maintenance.

3:6-13.5 Additional access

(a) If at any time after the establishment of any automated teller machine shared access is granted to a financial institution not included in the original notice or application or a financial institution so listed no longer shares access, or access is granted or terminated to out-of-state financial institutions through association with a regional or national network, the applying institution shall so notify the Commissioner in an annual notice to be filed on September 1 of each year beginning September 1, 1983.

(b) A filing fee of \$25.00 shall accompany each such notice regardless of the number of institutions or networks added or eliminated.

3:6-13.6 Interstate access

(a) No foreign financial institution shall establish, operate, maintain or share ownership of an automated teller machine anywhere within the State of New Jersey, except that a foreign financial institution may share access to such a machine on a transactional fee basis or in accordance with any similar arrangement approved by the Commissioner.

(b) No automated teller machine at which a foreign financial institution shares access shall bear any identification of the foreign financial institution except that a generic name or display identifying or associated with a regional or national network or automated teller machines is not prohibited.

(c) No interstate deposits shall be allowed through an automated teller machine established, owned or operated within the State of New Jersey. The transfer of funds between accounts shall not be considered a deposit for purposes of these regulations.

(d) No bank or savings bank shall permit a foreign financial institution to share access to an automated teller machine located within the State of New Jersey unless the State in which the foreign financial institution has its principal offices allows New Jersey institutions to share access to automated teller machines established, operated or maintained in that State.

3:6-13.7 Present location

(a) Every bank and savings bank shall file a list with the Commissioner on or before September 1, 1983 of every automated teller machine owned, operated or maintained by it as of July 1,

1983 whether at its principal office, an auxiliary office, a full branch office, a minibranch office or elsewhere including a listing of all other financial New Jersey institutions which share access to the machine and all state, regional and national networks with which the machine or machines will be associated. No fee shall be required for this filing.

COMMUNITY AFFAIRS

(a)

DIVISION OF LOCAL GOVERNMENT SERVICES

Local Finance Board

Readoption: N.J.A.C. 5:30)

Proposed: April 4, 1983 at 15 N.J.R. 463(b).

Adopted: June 20, 1983 by John P. Renna, Commissioner, Department of Community Affairs.

Filed: June 21, 1983 as R.1983 d.277, **without change.**

Authority: N.J.S.A. 52:27BB-10 and -32, 52:27D-18, 40A:4-83, 40A:5-38, 40A:11-12.6.

Effective Date: June 21, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): June 1, 1983.

Summary of Public Comments and Agency Responses:
No comments received.

ENVIRONMENTAL PROTECTION

(b)

BOAT REGULATION COMMISSION

Boat Regulations; Water Skiing

Adopted Amendment: N.J.A.C. 7:6-1.37

Proposed: May 16, 1983 at 15 N.J.R. 765(a).

Adopted: June 28, 1983 by Robert E. Hughey, Commissioner, Department of Environmental Protection, and Boat Regulation Commission, Kenneth Husted, Chairman.

Filed: June 28, 1983 as R.1983 d.280, **without change.**

Authority: N.J.S.A. 13:1D-9, 12:7-34.49.

Effective Date: July 18, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): October 16, 1983.

Summary of Public Comments and Agency Responses:
No comments received.

(a)

**DIVISION OF FISH, GAME AND
WILDLIFE**

**Shellfisheries
Crab Pots**

Adopted Amendment: N.J.A.C. 7:25-14

Proposed: March 21, 1983 at 15 N.J.R. 388(b).
Adopted: June 30, 1983 by Robert E. Hughey,
Commissioner, Department of Environmental
Protection.
Filed: July 1, 1983 as R.1983 d.291, **with substantive
changes** not requiring additional public notice and
comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 23:5-35.2.

Effective Date: July 18, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
September 17, 1985.

Summary of Public Comments and Agency Responses:

Comment was received at a public hearing on April 6, 1983 and at Shellfish Council meetings to the effect that the use of commercial gear should be restricted to holders of commercial licenses. The Department made no response to this comment, but will adopt, as proposed, the provision concerning a free noncommercial license for two pots, no sale of crabs allowed. Comment was also made by commercial crabbers that a license holder should be allowed to assign his license to an alternate in case he was temporarily unable to tend his pots or lines. The Department responded by changing the wording of the proposal to allow for an alternate harvester.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***).

7:25-14.2 Use of crab pots and trot lines

(a) No person shall **tend or** remove crabs from any pot or trot line [except the license holder] **unless he is the holder of a valid license, or as otherwise herein provided.**

1. [Anyone] A **person** tending crab pots or trot lines shall have in his possession [the] **his** numbered license which corresponds to the vessel number and the number marker on the pots or trot lines[.] **tended; or**

2. ***[His]* *The* license and a letter of authorization *from the licensee,* issued and notarized by the Division of Fish, Game and Wildlife indicating the number marker of the pots or trot lines that the *[person]* *agent* is authorized to tend *[,other than his own]*.**

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

HUMAN SERVICES

(b)

DIVISION OF PUBLIC WELFARE

**General Assistance Manual
Pharmaceutical Assistance to the Aged and
Disabled (PAAD)**

Adopted Amendment: N.J.A.C. 10:85-8.4

Proposed: May 16, 1983 at 15 N.J.R. 783(b).
Adopted: June 27, 1983 by George J. Albanese,
Commissioner, Department of Human Services.
Filed: June 28, 1983 as R.1983 d.284, **without change.**

Authority: N.J.S.A. 44:8-111(d).

Effective Date: July 18, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
February 1, 1985.

**Summary of Public Comments and Agency Responses:
No comments received.**

TRANSPORTATION

(c)

TRANSPORTATION OPERATIONS

**Restricted Parking and Stopping
Routes US 9 and 71**

**Adopted Amendments: N.J.A.C. 16:28A-1.7
and 16:28A-1.38**

Proposed: May 2, 1983 at 15 N.J.R. 686(a).
Adopted: June 14, 1983 by David W. Gwynn, Chief
Engineer, Transportation Operations & Local Aid.
Filed: June 22, 1983 as R.1983 d.279, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and
39:4-139.

Effective Date: July 18, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
August 1, 1983.

**Summary of Public Comments and Agency Responses:
No comments received.**

(a)

THE COMMISSIONER

Designated Routes for Special Categories of Trucks

Notice of Correction: N.J.A.C. 16:32 (15 N.J.R. 1102(c))

Take notice that the effective date for the readopted new rule concerning designated routes for special categories of trucks, N.J.A.C. 16:32, and appearing by notice of adoption in the July 5, 1983 Register at 15 N.J.R. 1102(c), is **June 7, 1983**.

TREASURY-GENERAL

(b)

DIVISION OF INVESTMENT

Certificate of Deposit

Adopted Amendments: N.J.A.C. 17:16-27.1, 27.2 and 27.3

Proposed: May 16, 1983 at 15 N.J.R. 794(a).
 Adopted: June 28, 1983 by State Investment Council and Roland M. Machold, Director, Division of Investment.
 Filed: June 28, 1983 as R.1983 d.281, **without change**.

Authority: N.J.S.A. 52:18A-91.

Effective Date: July 18, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978):
 October 31, 1984.

Summary of Public Comments and Agency Responses:
No comments received.

(c)

DIVISION OF INVESTMENT

Repurchase Agreements

Adopted Amendments: N.J.A.C. 17:16-37.1 and 37.2
Adopted Repeal: N.J.A.C. 17:16-37.3 and 37.4

Proposed: May 16, 1983 at 15 N.J.R. 795(a).
 Adopted: June 28, 1983 by State Investment Council and Roland M. Machold, Director, Division of Investment.
 Filed: June 28, 1983 as R.1983 d.282, **without change**.

Authority: N.J.S.A. 52:18A-91.

Effective Date: July 18, 1983.

Expiration Date pursuant to Executive Order No. 66(1978):
 March 8, 1984.

Summary of Public Comments and Agency Responses:
No comments received.

(d)

DIVISION OF INVESTMENT

Bankers Acceptances

Adopted Amendments: N.J.A.C. 17:16-39.1 and 39.3
Adopted Repeal: N.J.A.C. 17:16-39.2, 39.4 and 39.5
Adopted New Rule: N.J.A.C. 17:16-39.6

Proposed: May 16, 1983 at 15 N.J.R. 796(a).
 Adopted: June 28, 1983 by State Investment Council and Roland M. Machold, Director, Division of Investment.
 Filed: June 28, 1983 as R.1983 d.283, **without change**.

Authority: N.J.S.A. 52:18A-91.

Effective Date: July 18, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978):
 July 18, 1988.

Summary of Public Comments and Agency Responses:
No comments received.

OTHER AGENCIES

(e)

ELECTION LAW ENFORCEMENT COMMISSION

**Pre-Candidacy Activity
 "Testing the Waters"**

Adopted New Rules: N.J.A.C. 19:25-3.1, 11.6 and 12.6
Adopted Amendments: N.J.A.C. 19:25-1.7, 9.3, 9.7, 15.3, 15.4, 15.11, 15.24, 16.3, 16.4, 16.5, 16.9, 16.12 and 16.25
Adopted Repeal: N.J.A.C. 19:25-3.1, 3.2 and 3.3

Proposed: April 18, 1983 at 15 N.J.R. 616(a).
 Adopted: June 30, 1983 by the Election Law Enforcement Commission, Andrew C. Axtell, Chairman.
 Filed: June 30, 1983 as R.1983 d.287, **without change**.

Authority: N.J.S.A. 19:44A-6 and 19:44A-38.

Effective Date: July 18, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): N.J.A.C. 19:25-1, 9 and 11, August 5, 1985; 19:25-12 and 16, March 15, 1984; 19:25-15, February 13, 1986; 19:25-3, July 15, 1988.

Summary of Public Comments and Agency Responses:

The Commission received written statements from the following persons:

The Honorable Dean A. Gallo, Minority Leader, General Assembly of New Jersey;

The Honorable Frank P. Reiche, Commissioner, Federal Election Commission and former chairman of the New Jersey Election Law Enforcement Commission;

Jo-Ann C. Oser, Executive Director, New Jersey Common Cause; and

Stephen J. Edelstein, Esq., on behalf of Friends of Peter Shapiro.

Mr. Edelstein and Neil Upmeyer, formerly Director of the Election Division, Department of State, testified at the public hearing conducted on May 11, 1983.

Assemblyman Gallo and Mr. Edelstein advocated a time limit in relation to an election when "testing the waters" requirements would apply. Assemblyman Gallo suggested a date at least six months but no more than 18 months before the election; Mr. Edelstein suggested a cut-off date of six months before the election. The Commission declined to establish any arbitrary time limit for the purposes of delimiting when a person may be "testing the waters" for a contemplated candidacy. The Commission believes the determination of when "testing the waters" occurs is a factual question based on the specific actions of the individual, and may occur well before six or even 18 months before the date of the election. In this respect, the Commission adopts the position taken by the Federal Election Commission (FEC).

Additionally, the establishment of an arbitrary date for the purpose of creating a presumption, or shifting the burden of proof, would likely cause confusion. That confusion would not be outweighed by the intended benefit of guidance to prospective candidates. The Commission also felt it should not restrict its flexibility during the initial administration of the regulations.

In the context of a publicly financed campaign the establishment of an arbitrary delimiting date would not significantly limit the likelihood of dispute by opposing candidates. This is because the regulations, as proposed, retroactively apply the contribution and expenditures limitations thereby eliminating any advantage which an opponent might obtain by asserting that "testing the waters" occurred earlier than is contended by his or her opposition.

Assemblyman Gallo also urged that the laws should clearly allow elected officials to make mailings, pollings and so forth within the geographic boundaries of their existing constituency without such activities being construed as "testing the waters". Finally, he questioned the need for a separate bank account for the sole purpose of "testing the waters" if a candidate already has existing campaign accounts.

The Commission believes that elected officials conducting polls, making mailings or undertaking any other "testing the water" activity must be included under the scope of the regulations even if those activities are confined to the existing constituency of the elected official. An absolute exclusion of elected officials in those circumstances would relieve them of obligations existing on their opponents. Also, activities by an incumbent related to official duties and not related to "testing the waters" are not included. The establishment of a campaign depository for a single specific election is required by N.J.S.A. 19:44A-9 and 19:44A-12. Therefore, current law precludes use of an existing depository account for "testing the waters" activities in a different election. Further, the Commission believes that establishment of a separate depository promotes the Commission's ability to conduct an audit of "testing the waters" transactions, particularly with respect to the publicly financed gubernatorial candidates.

Commissioner Reiche, Ms. Oser, on behalf of Common Cause, and Mr. Upmeyer advocated that contributions and expenditures during the "testing the waters" period should be subject to contribution limits and prohibitions. The proposed regulations permit individuals, or committees, to accept contributions exceeding the \$800.00 limitation contained in N.J.S.A. 19:44A-29 in gubernatorial elections but require return to contributors of the excess over \$800.00 within 10 days after inception of candidacy. N.J.A.C. 19:25-11.6. The Commission believes it does not have the legal authority to impose the limitations and prohibitions of the Campaign Contributions and Expenditures Reporting Act (N.J.S.A. 19:44A-1 et seq.) until the person on whose behalf contributions have been received or expenditures have been made becomes a "candidate" as that term is defined in N.J.S.A. 19:44A-3(c). Therefore, it is only upon the inception of the candidacy that the Commission can retroactively require that contributions and expenditures conform to the limitations and prohibitions of publicly financed elections.

Ms. Oser, on behalf of New Jersey Common Cause, suggested that the term "testing the waters" be defined in N.J.A.C. 19:25-1.7 for purposes of clarity. The Commission felt that it was not necessary to define the term "testing the waters". The table of contents and subchapter heading clearly direct a reader to the appropriate section which deals with pre-candidacy activity and testing the waters. Accordingly, subchapter 3 has been entitled,

PRE-CANDIDATE ACTIVITY: "TESTING THE WATERS".

(a)

ELECTION LAW ENFORCEMENT COMMISSION

Financial Disclosure Statements of Candidates for the Office of Governor and Candidates for the Senate or General Assembly

Adopted New Rule: N.J.A.C. 19:25-19

Proposed: March 7, 1983 at 15 N.J.R. 326(a) and repropoed May 16, 1983 at 15 N.J.R. 799(a).

Adopted: June 28, 1983 by the Election Law Enforcement Commission, Scott A. Weiner, Executive Director.

Filed: June 29, 1983 as R.1983 d.285, **without change**.

Authority: N.J.S.A. 19:44B-7.

Effective Date: July 18, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): July 15, 1987.

Summary of Public Comments and Agency Responses:

The new rules for Personal Financial Disclosure Statements of Candidates for the Office of Governor and Candidates for the Senate or General Assembly were originally published as PRN 1983-99 on March 7, 1983 at 15 N.J.R. 326(a). A public hearing was conducted on March 23, 1983. As a result of comments received at that hearing, the Commission on April 11, 1983 amended the text and the proposed rules were republished as PRN 1983-230 on May 16, 1983 at 15 N.J.R. 799(a). No comments were received by the Commission concerning the repropoed rules.

EMERGENCY ADOPTIONS

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WASTE MANAGEMENT

Hazardous Waste From Non-Specific Sources Hazardous Constituents

Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 7:26-8.13 and 8.16

Emergency Amendment Adopted: June 23, 1983 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Gubernatorial Approval see N.J.S.A. 52:14B-4(c): June 28, 1983.

Emergency Amendment Filed: July 1, 1983 as R.1983 d.292.

Authority: Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.

Emergency Amendment Effective Date: July 1, 1983.

Emergency Amendment Expiration Date: August 30, 1983.

DEP Docket No. 036-83-06.

A **public hearing** concerning the concurrent proposal will be held on August 16, 1983 at 10:00 A.M. at:

New Jersey State Museum Auditorium
205 West State Street
Trenton, NJ 08625

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 31, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael DeBonis, Assistant Director
Division of Waste Management
32 East Hanover Street
Trenton, NJ 08625

This amendment was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of this emergency amendment are being proposed for re-adoption in compliance with the normal rulemaking requirement of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The re-adopted rule becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

The concurrent proposal is known as PRN 1983-731.

The agency emergency amendment and concurrent proposal follows:

Summary

Chlorinated dibenzodioxins (CDD's) and chlorinated

dibenzofurans (CDF's) are among the most toxic chemicals known. Tetrachlorodibenzodioxins (TCDD) and two hexachlorodibenzodioxin (HCDD) isomers have been shown in animal tests to be carcinogenic, and the United States Environmental Protection Agency considers them to be potential human carcinogens. TCDD has also been shown in laboratory studies to be teratogenic, fetotoxic, and embryotoxic at extremely low doses. Additionally, CDD's and CDF's have acute toxicity activity at extremely low levels. As such, the Department of Environmental Protection believes the imminent peril to health and the environment posed by CDD's and CDF's warrants listing as hazardous wastes those materials contaminated by CDD's and CDF's. Further, the Department has established one part per billion as the level of contamination of CDD's at which a material becomes a hazardous waste, based upon action levels established by the Center for Disease Control.

CDD's and CDF's are capable of migrating from waste matrices and reaching environmental receptors in potentially dangerous concentrations. CDD's and CDF's are persistent and may accumulate in the food chain. They are mobile in the environment through water run-off and wind dispersion and can migrate from wastes and by-products when improperly managed.

The Department has identified several sites in New Jersey as potentially contaminated with CDD's and CDF's. One site has been shown to be contaminated with extremely high levels of TCDD, and several other sites are presently being assessed to determine if dioxin contamination has occurred. The Department considers this to be an extremely serious environmental matter and believes that the potential threat posed by these wastes and by-products clearly warrants the listing of these materials as hazardous wastes.

The Department shall utilize all reasonable and effective methods to publicize the contents of this emergency rule to the citizens of the State of New Jersey. Copies of the emergency rule shall be available to the public upon request.

Social Impact

The emergency amendment and concurrent proposal will affect generators, transporters and disposal facilities which manage materials contaminated with substituted dibenzodioxins and dibenzofurans. Declaring these contaminated materials to be hazardous waste will require their management according to the New Jersey Hazardous Waste Management Rules, N.J.A.C. 7:26. Management of materials contaminated with substituted dibenzodioxins and dibenzofurans under the Department's comprehensive regulation of substituted dibenzodioxins and dibenzofurans as a hazardous waste is absolutely necessary for the protection of the public health and welfare of the citizens of the State of New Jersey.

Economic Impact

No specific predictions can be made concerning the economic impact of the emergency amendment on generators, transporters and disposal facilities which manage substituted dibenzodioxins and dibenzofurans. Most generators, transporters and disposal facilities already fall within the jurisdiction of the Department's comprehensive regulations, thus no significant additional economic impact will be incurred. However, Departmental controls relating to the management of these contaminated materials will increase costs. When balanced against health and environmental hazards which would result from failure to comprehensively regulate substituted dibenzodioxins and dibenzofurans, the Department has determined that any economic impact will be justified.

Environmental Impact

The comprehensive regulation of substituted dibenzodioxins and dibenzofurans as hazardous waste will insure proper management of these dangerous substances. This emergency amendment and concurrent proposal will have a major positive environmental impact on the public health and welfare of the citizens of the State of New Jersey.

Full text of Subchapter 8 (Hazardous Waste Criteria, Identification and Listing) can be reviewed at the Office of Administrative Law, 88 East State Street, Trenton and the Department of Environmental Protection, Labor and Industry Building, John Fitch Plaza, 8th Floor Room 802. See amendments in the New Jersey Register at 14 N.J.R. 20(a), 15 N.J.R. 88(a) and 14 N.J.R. 1138(a), 14 N.J.R. 1367(a).

Full text of the emergency amendment and concurrent proposal follows (additions indicated in boldface **thus**).

7:26-8.13 Hazardous waste from non-specific sources

(a) (No change.)

(b) NJ Hazardous Waste Number	Hazardous Waste	Hazardous Code
--------------------------------------	------------------------	-----------------------

1.-8. (No change.)

9. X620	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri-, tetra-, or pentachlorophenol, or of intermediates used to produce their derivatives.	(H)
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10. X621	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetrapentachlorobenzene, hexachlorobenzenes under alkaline conditions.	(H)
----------	--	-----

11. X622	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of materials listed under X620 and X621.	(H)
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12. X623	Discarded unused formulations containing tri-, tetra-, or pentachlorophenol, or discarded unused formulations containing compounds derived from these chlorophenols.	(H)
----------	--	-----

7:26-8.16 Hazardous constituents

The hazardous constituents criteria for listing hazardous wastes (see N.J.A.C. 7:26-8.6) are listed below. Test methods approved by the Department shall be used in determining whether the waste in question contains a given hazardous constituent.

.....
Hexachlorodibenzo-p-dioxins
Hexachlorodibenzofurans

.....
Pentachlorodibenzo-p-dioxins
Pentachlorodibenzofurans

.....
Tetrachlorodibenzo-p-dioxins
Tetrachlorodibenzofurans

HUMAN SERVICES

(a)

DIVISION OF PUBLIC WELFARE

**Food Stamp Program
 Maximum Income Eligibility Limits**

**Adopted Emergency Amendment and
 Concurrent Proposal: N.J.A.C. 10:87-12.3,
 12.4 and 12.7**

Emergency Amendment Adopted: June 6, 1983 by George J. Albanese, Commissioner, Department of Human Services.

Gubernatorial Approval (N.J.S.A. 52:14B-4(c)): June 17, 1983.

Emergency Amendment Filed: July 1, 1983 as R.1983 d.288.

Authority: N.J.S.A. 30:4B-2, the Food Stamp Act of 1977, as amended (7 USC 2014) 7 CFR 273.9(a) and 48 FR 22765 issued May 20, 1983.

Emergency Amendment Effective Date: July 1, 1983.

Emergency Amendment Expiration Date: August 30, 1983.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Audrey Harris, Acting Director
 Division of Public Welfare
 CN 716
 Trenton, NJ 08625

This amendment was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of this emergency amendment are being proposed for reoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted rule becomes effective

HUMAN SERVICES

EMERGENCY ADOPTIONS

upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

The concurrent proposal is known as PRN 1983-367.

The agency emergency adoption and concurrent proposal follows:

Summary

The Department of Human Services is mandated by Federal law and regulations to revise the maximum allowable net and gross income eligibility standards to reflect the annual Federal adjustment of income eligibility limits which take into account changes in the cost of living and the annual adjustment of the poverty guidelines issued by the United States Department of Health and Human Services. The "165 percent of poverty level" used when determining separate household status for elderly and disabled individuals is also revised. Since all three standards are based on the poverty guidelines they are being adjusted simultaneously.

Social Impact

The increase in the income eligibility standards will increase the number of households eligible to participate in the program and receive food stamp benefits. The changes to the eligibility standards will not increase food stamp benefit levels to any currently eligible household.

Economic Impact

The revised, increased income eligibility limits will expand the number of households eligible to receive food stamp benefits. These changes will bring additional Federal funds into the State for those households previously not eligible to participate in this Federally funded program. This change will not impact significantly on administrative functions of the Department or the county welfare agencies administering the program.

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

10:87-12.3 Maximum allowable net income standards

TABLE III
Maximum Allowable Net Income

Household Size	Maximum Allowable Income
1	\$ [390] 405
2	[519] 545
3	[647] 685
4	[775] 825
5	[904] 965
6	[1032] 1105
7	[1160] 1245
8	[1289] 1385
9	[1418] 1525
10	[1547] 1665
Each Additional Member	[+129] +140

10:87-12.4 Maximum allowable gross income standards

TABLE IV
Maximum Allowable Gross Income

Household Size	Maximum Allowable Income
1	\$ [507] 527
2	[674] 709
3	[841] 891
4	[1008] 1073
5	[1175] 1255
6	[1342] 1437
7	[1508] 1619
8	[1675] 1801
9	[1842] 1983
10	[2009] 2165
Each Additional Member	[+167] +182

10:87-12.7 165 percent of poverty level

(a) The following table is to be used when determining separate household status for elderly and disabled individuals in accordance with N.J.A.C. 10:87-2.2(a)4.

TABLE VII
165% of Poverty Level

Household Size	Maximum Allowable Income
1	\$ [644] 669
2	[856] 900
3	[1067] 1131
4	[1279] 1362
5	[1491] 1593
6	[1702] 1824
7	[1914] 2055
8	[2126] 2286
9	[2338] 2517
10	[2550] 2748
Each Additional Member	[+212] +231

(a)

DIVISION OF PUBLIC WELFARE

Medicaid Only Program
Eligibility Computation Amounts

Adopted Emergency Amendment and
Concurrent Proposal: N.J.A.C. 10:94-5.4,
5.5 and 5.6

Emergency Amendments Adopted: June 22, 1983 by
George J. Albanese, Commissioner, Department of
Human Services.
Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)): June
29, 1983.
Emergency Amendments Filed: July 1, 1983 as R.1983
d.289.

Authority: N.J.S.A. 44:7-87 and Section 1902(a) of the
Social Security Act.

Emergency Amendments Effective Date: July 1, 1983.
Emergency Amendments Expiration Date: August 30,
1983.

Interested persons may submit in writing, data, views or
arguments relevant to the proposal on or before August 17, 1983.
These submissions, and any inquiries about submissions and
responses, should be addressed to:

Audrey Harris, Acting Director
Division of Public Welfare
CN 716
Trenton, NJ 08625

These amendments were adopted on an emergency basis and
became 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). Concurrently, the provisions of these
emergency amendments are being proposed for re-adoption in
compliance with the normal rulemaking requirements of the
Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The
re-adopted rule becomes effective upon acceptance for filing by the
Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

The concurrent proposal is known as PRN 1983-368.

The agency emergency adoption and concurrent proposal
follows:

Summary

These amendments align certain dollar amounts used to
determine program eligibility for the Medicaid Only program for
the aged, blind, and disabled with those effective July 1, 1983
applicable to the Supplemental Security Income (SSI) program.
This alignment is required by Section 1902(a) of the Social Security
Act.

Social Impact

The increase in standards and income computation amounts used
in the eligibility process theoretically expands the population of
potentially eligible persons. However, based on past experience,
little increase in caseload because of this revision is anticipated.

Economic impact

Past experience with such increases in standards have evidenced
little economic impact. This change will not impact significantly on
administrative functions of the Department or the county welfare
agencies administering the program.

Full text of the emergency adoption and concurrent proposal
follows (additions indicated in boldface thus; deletions indicated in
brackets [thus]).

10:94-5.4 Includable income

(a) (No change.)

1.-11. (No change.)

12. Support and maintenance furnished in-kind (community
cases): Support and maintenance encompasses the provision to an
individual of his/her needs for food, clothing, and shelter at no cost
or at a reduced value. Persons determined to be "living in household
of another" in accordance with N.J.A.C. 10:94-5.6 shall not be
considered to be receiving in-kind support and maintenance as the
income eligibility levels have been reduced in recognition of such
receipt. Persons not determined to be "living in household of
another" who receive in-kind support and maintenance shall be
considered to have unearned income in the amount of:

\$[114.77] **121.43** for an individual

\$[162.13] **172.13** for a couple

i. (No change.)

13. (No change.)

(b) (No change.)

10:94-5.5 Deeming of income

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

(d) A table for deeming computation amounts follows:

TABLE A
Deeming Computation Amounts

1. Living allowance for each ineligible child	\$[142.15] 152.10	
2. Remaining income amount	Head of Household \$[142.15] 152.15	Receiving Support and Maintenance \$[94.77] 101.44
3. Spouse to Spouse Deeming-Eligibility Levels		
a. Residential Health Care Facility	\$[572.30] 602.30	
b. Eligible individual living alone with ineligible spouse	\$[589.70] 629.70	
c. Living alone or with others	\$[453.50] 483.50	
d. Living in household of another	\$[324.43] 344.43	
4. Parental Allowance - Deeming to Child(ren)		
Remaining income is:	1 Parent	Parent & Spouse of Parent
a. Earned only	\$[568.60] 608.60	\$[852.80] 912.80
b. Unearned only	\$[284.30] 304.30	\$[426.40] 456.40
c. Both earned and unearned	\$[284.30] 304.30	\$[426.40] 456.40

10:94-5.6 Income eligibility standards

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

(c) (No change.)

1.-4. (No change.)

5. TABLE B

Variations in Living Arrangements		Medicaid Eligibility Income Standards
	Individual	Couple
I. Residential Health Care Facility	\$[430.20] 450.20	\$[845.80] 885.80
II. Living Alone or with Others	[311.40] 331.40	[447.60] 477.60
III. Living Alone with Ineligible Spouse	[447.60] 477.60	
IV. Living in Household of Another	[229.70] 243.03	[373.20] 393.20
V. Title XIX Approved Facility – Includes persons in acute general hospitals, skilled nursing facilities, intermediate care facilities (level A, B, and ICFMR) and licensed special hospitals (Class A, B, C) and Title XIX psychiatric hospitals (for persons under age 21 and age 65 and over) or a combination of such facilities for a full calendar month.	852.90*	

*Gross income ([i.e.] that is, income prior to any income exclusions) is applied to this Medicaid "Cap".
(d)-(g) (No change.)

(a)

DIVISION OF PUBLIC WELFARE

**Service Program for Aged, Blind or Disabled
Supplemental Security Income Payment
Levels**

**Adopted Emergency Amendment and
Concurrent Proposal: N.J.A.C. 10:100-
1.23**

Emergency Amendment Adopted: June 22, 1983 by George J. Albanese, Commissioner, Department of Human Services.
Gubernatorial Approval (N.J.S.A. 52:14B-4(c)): June 29, 1983.
Emergency Amendment Filed: July 1, 1983 as R.1983 d.290.

Authority: N.J.S.A. 44:7-87 and Section 1618(a) of the Social Security Act.

Emergency Amendment Effective Date: July 1, 1983.
Emergency Amendment Expiration Date: August 30, 1983.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Audrey Harris, Acting Director
Division of Public Welfare
CN 716
Trenton, NJ 08625

The amendment was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (See N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-

4.4). Concurrently, the provisions of this emergency amendment are being proposed for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted rule becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

The concurrent proposal is known as PRN 1983-369.

The agency emergency adoption and concurrent proposal follows:

Summary

The emergency amendment and concurrent proposal, regarding this State's Supplemental Security Income (SSI) program payment levels, replaces the SSI payment standards previously found at N.J.A.C. 10:100-1.23 with new levels and recodifies this section in an Appendix A of N.J.A.C. 10:100.

Section 1618(a) of the Social Security Act requires the State to maintain supplemental payments in the SSI program at levels no lower than those in effect in December 1976. This effectively requires the State to "pass-through" to SSI recipients the full amount of any Federal cost-of-living adjustment (COLA). With the enactment of Section 111 of Public Law 98-21 the scheduled July 1, 1983 COLA was delayed until January 1, 1984. That law further provided for a one time increase in the Federal payment amount of \$20.00 for individuals and \$30.00 for couples to be effective July 1, 1983. Additionally, the law created a special provision that would allow states to meet the required maintenance of supplemental payments by minimally "passing through" the amount that would have been required had the COLA not been delayed. Meeting the minimum maintenance requirement would have deprived SSI recipients of a portion of the \$20.00 and \$30.00 Federal increase in benefits. For that reason, it was elected to "pass-through" the full amount of the Federal benefit increase, effective July 1, 1983.

Social Impact

This rule provides an increase in payment levels to eligible low-income aged, blind, and disabled persons. The increase enables such individuals to maintain a measure of parity with the increased cost-of-living.

Economic Impact

The increase in State expenditures over existing levels is estimated to be \$614,000. Increased cost to county government is estimated at \$205,000. This rule will not impact significantly on the Department or county governments as the Supplemental Security Income program is administered by the Social Security Administration.

Delete entire text at N.J.A.C. 10:100-1.23.

Full text of the emergency adoption and concurrent proposal follows:

10:100,-Appendix A

The New Jersey Supplemental Security Income Payment Levels

Living Arrangement Categories	Payment Level 7/1/83
Eligible Couple	
Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence	\$50/456.40*
Residential Health Care	

EMERGENCY ADOPTIONS**HUMAN SERVICES**

Facilities and certain residential facilities for children and adults	\$885.80
Living Alone or with Others	\$477.60
Living in Household of Another, Receiving Support and Maintenance	\$393.20
Eligible Individual	
Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence of 16 or less	\$25/304.30*
Residential Health Care Facilities and certain residential facilities for children and adults	\$450.20
Living Alone or with Others	\$331.40
Living with Ineligible Spouse (No other individuals in household)	\$477.60
Living in Household of Another, Receiving Support and Maintenance	\$243.03

*The lower figure applies when Medicaid payments with respect to an individual equal an amount over 50 percent of the cost of services provided in a month.

MISCELLANEOUS NOTICES

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

State-Local Cooperative Housing Inspection Program Payment Schedule for Local Inspections

Pursuant to N.J.A.C. 5:10-1.3(b)17iv (see 13 N.J.R. 387(b), 13 N.J.R. 704(a)), the Bureau of Housing Inspection of the Division of Housing and Development of the Department of Community Affairs has established the following payment schedule for municipalities and counties performing inspections under the State-Local Cooperative Housing Inspection Program during fiscal year 1984:

1. \$12.00 per unit for each of the first seven units in each building or project;
2. \$8.00 per unit for each of the next 16 units;
3. \$6.00 per unit for each of the next 24 units;
4. \$4.00 per unit for each unit thereafter.

Reinspections and addendum or complaint inspections will be paid for at the rate of \$3.00 per unit.

Notice of this schedule has been given to all present participants in the State-Local Cooperative Housing Inspection Program.

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF ENVIRONMENTAL QUALITY

Ambient Air Quality Standards, State Implementation Plan (SIP) for Attainment and Maintenance of Ozone and Carbon Monoxide Air Quality Standards, Motor Vehicle Control Strategies

Public Notice and Hearings

Public hearings concerning changes to the Motor Vehicle Control Strategies included in the proposed State Implementation Plan (SIP) for ozone and carbon monoxide will be held on August 8, 1983 from 7:00 P.M. until end of testimony at:

Lewis Herrmann Labor Education Center
Cook College Campus
Rutgers University
Ryderson Lane
New Brunswick, New Jersey

August 9, 1983 from 9:00 A.M. until end of testimony at:

Voorhees Township Municipal Building
Council Chambers
620 Berlin Road
Voorhees, New Jersey

Interested persons may testify and submit in writing, information relevant to certain proposed SIP. Any submissions or inquiries related to this notice should be addressed to:

John C. Elston
Bureau of Air Quality Management
& Surveillance
Department of Environmental
Protection
CN 027
Trenton, NJ 08625
(609)-292-6710

Copies of the relevant SIP material and appendices are being deposited and will be available for inspection during normal office hours through the close of the record on August 9, 1983, at:

NJ Bureau of Air Pollution Control Main Office, Rm. 1108, Labor and Industry Building, Trenton, NJ 08625;
NJ State Library, 205 West State Street, Trenton, NJ 08625;
NJ Bureau of Air Pollution Control Field Office, Metropolitan - 1259 Rt. 46, Parsippany-Troy Hills, NJ 07054;
NJ Bureau of Air Pollution Control Field Office, Central - 65 Prospect Street, Trenton, NJ 08628;
NJ Bureau of Air Pollution Control Field Office, Newark - 1100 Raymond Blvd., Room 510, Newark NJ 07102;
NJ Bureau of Air Pollution Control Field Office, Southern - 100 Larwin Road, Cherry Hill, NJ 08034;

MISCELLANEOUS NOTICES

County Libraries:

County	Municipality
Burlington	Mount Holly
Camden	Echelon Urban Complex, Voorhees
Cape May	Cape May Court House
Cumberland	Bridgeton
Monmouth	Freehold
Morris	Whippany
Ocean	Toms River
Somerset	Somerville
Sussex	Newton

Public Libraries:

Bloomfield, Cherry Hill, East Brunswick, East Orange, Elizabeth, Hackensack, Jersey City, Linden, New Brunswick, Newark, Paterson, Phillipsburg, Plainfield, Ridgewood, Trenton, Wayne, Woodbridge, and Woodbury.

SUMMARY OF PREVIOUS ACTIONS

The Clean Air Act, as amended August 1977, 42 U.S. Congress 7401 et seq. requires states that requested and received an extension beyond December 31, 1982 for the attainment of National Ambient Air Quality Standards (NAAQS) for ozone (O₃) and carbon monoxide (CO), to submit a revision to the 1979 State Implementation Plan (SIP). New Jersey received such an extension, and proposed revisions to the 1979 SIP on September 7, 1982 (14 N.J.R. 985).

On October 14, 1982, in Atlantic City, October 19, 1982, in East Rutherford, and October 20, 1982 in Trenton, the New Jersey Department of Environmental Protection (NJDEP) held public hearings on the proposed 1982 State Implementation Plan revision (hereafter called the proposed 1982 SIP). Testimony was presented at each of these hearings and written testimony subsequently received. Oral and written comments were received from 28 organizations and individuals. A summary of the comments and New Jersey's response was compiled as Appendix 47 of the proposed 1982 SIP. Changes resulting from these comments were incorporated in December 1982 and circulated to those who testified. Concurrently, the United States Environmental Protection Agency (EPA) conducted a review of the proposed 1982 SIP and the public hearing comments.

On February 3, 1983, EPA proposed approval of the New Jersey 1982 SIP (volume 48, number 24, pages 5144-5149). As a condition of the proposed approval the State is required to submit further information concerning: 1) schedules to commit to specific so-called "extraordinary measures" for the control of volatile organic substances (VOS) including new controls for industrial, commercial, and motor vehicle sources and commercial products; 2) specific program elements of the motor vehicle Inspection/Maintenance (I/M) program; and 3) conformity procedures for Federally funded transportation projects consistent with EPA requirements.

The Department at this time is seeking testimony from the public specifically on the motor vehicle program elements of the SIP. This hearing, though not required by Federal law, is being held to provide further opportunity for public comment on the motor vehicle inspection program and the recently enacted legislation to implement a one year test with private garages as initial inspection stations.

MOTOR VEHICLE INSPECTION

On June 30, 1983 Governor Kean signed into law legislation which would allow the option of having initial inspections performed in licensed private inspection centers. As a requirement of the proposed 1982 SIP, specific program elements of this program must be provided to EPA in accordance with 46 CFR 7182, dated January 22, 1981. A description of 10 program elements is

ENVIRONMENTAL PROTECTION

contained in revised Appendix 12. These elements include: 1) inspection test procedures; 2) emission standards; 3) inspection station licensing requirements; 4) emission analyzer specification and maintenance calibration requirements; 5) record keeping and record submittal requirements; 6) quality control audit and surveillance procedures; 7) procedures to assure that non-complying vehicles are not operating on the public roads; 8) other official program rules, regulations, and procedures; 9) a public awareness plan; and 10) mechanics training program.

This pre-proposal description is not a rulemaking notice. Appendix 12 outlines those elements relative to emissions inspection only. Safety inspections, existing emission inspection, and certain operational elements of the inspection program will be subject to rulemaking by the Division of Motor Vehicles within 90 days. The Department of Environmental Protection will propose additional rules concerning emission testing equipment, heavy duty inspection standards, anti-tampering/fuel switching check, procedures and mechanic training requirements within six months.

(a)

DIVISION OF WATER RESOURCES

Amendment to the Monmouth County Water Quality Management Plan

Public Notice

The Manasquan River Regional Sewerage Authority (MRRSA) has applied to the New Jersey Department of Environmental Protection (NJDEP) for an amendment to the Monmouth County Water Quality Management (WQM) Plan. MRRSA has requested that the boundary of the MRRSA facilities planning area be extended to include the northwestern portion of Freehold Township that is currently in the service area of Western Monmouth Utilities Authority (WMUA). The MRRSA will become the Sewerage Facility Planning Agency for this area in Freehold Township under the authority of the "Federal Water Pollution Control Act, As Amended" (33 U.S.C. 466 et seq.). The MRRSA will specifically be responsible for the management of construction, operation, and maintenance of treatment works and conveyance in this area. The MRRSA service area flows are directed to the Ocean County Utilities Authority (OCUA) northern treatment plant, which has sufficient capacity for present and future flows.

This notice is being given to inform the public that NJDEP has prepared an amendment to the Monmouth County WQM Plan. This plan was adopted pursuant to the "Water Quality Planning Act" (N.J.S.A. 58:11A-1 et seq.) and the "Federal Water Pollution Control Act, As Amended". This amendment allows the flows from the northwestern section of Freehold Township to be conveyed by MRRSA to the OCUA northern treatment plant.

All information dealing with the aforesaid water quality management plans and the "Water Quality Planning Act" is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards located at 25 Arctic Parkway in the Township of Ewing, Mercer County. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday. Maps showing the boundaries of the MRRSA and WMUA facilities planning areas and the proposed change are also available.

Interested persons may submit requests in writing that NJDEP hold a nonadversarial public hearing on the amendments. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to George Horzempa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(a)

DIVISION OF WATER RESOURCES

Amendment to the Monmouth County Water Quality Management Plan**Public Notice**

The Middletown Township Sewerage Authority (MTSA) has applied to the New Jersey Department of Environmental Protection (NJDEP) for an amendment to the Monmouth County Water Quality Management (WQM) Plan. MTSA has requested permission to expand the Middletown Township treatment plant from the current design capacity of 6.5 million gallons per day (mgd) to 10.8 mgd. The increased capacity will be used to serve both Middletown (3.0 mgd) and the Atlantic Highlands/Highlands Sewerage Authority (AH/HSA) service area (1.3 mgd). As a result of this expansion, two primary treatment plants in the AH/HSA area will be abandoned. The interceptor from the AH/HSA area to the Middletown plant will be built with Federal funds; the expansion of the plant will be privately funded.

This notice is being given to inform the public that NJDEP has prepared an amendment to the Monmouth County WQM Plan. This plan was adopted pursuant to the "Water Quality Planning Act" (N.J.S.A. 58:11A-1 et seq.) and the "Federal Water Pollution Control Act, As Amended" (33 U.S.C. 466 et seq.). This amendment allows the MTSA to expand the Middletown Township Treatment plant to treat wastewater from Middletown and the AH/HSA service area.

All information dealing with the aforesaid water quality management plans and the "Water Quality Planning Act" is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards located at 25 Arctic Parkway in the Township of Ewing, Mercer County. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendments to George Horzempa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendments. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to George Horzempa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

LAW AND PUBLIC SAFETY

(b)

DIVISION OF MOTOR VEHICLES

Bulk Commodities Application**Public Notice**

Take notice that Clifford W. Snedeker, Director, Division of Motor Vehicles pursuant to the authority of N.J.S.A. 39:5E.11, hereby lists the names and addresses of applicants who have filed an application for a common carrier's certificate of public convenience and necessity and/or a contract carrier permit to engage in the business of transporting bulk commodities in intrastate commerce.

COMMON CARRIER (NON-GRANDFATHER)

Steven H. Lutz
Steven H. Lutz Trucking Inc.
P.O. Box 366
Long Valley, NJ 07853

Allied Bulk Carriers, Inc.
9 Union Hill Road
Englishtown, NJ 07726

RGX, Inc.
203 Inman Avenue
Avenel, NJ 07001

William Heilmann
18 Whittingham Terrace
Millburn, NJ 07041

CONTRACT CARRIER (NON-GRANDFATHER)

Sergio Maldonado and Sons, Inc.
295 Helen Avenue
Howell, NJ 07731

Any or all the above applications may be inspected in full by interested parties at the office of the Division of Motor Vehicles, Bureau of Motor Carriers, 25 S. Montgomery Street, Trenton, New Jersey 08666, on business days between 9:00 A.M. and 4:00 P.M.

Protests in writing and verified under oath may be presented by interested parties to the Director of Motor Vehicles within 20 days following the publication date of an application.

ENERGY

(c)

BOARD OF PUBLIC UTILITIES

**Petition for Rulemaking
Electric and Gas Service Separate Billing**

Petitioner: Department of the Public Advocate, Division of Rate Counsel.

Authority: N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6.

Take notice that on May 12, 1983 the Department of the Public Advocate, Division of Rate Counsel, petitioned the Board of Public Utilities to require combination electric and gas utilities to separate electric and gas service for residential billing purposes.

The substance of Rate Counsel's rulemaking petition is as follows:

1. A residential customer of a combination electric and gas utility who takes both services shall be permitted to apply payments to either or both services;
2. No combination electric and gas utility shall discontinue one service for non-payment of the other service;
3. Such utilities are required to offer deferred payment agreements separately for electric service and for gas service, and any down payment required under such agreements shall not be more than 25 percent and shall be determined separately.

Since early 1983 Board staff has been studying this particular issue and is presently in the final stages of preparing an agreement with Public Service Electric and Gas Company or a rule that would resolve the problem.

N.J.A.C. 14:3-3.6-3i states:

The utility shall, upon reasonable notice, when it can be reasonably given, have the right to suspend or curtail or discontinue service for the following acts or omissions on the part of the customer:

Nonpayment of a valid bill due for **service** furnished at present or previous location . . . (emphasis added)

The Board presently interprets N.J.A.C. 14:3-3.6-3i to mean that a customer delinquent on a combination gas/electric bill, who pays the amount due for one **service** should not have that paid, specific, individual service discontinued. The Board believes that "service" means a specific, individual utility service (for example, electric service) and not combination utility services.

The BPU has duly considered the Rate Counsel's petition for rulemaking pursuant to law and will take it under consideration in its present deliberations. If the Board decides to propose a rule in this area, it will take Rate Counsel's petition as comments on that rule but will also request Rate Counsel to submit further comments. The Board intends to take further action on this issue by September, 1983.

Interested persons may submit in writing, data, views or arguments relevant to the petition for rulemaking. These submissions, and any inquiries about submissions and responses, should be addressed to:

Jeanne M. Fox
Regulatory Officer
Board of Public Utilities
1100 Raymond Boulevard
Room 208
Newark, NJ 07102

This is a notice of petition for a rule (N.J.A.C. 1:30-3.6). Any rule concerning the subject of this notice of petition for a rule must comply with the rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Average Wholesale Price of Cigarettes Cigarette Surtax Rate

Notice of Correction

For the purpose of complying with the requirements of Chapter 40, P.L. 1982, Sec. 4 (N.J.S.A. 54:40A-8.2), John R. Baldwin, Director of the Division of Taxation, hereby gives notice that, based upon the best available current data, the average wholesale price of cigarettes in this State during the succeeding six months commencing July 1, 1983 is \$0.4186 for each 10 cigarettes or fraction thereof.

Therefore, the cigarette surtax due for such six months, pursuant to Sec. 301 of P.L. 1948, c.65 (C.54:40A-8), as amended, shall be \$0.03 for each 10 cigarettes or fraction thereof.

Take notice that this new rate supersedes the rate published in the July 5, 1983 Register at 15 N.J.R. 1110(a).

INDEX OF PROPOSED RULES

The *Index of Proposed Rules* contains rules which have been proposed in the New Jersey Register between July 19, 1982 and July 5, 1983, and which have not been adopted and filed by July 1, 1983. **The index does not contain rules proposed in this Register and listed in the Table of Rules in This Issue. These proposals will appear in the next Index of Proposed Rules.**

A proposed rule listed in this index may be adopted no later than one year from the date the proposal was originally published in the Register. Failure to timely adopt the proposed rule requires the proposing agency to re-submit 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 of the Office of Administrative Law (N.J.A.C. 1:30).

The *Index of Proposed Rules* appears in the second issue of each month, complementing the *Index of Adopted Rules* which

appears in the first Register of each month. Together, these indices make available for a subscriber to the Code and Register all legally effective rules, and enable the subscriber to keep track of all State agency rulemaking activity from the initial proposal through final promulgation.

The proposed rules are listed below in order of their Code citation. Accompanying the Code citation for each proposal is a brief description of its contents, the date of its publication in the Register, and its Register citation.

The full text of the proposed rule will generally appear in the Register. If the full text of the proposed rule was not printed in the Register, it is available for a fee from:

Administrative Filings
CN 301
Trenton, New Jersey 08625

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1			
1:6A-5.3	Special Education Program: Appeals of ALJ decisions	6-20-83	15 N.J.R. 978(a)
1:20	Representation fee hearings before PERC Appeal Board	8-16-82	14 N.J.R. 862(a)
1:30-3.8	Rulemaking: Agency status reports	11-1-82	14 N.J.R. 1185(a)
AGRICULTURE—TITLE 2			
2:68-1	Commercial feeding stuffs: Association standards	4-18-83	15 N.J.R. 583(a)
2:69-1.11	Commercial values for fertilizers and conditioners	5-2-83	15 N.J.R. 658(a)
2:71-1	Readopt Quality of Individual Shell Eggs	7-5-83	15 N.J.R. 1050(a)
2:71-2	Readopt Grades of Fruits and Vegetables	7-5-83	15 N.J.R. 1051(a)
2:71-2.28	Fruits and vegetables: Rates for inspection services	4-4-83	15 N.J.R. 462(a)
2:72-1.1	Readopt Bonding Requirement of Commission Merchants, Dealers, Brokers, Agents	7-5-83	15 N.J.R. 1051(b)
2:73-2	Readopt State Seal of Quality for eggs	4-18-83	15 N.J.R. 584(a)
2:74-1	Readopt Controlled Atmosphere Storage for Apples	7-5-83	15 N.J.R. 1052(a)
BANKING—TITLE 3			
3:1-13.1	Insurance tie-in prohibition by lenders	6-6-83	15 N.J.R. 820(a)
3:6-9	Super NOW deposit accounts	8-2-82	14 N.J.R. 786(a)
3:7-4	Readopt Notice of Maturity on Long-Term Time Deposits	7-5-83	15 N.J.R. 1053(a)
CIVIL SERVICE—TITLE 4			
4:1-8.3	Notice of examinations	5-16-83	15 N.J.R. 726(a)
4:1-8.5	Promotion upon waiver of competitive examination	6-20-83	15 N.J.R. 979(a)
4:1-15.2	Lateral title change	9-7-82	14 N.J.R. 940(b)
4:1-18.9, 18.10	Flexitime and operation hours (State)	3-21-83	15 N.J.R. 373(a)
4:1-18.11	Alternative workweek programs (State)	3-21-83	15 N.J.R. 374(a)
4:1-20.9	Tuition aid program (State)	3-7-83	15 N.J.R. 274(a)
4:2-15.2	Repeal: Lateral title change	9-7-82	14 N.J.R. 940(b)
4:2-20.9	Repeal (see 4:1-20.9)	3-7-83	15 N.J.R. 273(a)
4:3-6.7	Repeal: Modification of sheriff's officer series	6-6-83	15 N.J.R. 820(b)
COMMUNITY AFFAIRS—TITLE 5			
5:10	Readopt Hotel and Multiple Dwellings rules	5-16-83	15 N.J.R. 727(a)
5:10-1.3	State-local cooperative housing inspection	7-5-83	15 N.J.R. 1054(a)
5:10-1.4, 1.6	Row house and retirement community fire safety	7-5-83	15 N.J.R. 1054(b)
5:23-3.8A	Products violating the Uniform Construction Code	4-18-83	15 N.J.R. 587(a)
5:23-5.11(d)	Uniform Construction Code: Licensing	7-19-82	14 N.J.R. 734(a)
5:26-2.3, 3.1, 3.2, 3.4, 4.1-4.4, 5.2, 6.3, 9.1, 10.1, 10.2, 11.1	Planned real estate development full disclosure	7-5-83	15 N.J.R. 1055(a)
5:26-2.4	Planned real estate development registration fees	7-5-83	15 N.J.R. 1059(a)
5:27-1.5	Certificate of occupancy for boarding house change of use	6-6-83	15 N.J.R. 821(a)
5:30-10.1, 10.2	Local Finance Board: Municipal port authorities	8-2-82	14 N.J.R. 786(b)
5:80-5	Housing Finance Agency: transfer of ownership interests	6-6-83	15 N.J.R. 822(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
EDUCATION—TITLE 6			
6:3-3.1-3.5	Readopt rules on withdrawal from limited purpose districts	5-16-83	15 N.J.R. 728(a)
6:8-1.1, 3.4, 3.8, 4.2, 4.6	Statewide testing program	6-20-83	15 N.J.R. 979(b)
6:11-4.2, 4.3, 4.4	Temporary, provisional and emergency certificates	9-20-82	14 N.J.R. 1011(a)
6:20-2.10	Local districts: petty cash fund	6-20-83	15 N.J.R. 982(a)
6:20-4.1, 4.2	Tuition for private schools for the handicapped	5-16-83	15 N.J.R. 730(a)
6:21-1.4	Useful life of school buses	6-20-83	15 N.J.R. 982(b)
6:28	Readopt Special Education rules	5-16-83	15 N.J.R. 732(a)
6:28-11	Programs for preschool handicapped children	4-4-83	15 N.J.R. 556(a)
6:39-1.1-1.4	Statewide testing program	6-20-83	15 N.J.R. 979(b)
ENVIRONMENTAL PROTECTION—TITLE 7			
7:1D-1	Emergency water projects: Allocation of costs	2-7-83	15 N.J.R. 117(a)
7:1G	Loan procedures: Water supply interconnections	9-20-82	14 N.J.R. 1012(a)
7:2	Readopt State Park Service rules	6-6-83	15 N.J.R. 822(b)
7:2	State Park Service rules	6-20-83	15 N.J.R. 983(a)
7:7A-1.13	Wetlands maps in Cape May County	12-6-82	14 N.J.R. 1330(a)
7:7A-1.13	Wetlands maps in Atlantic and Cumberland counties	2-7-83	15 N.J.R. 119(a)
7:7A-1.13	Wetlands in Middlesex County	3-21-83	15 N.J.R. 386(a)
7:13-1.11	Floodway delineations within Atlantic Basin	7-19-82	14 N.J.R. 736(a)
7:13-1.11	Floodway delineations in Mercer County	10-18-82	14 N.J.R. 1132(a)
7:13-1.11	Floodway delineations in Mullica River Basin	10-18-82	14 N.J.R. 1133(a)
7:13-1.11	Floodway delineations in Monmouth County	2-22-83	15 N.J.R. 198(a)
7:13-1.11	Floodways along the Raritan River	5-2-83	15 N.J.R. 659(a)
7:13-1.11	Readopt Delineated Floodway rules	6-6-83	15 N.J.R. 839(a)
7:13-1.11	Floodway delineation in Montvale, Bergen County	6-20-83	15 N.J.R. 989(a)
7:14-2.13, 2.14, 2.15	Construction of wastewater treatment facilities	10-18-82	14 N.J.R. 1135(a)
7:14-4.4	NJPDES: local control over dischargers	7-5-83	15 N.J.R. 1059(b)
7:14A-1.9, 10.1, 10.5, 13.1, 13.2, 13.5-13.8	NJPDES: local control over dischargers	7-5-83	15 N.J.R. 1059(b)
7:15	Water quality management planning and implementation process	5-16-83	15 N.J.R. 765(b)
7:19-4	Diversion assessment and payment for public water supply	3-7-83	15 N.J.R. 276(a)
7:20A	Water diversion for growing use	11-15-82	14 N.J.R. 1249(a)
7:20A	New comment period: Water diversion for growing use	11-15-82	15 N.J.R. 73(a)
7:25-2	Use of Wildlife Management Areas	6-6-83	15 N.J.R. 840(a)
7:25-5	1983-84 Game Code	5-16-83	15 N.J.R. 771(a)
7:25-7.13	Crab dredging off Atlantic coast	3-21-83	15 N.J.R. 388(a)
7:25-15.1	Relay of hard clams (with Emergency Adoption)	9-20-82	14 N.J.R. 1055(a)
7:25A-1.1, 1.2, 2.1, 2.3-2.5	Oyster dredging and management	6-20-83	15 N.J.R. 990(a)
7:26-1.4, 2.6, 2.11, 2.13, 3.5	Solid waste management	5-2-83	15 N.J.R. 660(a)
7:26-1.4, 9.1, 12.1	Hazardous waste recycling	12-20-82	14 N.J.R. 1435(a)
7:26-1.4, 9.1, 12.1	Hazardous waste: Gas cylinder exemption	3-21-83	15 N.J.R. 390(a)
7:26-12.3	Permits for existing hazardous waste facilities	7-5-83	15 N.J.R. 1063(a)
7:26-13.7	Siting of commercial hazardous waste facilities	7-5-83	15 N.J.R. 1064(a)
7:28-1, 2	Radiation protection	3-21-83	15 N.J.R. 391(a)
7:30	Pesticide Control Code: Extension of comment period	9-7-82	14 N.J.R. 946(a)
7:36-5.2	Green acres additional funding	12-20-82	14 N.J.R. 1436(a)
7:38-1	Wild and Scenic Rivers System	11-15-82	14 N.J.R. 1256(a)
HEALTH—TITLE 8			
8:21-9	Readopt licensing rules for food and cosmetic plants	4-18-83	15 N.J.R. 609(a)
8:31A-8.1	Hospital reporting: Medical discharge abstract	4-4-83	15 N.J.R. 470(b)
8:42-2	Repeal (see 8:42B)	3-21-83	15 N.J.R. 397(a)
8:42B	Drug treatment facilities: Licensure	3-21-83	15 N.J.R. 397(a)
8:43-3.22	Fire protection in residential health care	6-20-83	15 N.J.R. 991(a)
8:43-4.14	Repeal (see 8:43-7)	6-20-83	15 N.J.R. 992(a)
8:43-7	Resident rights in residential health care	6-20-83	15 N.J.R. 992(a)
8:43-8	Residential health care: Maintenance and monitoring services	3-7-83	15 N.J.R. 309(b)
8:43A	Readopt rules on Ambulatory Care Facilities	6-20-83	15 N.J.R. 994(a)
8:43B-6	Readopt Hospital Medical Staff rules	7-5-83	15 N.J.R. 1065(a)
8:44	Readopt Operation of Clinical Laboratories	6-20-83	15 N.J.R. 995(a)
8:57-4	Immunization of pupils in schools	5-16-83	15 N.J.R. 781(a)
8:65-10	Controlled dangerous substances: schedule changes	6-6-83	15 N.J.R. 844(a)
8:70	Readopt: Drug Evaluation and Acceptance Criteria	6-6-83	15 N.J.R. 845(a)
8:71	Generic drug list additions (see 15 N.J.R. 90(a), 147(e), 690(c))	8-16-82	14 N.J.R. 888(a)

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8:71	Additions to generic drug list (see 15 N.J.R. 148(a))	10-4-82	14 N.J.R. 1077(a)
8:71	Oxycodones; Schedule II policy	10-4-82	14 N.J.R. 1077(a)
8:71	Generic drug list changes (see 15 N.J.R. 339(a), 691(a))	11-15-82	14 N.J.R. 1278(a)
8:71	Generic drug list changes (see 15 N.J.R. 1100(c))	2-7-83	15 N.J.R. 126(b)
8:71	Generic drug list additions (see 15 N.J.R. 691(b)-1100(a))	2-7-83	15 N.J.R. 127(a)
8:71	Generic drug list additions	3-21-83	15 N.J.R. 420(a)
8:71	Additions to generic drug list	6-6-83	15 N.J.R. 846(a)
HIGHER EDUCATION-TITLE 9			
9:2-3.8	Layoff notice at State Colleges	5-2-83	15 N.J.R. 663(a)
9:3-1.1	Approval of renovation projects	7-5-83	15 N.J.R. 1070(a)
9:4-5.7	Layoff notification at county colleges	7-5-83	15 N.J.R. 1070(b)
9:7-2.3	Foreign nationals and student assistance eligibility	7-5-83	15 N.J.R. 1071(a)
9:9	Readopt Student Loan Program rules	4-4-83	15 N.J.R. 475(a)
9:12-1.11	Educational Opportunity Fund: Minimum academic progress	2-22-83	15 N.J.R. 207(a)
HUMAN SERVICES-TITLE 10			
10:3-2	Capital Funding Agreement for community-based facilities	7-5-83	15 N.J.R. 1072(a)
10:5	Social Services Block Grant (Title XX)	2-22-83	15 N.J.R. 208(a)
10:43	Readopt Need for Guardianship rules	7-5-83	15 N.J.R. 1111(a)
10:45	Readopt Guardianship Services for mentally retarded	7-5-83	15 N.J.R. 1073(a)
10:49-1.4	Proposal withdrawal: Personal care services	3-21-83	15 N.J.R. 420(b)
10:49-1.8	Medicaid: prior authorization and emergency situations	6-20-83	15 N.J.R. 997(a)
10:49-2	Readopt rules on availability of Medicaid program information	6-20-83	15 N.J.R. 998(a)
10:49-5	Readopt Fair Hearing rules	6-6-83	15 N.J.R. 848(a)
10:49-6	Readopt Medicaid Administrative Provisions	7-5-83	15 N.J.R. 1075(a)
10:50	Readopt Transportation Services Manual	6-20-83	15 N.J.R. 999(a)
10:51-1, App. B,D,E	Pharmaceutical Services Manual: Revisions to Appendices	5-2-83	15 N.J.R. 664(a)
10:54-1.7	Initial visit for rehabilitation services	5-16-83	15 N.J.R. 782(a)
10:55-1.1, 1.2, 1.7, 1.9	Prosthetic and orthotic "approved" providers defined	9-20-82	14 N.J.R. 1032(a)
10:56-1.14, 3.4	Dental Services: X-ray reimbursement	12-6-82	14 N.J.R. 1338(a)
10:60-1.4	Initial visit for rehabilitation services	5-16-83	15 N.J.R. 782(a)
10:62-3.8	Vision Care Manual: lens and frame envelopes	5-16-83	15 N.J.R. 783(a)
10:63-1.4	Initial visit for rehabilitation services	5-16-83	15 N.J.R. 782(a)
10:63-1.5	Medical Evaluation Team (LTC) and alternate care option	4-4-83	15 N.J.R. 485(a)
10:66-1.6, 3.3	Proposal withdrawal: Personal care services	3-21-83	15 N.J.R. 420(b)
10:66-3.3	Independent Clinic Services: Procedure code revisions	12-6-82	14 N.J.R. 1339(a)
10:81-2, 3	PAM: readopt AFDC application and eligibility rules (with Emergency Adoption)	6-6-83	15 N.J.R. 933(a)
10:82-1, 2, 3	ASH: readopt rules on AFDC eligible units, monthly grants, resources (with Emergency Adoption)	6-6-83	15 N.J.R. 935(a)
10:85-1, 2, 3, 4, 5, 6, 10	Readopt portions of General Assistance Manual (with Emergency Adoption)	6-6-83	15 N.J.R. 938(a)
10:85-3.1	GAM: Household size	2-22-83	15 N.J.R. 212(a)
10:85-3.2(f)	GAM: Residency and municipal responsibility	3-7-83	15 N.J.R. 313(a)
10:85-5.3	GAM: DRG rates for outpatient services	5-2-83	15 N.J.R. 666(a)
10:87-3.23	Food Stamp Program: Student eligibility	1-3-83	15 N.J.R. 12(a)
10:89-3.1	Home Energy Assistance: Automatic payments	9-7-82	14 N.J.R. 957(a)
10:90-2.3	Monthly Reporting Policy Handbook	6-6-83	15 N.J.R. 849(a)
10:94-3	Medicaid Only: readopt nonfinancial eligibility criteria (with Emergency Adoption)	6-6-83	15 N.J.R. 949(a)
10:94-4.1-4.7, 5.1-5.7	Medicaid Only: readopt financial eligibility standards	6-20-83	15 N.J.R. 999(b)
10:122-1.1-1.3, 2.1, 2.2, 3.2, 3.3, 4.2-4.7, 5.1-5.4, 6.1-6.6, 6.9, 7.3	Combined standards for child care centers	6-6-83	15 N.J.R. 850(a)
10:123-1	Repeal (see 10:5)	2-22-83	15 N.J.R. 208(a)
10:125	Repeal (see 10:5)	2-22-83	15 N.J.R. 208(a)
10:126	Repeal (see 10:5)	2-22-83	15 N.J.R. 208(a)
10:127	Residential child care facilities	4-4-83	15 N.J.R. 486(a)
INSURANCE-TITLE 11			
11:3-6.1-6.4	Automobile insurance identification cards	3-7-83	15 N.J.R. 315(a)
11:10	Dental plan organizations	3-21-83	15 N.J.R. 423(a)

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LABOR--TITLE 12			
12:195	Readopt rules on Carnival-Amusement Rides	6-20-83	15 N.J.R. 1002(a)
LAW AND PUBLIC SAFETY--TITLE 13			
13:1	Readopt Police Training Commission rules	6-6-83	15 N.J.R. 866(a)
13:2-24.6	Alcoholic beverage wholesale pricing	1-3-83	15 N.J.R. 13(a)
13:2-24.11	ABC: manufacturers' rebates and coupons	6-20-83	15 N.J.R. 1003(a)
13:3-1.2, 1.11, 1.14, 1.16, 1.17, 2.2, 3.4, 3.5, 3.6, 3.8, 3.9, 3.10, 3.15, 4.3, 7.1, 7.2, 7.9	Amusement games control	5-2-83	15 N.J.R. 680(a)
13:4-2.3	Fact-finding conferences on discrimination complaints	4-4-83	15 N.J.R. 500(a)
13:4-12.1	Discrimination complaints and hearings before OAL	4-4-83	15 N.J.R. 501(a)
13:18-10	Readopt Unsatisfied Claim and Judgment Fund rules on excess medical benefits	6-6-83	15 N.J.R. 872(a)
13:19-10	Point system; motorized bicycle offenses	6-20-83	15 N.J.R. 1004(a)
13:19-11	Out-of-state conviction for drunk driving	6-20-83	15 N.J.R. 1009(a)
13:25-6	Repeal (see 13:19-10)	6-20-83	15 N.J.R. 1004(a)
13:25-9	Approved helmets for motorized bicycle operators	5-2-83	15 N.J.R. 684(a)
13:26	Readopt Transportation of Bulk Commodities rules	7-5-83	15 N.J.R. 1116(a)
13:27-7	Pre-prepared plans for single family houses	6-20-83	15 N.J.R. 1010(a)
13:32-1.8	Pressure seal on plumbing permit applications	7-19-82	14 N.J.R. 759(a)
13:35-1-6	Board of Medical Examiners: Standards and rules	4-4-83	15 N.J.R. 503(a)
13:35-3.3, 6.13	Medical examiners board: chiropractic endorsement; fees	5-16-83	15 N.J.R. 784(a)
13:35-6.7	Medical examiners board: prescribing amphetamines	5-16-83	15 N.J.R. 785(a)
13:35-7, 9, 10	Repeal (see 13:35-1-6)	4-4-83	15 N.J.R. 503(a)
13:38-6.1	Optometric practice: readopt rule on patient records	6-20-83	15 N.J.R. 1011(a)
13:39-8.14, 9.14	Pharmacist-in-charge; in-store pharmacies	8-16-82	14 N.J.R. 898(b)
13:39-8.14, 9.14	Extension of comment period	8-16-82	14 N.J.R. 1222(b)
13:39-8.14, 9.14	Public hearing	8-16-82	15 N.J.R. 164(c)
13:40-6	Engineers and Land Surveyors: readopt licensing fee schedule	7-5-83	15 N.J.R. 1077(a)
13:43-4	Certified Shorthand Reporting: examination and licensure fees	6-6-83	15 N.J.R. 873(a)
13:45A-19	Deceptive advertising and prizes	11-15-82	14 N.J.R. 1281(b)
13:45B-4	Temporary help service firms	2-22-83	15 N.J.R. 233(a)
13:46-5.1	Boxer licensure and medical examinations	5-16-83	15 N.J.R. 786(a)
13:70-3, 14, 15, 19, 29	Readopt Thoroughbred rules	5-2-83	15 N.J.R. 685(a)
13:70-9.18	Jockey fees	4-4-83	15 N.J.R. 518(a)
13:70-19.43	Repeal bleeder rules	5-2-83	15 N.J.R. 685(a)
13:71-1.23	Harness racing: no smoking in barn areas	6-6-83	15 N.J.R. 873(b)
13:71-5, 9, 21, 23	Readopt Harness rules	5-2-83	15 N.J.R. 685(a)
13:76	Arson investigators: training requirements	7-5-83	15 N.J.R. 1078(a)
PUBLIC UTILITIES--TITLE 14			
7:26-6	Interdistrict and intradistrict solid waste flow	9-20-82	14 N.J.R. 1027(b)
14:1-3.3	Board proceedings and ex parte communications	10-18-82	14 N.J.R. 1148(a)
14:3-3.6, 7.16	Diversion of service disputes	5-16-83	15 N.J.R. 787(a)
14:3-7.11A	Uniform budgeting plan for residential customers	9-20-82	14 N.J.R. 1048(a)
14:18-1.2, 3.9	CATV: Credit for service outages	4-18-83	15 N.J.R. 612(b)
14:18-3.9	CATV refunds for service interruptions	9-7-82	14 N.J.R. 972(a)
14:18-11	Readopt CATV application for municipal consent and certification rules	6-6-83	15 N.J.R. 874(a)
ENERGY--TITLE 14A			
14A:3-1, 2, 3, 4, 6, 7, 8, 9	Readopt Energy Conservation rules	5-16-83	15 N.J.R. 789(a)
STATE--TITLE 15			
15:10-1.4	Voter registration: Timely filing	10-18-82	14 N.J.R. 1148(b)
TRANSPORTATION--TITLE 16			
16:28-1.2	Speed rate, Route I-80 interchange, Morris County	6-6-83	15 N.J.R. 877(a)
16:28A-1.21, 1.45	Parking on US 30 in Atlantic County and Route 94 in Sussex County	7-5-83	15 N.J.R. 1080(a)
16:28A-1.25	Parking on Route 35 in Old Bridge	5-16-83	15 N.J.R. 792(a)
16:28A-1.70	Handicapped parking on Route 439 in Elizabeth	6-20-83	15 N.J.R. 1012(a)

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16:41-2.1, 2.3-2.14, 2.18, 2.19, 3.3	Access driveways along highways	11-15-82	14 N.J.R. 1284(a)
16:41-7.2	Street intersections	11-15-82	14 N.J.R. 1289(a)
16:53-1.29, 1.30, 3.23, 3.24, 6.21, 6.30, 7.17, 7.23, 8.22, 8.25	Autobus specifications	6-6-83	15 N.J.R. 877(b)
16:65	Readopt Contract Administration rules	7-5-83	15 N.J.R. 1080(b)
16:75	NJ TRANSIT: bus allocation rules	6-6-83	15 N.J.R. 881(a)
TREASURY-GENERAL-TITLE 17			
17:1-12.6	Pension credit for extended maternity leave	6-20-83	15 N.J.R. 1012(b)
17:4-2.5	Pensions: age requirements for police and firemen	6-6-83	15 N.J.R. 883(a)
17:9	State Health Benefits Program	5-16-83	15 N.J.R. 792(b)
17:9-1.5	Health Benefits Program: employer termination of participation	5-16-83	15 N.J.R. 793(a)
17:9-1.7	State Health Benefits Program: local governments	6-6-83	15 N.J.R. 884(a)
17:10-1.11	Judicial Retirement: Withdrawals and interest earned	6-20-83	15 N.J.R. 1013(a)
17:10-3.5	Judicial Retirement: repeal insurance liability for unenrolled members	6-20-83	15 N.J.R. 1013(b)
17:19-2	Contractor classification: Bid prequalification	2-22-83	15 N.J.R. 235(a)
TREASURY-TAXATION-TITLE 18			
18:7-5.2	Correction: Corporation Business Tax	11-1-82	14 N.J.R. 1299(b)
18:7-5.2	Corporation Business Tax: Entire net income	3-21-83	15 N.J.R. 427(a)
18:9	Readopt Business Personal Property Tax rules	7-5-83	15 N.J.R. 1081(a)
18:12-18:17	Readopt Local Property Tax rules	7-5-83	15 N.J.R. 1082(a)
18:14-3.9	Local property tax: senior citizens' deduction	6-6-83	15 N.J.R. 885(a)
18:24	Readopt Sales and Use Tax rules	7-5-83	15 N.J.R. 1086(a)
18:24-4.6, 5.16	Sales tax and capital improvements	10-4-82	14 N.J.R. 1086(a)
18:24-7.19	Sales tax moratorium on mobile homes	7-5-83	15 N.J.R. 1088(a)
18:24-29	Sales tax exemption: household soaps and paper products	5-16-83	15 N.J.R. 797(a)
18:24-30	Sales tax exemption: prescription and over-the-counter drugs	6-6-83	15 N.J.R. 885(b)
18:26	Readopt Transfer Inheritance and Estate Tax rules	7-5-83	15 N.J.R. 1088(b)
18:26-2.11	Transfer Inheritance Tax: distribution by agreement	5-16-83	15 N.J.R. 798(a)
18:35-1, 2	Readopt Gross Income Tax and Debt Setoff rules	7-5-83	15 N.J.R. 1091(a)
18:35-1.15	Gross income tax withholding exclusion	11-15-82	13 N.J.R. 839(b)
TITLE 19 SUBTITLES A-L-OTHER AGENCIES (Except Casino Control Commission)			
19:4-4.18A-4.27A	New planned park zone	1-3-83	15 N.J.R. 16(b)
19:4-6.28	Zoning change in Secaucus	4-4-83	15 N.J.R. 532(a)
19:9	Readopt Turnpike Authority rules	6-6-83	15 N.J.R. 886(a)
19:17	Appeal Board on representation fees	8-16-82	14 N.J.R. 903(a)
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19:40-3	Confidential information: Maintenance and release	2-22-83	15 N.J.R. 238(a)
19:45-1.11	Line of authority; reporting of violations	10-4-82	14 N.J.R. 1087(b)
19:45-1.39	Resetting of progressive slot machines	9-20-82	14 N.J.R. 1053(a)
19:46-1.1, 1.6	Gaming chips and plaques	8-2-82	14 N.J.R. 828(a)
19:46-1.16, 1.18	Use of cards and dice	8-2-82	14 N.J.R. 829(a)
19:46-1.17	Use of cards in baccarat	7-19-82	14 N.J.R. 754(a)
19:47-2.2	Correction: Double shoe in blackjack		14 N.J.R. 832(a)
19:47-2.8, 2.13, 2.23-2.26	Blackjack rules	8-16-82	14 N.J.R. 907(a)

The following rules were proposed in the New Jersey Register, but have not been timely adopted and therefore have expired pursuant to N.J.A.C. 1:30-4.2(c).

1:1-5.2, 5.3	Pre-hearing information	6-21-82	14 N.J.R. 607(a)
6:11-10.2, 10.4, 10.7, 10.9	Administrative certification	6-21-82	14 N.J.R. 614(a)
7:7-2.2, 2.6, 2.9, 2.11, 2.15	"Repair of waterfront structures; removal of unauthorized fill; permit duration	7-6-82	14 N.J.R. 679(b)
7:13-1.11	Bass River Basin flood delineations	7-6-82	14 N.J.R. 683(b)
10:66-1.2, 1.3, 1.6, 1.7	Ambulatory surgical centers	7-6-82	14 N.J.R. 697(a)
13:21-8.10	Vision standards for motor vehicle drivers	7-6-82	14 N.J.R. 700(a)
19:4-4	Waterfront Recreation Zone: permitted uses	7-6-82	14 N.J.R. 706(a)

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August 15 issue:	
Proposals	July 21
Adoptions	August 1

New Publications from the Office of Administrative Law

**CONTESTED CASE HANDBOOK: A Guide to the
Administrative Hearing Process in
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The CONTESTED CASE HANDBOOK is a layman's explanation of welfare "fair" hearings before an administrative law judge, prepared especially for the person appearing without a lawyer, or the non-lawyer appearing with a party at a hearing. It discusses the common procedures and problems you might encounter in a hearing involving AFDC, General Assistance, or Food Stamps.

The CONTESTED CASE HANDBOOK traces the procedural steps and some of the rules of the hearing, explains the notices participants receive from the Office of Administrative Law, and what to do about them. It clearly outlines the steps up to, during and after the hearing.

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The SPECIAL EDUCATION MANUAL also tells how and when hearings are scheduled and how to prepare for a special education hearing, and explains the right to request an independent evaluation of a student. It details how a hearing is conducted, who may appear, how a decision is rendered, and how it may be appealed. A special feature cross-references each step of the hearing process to the appropriate Office of Administrative Law hearing rule in the New Jersey Administrative Code, N.J.A.C. 1:6A. \$2

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This handbook contains all Alcoholic Beverage Control rules promulgated through June 21, 1982 in the New Jersey Register, and features a comprehensive Cross-Reference Table relating current New Jersey Administrative Code citations to the former Rule and Regulation Numbers of the Division of Alcoholic Beverage Control. In addition, individual rules are annotated with notes on selected cases involving rule interpretation and application. The Case Notes include New Jersey Appellate Division and Supreme Court decisions, initial OAL decisions, and agency appellate and disciplinary proceedings as reported in ABC Bulletins. \$5

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