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(Includes adopted rules filed through November 6, 1991)

MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: SEPTEMER 16, 1991
See the Register Index for Subsequent Rulemaking Activity.

NEXT UPDATE: SUPPLEMENT OCTOBER 21, 1991

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INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until **January 1, 1992.** Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal or group of proposals.

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

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

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NEW JERSEY REGISTER

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

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EXECUTIVE ORDER

(a)

OFFICE OF THE GOVERNOR
Governor Jim Florio
Executive Order No. 46(1991)
Limited State of Emergency
Atlantic, Cape May, Monmouth and Ocean Counties

Issued: October 31, 1991.
Effective: October 31, 1991.
Expiration: Indefinite.

WHEREAS, severe weather conditions of October 30 and 31, 1991, including winds and high tides, have created flooding, hazardous road conditions, and threatened homes and other structures in the coastal areas of the State and,

WHEREAS, these weather conditions pose a threat and constitute a disaster from a natural cause which threatens and presently does endanger the health, safety or resources of the residents of more than one municipality and county of this State; and which is in some parts of the State and may become in other parts of the State too large in scope to be handled in its entirety by the normal municipal operating services; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of the Laws of 1942, Chapter 251 (*N.J.S.A.* App: 9-30 *et seq.*) and the Laws of 1979 Chapter 240 (*N.J.S.A.* 38A:3-6.1) and the Laws of 1963 Chapter 109 (*N.J.S.A.* 38A:2-4) and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers.

THEREFORE, I, Jim Florio, Governor of the State of New Jersey, in order to protect the health, safety and welfare of the people of the State of New Jersey do declare and proclaim that a limited State of Emergency has and presently exists in Atlantic, Cape May, Monmouth and Ocean Counties.

NOW THEREFORE, in accordance with the Laws of 1963 Chapter 109 (*N.J.S.A.* 38A:2-4), I hereby authorize the Adjutant General of the New Jersey National Guard to order to active duty such members of the New Jersey National Guard that, in his judgment, are necessary to provide aid to those localities where there is a threat or danger to the public health, safety and welfare. He may authorize the employment of any supporting vehicles, equipment, communications or supplies as may be necessary to support the members so ordered.

FURTHERMORE, in accordance with the Laws of 1942, Chapter 251 as supplemented and amended, I hereby empower the Superintendent of the Division of State Police, who is the State's Director of Emergency Management, through the police agencies under his control, to determine the control and direction of the flow of such vehicular traffic on any State Highway, municipal or county road, including the right to detour, reroute or divert any or all traffic, and to suspend tolls on the Atlantic City Expressway, and to prevent ingress from any area that he, in his discretion, deems necessary for the protection of the health, safety and welfare of the public.

The Superintendent of the Division of State Police is further authorized and empowered to utilize all facilities owned, rented, operated and maintained by the State of New Jersey to house and shelter persons who may need to be evacuated from their residences during the course of this emergency.

FURTHERMORE, the Superintendent of the Division of State Police is hereby authorized to order the evacuation of all persons, except for those emergency and governmental personnel whose presence he deems necessary, from any area where their continued presence would present a danger to their health, safety or welfare because of the conditions created by this emergency.

FURTHERMORE, in accordance with the Laws of 1942, Chapter 251, I reserve the right to utilize and employ all available resources of the State government and of each and every political subdivision of the State, whether of men, properties or instrumentalities, and to commandeer and utilize any personal services and any privately owned property necessary to protect against this emergency.

This order shall take effect immediately and it shall remain in effect until such time as it is determined by me that an emergency no longer exists.

RULE PROPOSALS

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Fire Code

Proposed Amendments: N.J.A.C. 5:18-1.1, 1.5, 2.4A, 2.6, 2.9, 4.1, 4.7, 4.11, 4.17; 5:18A-2.6

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

Authority: N.J.S.A. 52:27D-198.

Proposal Number PRN 1991-589.

Submit comments by January 1, 1992 to:
Michael L. Ticktin, Esq.
Chief, Legislative Analysis
Department of Community Affairs
CN 802
Trenton, New Jersey 08625

The agency proposal follows:

Summary

This proposal contains amendments to the general provisions, administration and enforcement (N.J.A.C. 5:18-1 and 2), the Fire Safety Code (N.J.A.C. 5:18-4) and enforcement agency responsibilities (N.J.A.C. 5:18A-2.6) of the Uniform Fire Code.

A definition of Use Group R-3 (one- and two-family dwelling units), inadvertently excluded from the Uniform Fire Code, is inserted at N.J.A.C. 5:18-1.5.

N.J.A.C. 5:18-2.4A(c)1 (Type Ac life hazard uses) is clarified to explicitly include guest houses that meet the definition contained in N.J.A.C. 5:18-1.5.

School dormitories of Use Group R-2 are added as life hazard uses for one through four or more stories (N.J.A.C. 5:18-2.4A(c)4, (f)5 and (h)3. School dormitories are placed in these categories because the Department believes they should be so regulated because of their similar occupancy to the other uses within these categories.

The list of dangerous or hazardous conditions or materials that the fire official or inspector may discover in any structure or upon any premise and that require remedial action, now contained in N.J.A.C. 5:18-2.9(a)1 through 10, are moved to N.J.A.C. 5:18-3 (Fire Prevention Code), where it properly belongs.

N.J.A.C. 5:18-4.1(b) and (c) a listing of buildings that were to be in compliance with the retrofit provisions of this subchapter, have been deleted since the date for such compliance has passed. A new section (b) requires all buildings for which retrofit requirements are established in this subchapter to have been in compliance since June 16, 1989.

A new section (N.J.A.C. 5:18-4.11(o)) has been inserted that deals with transom glazing and sealing in Use Group R-1 and R-2 structures. This section was inadvertently omitted when Bureau of Housing Inspection regulations were transferred to the Uniform Fire Code.

N.J.A.C. 5:18-4.17(e) is amended to bring it into conformance with the elevator subcode of the Uniform Construction Code. This clarification does not change the technical provisions.

N.J.A.C. 5:18-2.6 and N.J.A.C. 5:18A-2.6 have been amended to provide for an option which would allow local enforcing agencies to collect on a certificate of judgement obtained by the Bureau. Because local agencies may often be able to more efficiently undertake collection actions, this will allow them to receive payments that they might otherwise not obtain.

Social Impact

The proposed amendments will correct certain minor omissions, provide clarification and delete outdated time-compliance requirements. Possible sources of confusion for fire code enforcement personnel will be eliminated.

Economic Impact

Private school dormitories will be required to register and pay appropriate fees as life hazard uses; nevertheless, these costs will be offset by increased fire safety afforded by annual inspections. The inclusion of N.J.A.C. 5:18-4.11(o), requiring special glazing and sealing of transoms in all buildings in Use Groups R-1 and R-2 should have no significant economic impact because most buildings should already be in compliance. Local collection of judgments will allow local agencies to reduce reliance on supplementary funds from the general tax base of the municipality. The deletion of outdated time compliance requirements, language clarification and the addition of a definition should have no economic impact.

Regulatory Flexibility Analysis

Private schools, some of which may be considered small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., will now be inspected annually. Other small businesses may also be affected. The rules proposed are necessary for public safety. Fire Safety violations must be corrected regardless of whether the person or entity responsible is a small business. Fire or explosions do not discriminate on the basis of size. Therefore, no differentiation based on business size is made in these rules.

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

5:18-1.1 Title; division into subchapters

(a) (No change.)

(b) The Code is divided into four parts:

1.-2. (No change.)

3. Subchapter 3 is entitled "**State** Fire Prevention Code," and may be cited throughout the code as N.J.A.C. 5:18-3 and when referred to in Subchapter 3 of this chapter, may be referred to as this subchapter. [Subchapter 3 consists of the 1984 edition of the Basic/National Fire Prevention Code, as prepared and recommended by the Building Officials and Code Administrators International (BOCA) which is adopted and incorporated herein by reference with amendments.]

4. (No change.)

5:18-1.5 Definitions

...

"Use" or "Use Group" means the use to which a building, portion of a building, or premises, is put as follows. It shall also mean and include any place, whether constructed, manufactured or naturally occurring, whether fixed or mobile, [which] **that** is used for human purpose or occupancy, which use would subject it to the provisions of this Code if it were a building or premises.

1.-16. (No change.)

17. "Use Group R-3": This Use Group shall include all buildings arranged for the use of one- or two-family dwelling units, including not more than five lodgers or boarders per family.

Renumber existing 17.-18. as **18.-19.** (No change in text.)

5:18-2.4A Type Aa through Aj life hazard uses

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

(c) Type Ac life hazard uses are as follows:

1.-3. (No change.)

4. School dormitories of Use Group R-2 of one story;

5. Guest houses, as defined in N.J.A.C. 5:18-1.5, regardless of number of stories.

(d)-(e) (No change.)

(f) Type Af life hazard uses are as follows:

1.-4. (No change.)

5. School dormitories of Use Group R-2 of two or three stories.

(g) (No change.)

(h) Type Ah life hazard uses are as follows:

1.-2. (No change.)

3. School dormitories of Use Group R-2 of four or more stories.

(i)-(j) (No change.)

5:18-2.6 Registration of buildings and uses

(a)-(g) (No change.)

(h) The owner of each life hazard use in the State shall pay to the Department an annual fee in the amount specified in this subchapter. The annual registration fee shall be paid when due.

[1. When authorized by the Commissioner, the collection of the annual registration fee shall be the responsibility of the local enforcing agency. Where such authorization has been given, it shall be the responsibility of the owner to pay the fee to the local enforcing agency.]

(i) The owner of a life hazard use shall pay the annual fee within 30 days of the day on which it is demanded by the Department [or the local enforcing agency]. If he fails to do so, the Department [or local enforcing agency] may, pursuant to N.J.S.A. 52:27D-201, issue a certificate to the clerk of the Superior Court stating that the owner is indebted to the Department for the payment of the annual fee and the clerk shall immediately enter upon his record of docketed judgements the name of the owner and of the Department, a designated statute under which the fee is assessed, the amount of the fee certified and the date the certification was made. The making of the entry shall have the same effect as the entry of a docketed judgement in the office of the clerk, but without prejudice to the owner's right of appeal.

1. Upon application by a local enforcing agency and approval by the Bureau, the certificate obtained pursuant to this subsection shall be assigned to the local enforcing agency in which the life hazard use is located. The local enforcing agency shall pursue collection and forward any fees collected to the Bureau in accordance with N.J.A.C. 5:18A-2.6(a)4.

5:18-2.9 Enforcement procedures

(a) Whenever the fire official or the fire [official's designated representative] **inspector** shall find in any structure or upon any premises dangerous or hazard conditions or materials **as set forth in the State Fire Prevention Code, N.J.A.C. 5:18-3,** the fire official shall order such dangerous conditions or materials to be removed or remedied in accordance with the provisions of this Code.

[1. Dangerous conditions which are liable to cause or contribute to the spread of fire in or on said premises, building or structure or endanger the occupants thereof;

2. Conditions which would interfere with the efficiency and use of any fire protection equipment;

3. Obstruction to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the egress of occupants or the operation of the fire department in case of fire;

4. Accumulations of dust or waste material in air conditioning or ventilating systems or grease in kitchen or other exhaust ducts;

5. Accumulations of grease on kitchen cooking equipment, or oil, grease or dirt upon, under or around any mechanical equipment;

6. Accumulations of rubbish, waste, paper, boxes, shavings, or other combustible materials, or excessive storage of any combustible material;

7. Hazardous conditions arising from defective or improperly used or installed electrical wiring, equipment or appliances;

8. Hazardous conditions arising from defective or improperly installed equipment for handling or use of combustible, explosive or otherwise hazardous materials;

9. Dangerous or unlawful amounts of combustible, explosive or otherwise hazardous materials; or

10. All equipment, materials, processes or operations which are in violation of the provisions and intent of this Code.]

(b)-(h) (No change.)

5:18-4.1 Code adopted; scope

(a) (No change.)

[(b) The following buildings, classified within the Use Groups set forth below in accordance with the definitions provided in N.J.A.C. 5:18-1.5, shall be in compliance with all applicable requirements of this subchapter.

1. Theaters incorporating a raised stage, platform, or trust stage, proscenium curtain, fixed or portable scenery loft, lights, mechanical appliances or other theatrical accessories and equipment, equipped with fixed seats; and which are classified as Use Group A-1-A.

2. Night clubs, dance halls, discotheques without a theatrical stage and which are classified as Use Group A-2.

3. Eating and drinking establishments which are primarily drinking establishments with a maximum permitted occupancy of 200 or more, and which are classified as Use Group A-3.

4. Amusement buildings and places of amusement designed to disorient, reduce vision, present barriers, or otherwise impede the free flow of traffic, such as haunted houses, fun houses, tunnels of love and similar uses and which are classified as Use Group A-3.

5. Institutional buildings and similar facilities including hospitals and long-term care facilities, which house people suffering from physical limitations due to age, health or handicaps and which are classified as Use Group I-2.

6. Institutional buildings or similar facilities including acute alcoholism treatment, out-patient surgery, renal dialysis facilities, abortion clinics and birthing centers, and which are classified as Use Group I-2.

7. Day nurseries, children's shelter facilities, residential child care facilities and similar facilities with children below the age of 2½ years, and which are classified as Use Group I-1.

(c) The following buildings shall be in compliance with all applicable requirements of this subchapter.

1. High rise structures as defined in N.J.A.C. 5:18-1.5.

2. Prisons or other facilities where residents, occupants or inmates are kept under restraint and which are classified as Use Group I-3.

3. Institutional and similar facilities, including acute alcoholism treatment, outpatient surgery, renal dialysis facilities, abortion clinics, and birthing centers which are classified as Use Group B.

4. Residential health care facilities, boarding homes and similar facilities which are classified as Use Group I-1.

5. Eating and drinking establishments which are primarily eating establishments with a maximum permitted occupancy of 200 or more and which are classified as Use Group A-3.

6. Hotel or motel structures four stories or more in height or exceeding 100 rooms which have interior means of egress and which are classified as Use Group R-1.

7. Any story which meets the criteria of N.J.A.C. 5:18-4.7(h) and which has a maximum permitted occupancy of 50 or more persons, regardless of Use Group classification; provided, however, that this paragraph shall not be applicable to fire suppression requirements until November 6, 1990.

8. Motion picture theaters without a theatrical stage and which are classified as Use Group A-1-B.

9. Retail stores and other mercantile uses which exceed 12,000 square feet in gross floor area and which are classified as Use Group M.

10. Stadiums, race tracks and other similar exterior places of assembly with grandstands and which are classified as Use Group A-5.

11. Industrial and commercial uses which incorporate any hazardous operation, storage or use of combustible materials as described in N.J.A.C. 5:18-2.4B.

12. Buildings in which flammable cleaning solvents are used for dry cleaning purposes and which are classified as use Group H.

13. Buildings which exceed 12,000 square feet of gross floor area and which have atrium spaces three or more stories in height regardless of Use Group classification.

14. Covered mall structures which exceed 12,000 square feet of gross floor area.]

[(d)](**b**) All buildings for which requirements are established in this subchapter [and which are not listed in (b) or (c) above] shall be in compliance with such applicable requirements of this subchapter by June 16, 1989, unless a later date of compliance is set forth in this subchapter.

Redesignate (e) as (c).

5:18-4.7 Fire suppression systems

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

(g) All [required kitchen exhaust systems used in conjunction with] cooking operations [which] **that** produce grease laden vapors shall be equipped with [an] **a ventilating hood, duct, and** automatic fire suppression system designed and installed in accordance with the [State Fire Prevention Code and] the New Jersey Uniform Construction Code.

1. Exception to (g) above: **Ventilating hoods, ducts, and** [Suppression] **suppression** shall not be required for [systems serving] completely enclosed ovens, steam tables, or auxiliary equipment [which] **that** does not produce grease laden vapors.

(h) In all buildings, any windowless basement or story located below the seventh story shall be equipped throughout with an automatic fire suppression system installed in accordance with the New Jersey Uniform Construction Code [by November 6, 1990].

1. Stories or basements shall not be considered windowless when there is provided on at least one side of such story or basement fire fighter access through openings, such as windows, doors or access panels, [which] **that** are located entirely above the adjoining grade level.

2. [If such] **Such** openings [are not less than 32 inches by 48 inches in size, they shall be spaced not more than 100 feet apart in each story or basement; if not less that 22 inches by 42 inches in size, they shall be spaced out not more than 30 feet apart] **shall be at least:**

i. 32 inches by 48 inches in size, spaced not more than 100 feet apart in each story or basement; or

ii. 22 inches by 42 inches in size, spaced not more than 30 feet apart in each story or basement.

3. All openings for firefighter access shall conform to all the following:

i. [Such openings] **Openings** shall be unobstructed to allow firefighting and rescue operations from the exterior; **and**

ii. Openings **in stories at or above grade** shall have a sill height of not more than 36 inches[,] **as measured from the finished floor level. Openings in basements shall have no sill height restrictions; and**

iii. Openings shall be readily identifiable and openable from the outside or shall be glazed with plain flat glass.

[2.]**4.** When openings in a story are provided on only one side and the opposite wall of such story is more than 75 feet from such openings, the story shall be considered windowless unless openings as specified above are provided [or can be installed] on at least two sides of the exterior walls of the story.

5. If any portion of a basement is located more than 75 feet from openings as specified above, the basement shall be considered windowless.

[3.]**6.** Windowless basements not exceeding [10,000] **3,000** square feet in area shall be exempt from this automatic suppression requirement, provided [the following conditions are met:

i. A]a supervised automatic fire alarm system shall be installed in accordance with the New Jersey Uniform Construction Code.];

ii.]**7.** In **windowless** basements greater than 3,000 square feet, but not exceeding 10,000 square feet in area, the required suppression system need not be connected to a water supply other than an existing domestic supply[.] **if the following conditions are met:**

i. The **suppression** system shall be provided with a fire department connection, which shall be marked with a sign reading "Basement Area Sprinkler Water Supply"[.]; **and**

ii. A supervised automatic fire alarm system shall be installed in accordance with the New Jersey Uniform Construction Code.

(i)-(k) (No change.)

5:18-4.11 Means of egress

(a)-(n) (No change.)

(o) In all buildings of Use Group R-1 and R-2 all transoms shall be either glazed with 1/4" wire glass set in metal frames and permanently secured in the closed position or sealed with materials consistent with the corridor construction. Any other sash, grill or opening in a corridor, and any window in a corridor not opening to the outside air, shall be sealed with materials consistent with the corridor construction.

5:18-4.17 High rise buildings

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

(e) [In all high rise structures served by elevator(s), access to all floors shall be provided by at least one elevator equipped with emergency control and all elevators shall be equipped with car recall activated by a smoke detector in each lobby. The recall and control systems shall be installed in accordance with the New Jersey Uniform Construction Code.] **Elevators in high rise structures shall be equipped with the following emergency control devices:**

1. All elevators shall be equipped with Phase 1 Emergency Recall Operation as required by ASME A17.1, Rules 211.3a and 211.3b listed in N.J.A.C. 5:18-3.35; and

2. Access to all floors shall be provided by at least one elevator equipped with Phase II Emergency In-Car Operation as required by ASME A17.1, Rule 211.3c listed in N.J.A.C. 5:18-3.35.

5:18A-2.6 Collection of and accounting for fees and penalties

(a) [State collection] **Collection** of registration fees[.]:

1. The Bureau [of Fire Safety] shall annually bill for and take such steps as may be necessary to collect **or provide for the collection of** the annual registration fees provided for by the Code.

2. The Bureau [of Fire Safety] shall remit 65 percent of the amount collected to the local enforcing agency established for the inspection of life hazard uses. This payment shall be disbursed by the end of the quarter next succeeding the one in which the fees were collected.

3. The 65 percent local share shall not be considered State funds but rather local funds held in trust by the State.

4. Where a local enforcing agency has been assigned a certificate of judgement in accordance with N.J.A.C. 5:18-2.6(i)1, it shall remit 35 percent of the amount collected to the Bureau by the end of the quarter next succeeding the one in which the fees were collected.

i. The local enforcing agency may deduct the costs of collection from the total amount collected provided an accounting of the costs is included with the remittance. Any such deduction shall be made prior to calculating the required remittance.

(b) Permit fees **and other fees** provided for **or allowed** by the Code or any local ordinance or any penalties [collected] shall be collected [by] and retained fully by the enforcement agency having jurisdiction.

(c) All revenues collected by the Bureau [of Fire Safety] shall be deposited in the Fire Safety Revolving Fund created by the Treasurer of the State of New Jersey. Expenditures may be made from the fund to carry out any of the responsibilities of the Bureau of Fire Safety.

(d) All revenues [received] **generated** by a local enforcing agency shall be appropriated by the local governing body to the local enforcing agency for the purpose of enforcing the Code.

(e) The Bureau [of Fire Safety] shall have no obligation to a local enforcing agency in respect of fees due but not collected in any given quarter.

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Fire Code
Fire Prevention Code

Proposed Repeals and New Rules: N.J.A.C. 5:18-3

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

Authority: N.J.S.A. 52:27D-198.

Proposal Number: PRN 1991-590.

Submit comments by January 1, 1992 to:
Michael L. Ticktin, Esq.
Chief, Legislative Analysis
Department of Community Affairs
CN 802
Trenton, New Jersey 08625
FAX Number (609) 633-6729

The agency proposal follows:

Summary

In 1985, the Commissioner of Community Affairs adopted by reference the BOCA Basic/National Fire Prevention Code/1984, modified it, and designated it as N.J.A.C. 5:18-3, Fire Prevention Code. This Code was promulgated "to ensure the maintenance and operation of buildings and

equipment in such a manner as will provide a reasonable degree of safety from fire and explosion." It prescribed minimum requirements and controls concerning the storage, handling or use of substances, materials, or devices and governed conditions hazardous to life, property or public welfare in the use or occupancy of buildings, structures, sheds, tents, lots or premises.

The adoption of the model code by reference has led to logistical problems including a cumbersome citation system and the necessity of code users having to purchase and use the outdated model code, which is no longer readily available, as well as the State amendments. To rectify this situation, the Commissioner proposes deleting the existing N.J.A.C. 5:18-3 and recodifying the model code with its substantive State modifications into the text of N.J.A.C. 5:18-3.

The State Fire Prevention Code has also not been updated since its original adoption in 1985. In light of changing conditions, practices, procedures, and uses throughout the State which affect fire safety, the Department is proposing updating the Code at the same time that it is being recodified. This update will include deleting a portion of N.J.A.C. 5:18-2.9 and incorporating it into N.J.A.C. 5:18-3 and deleting the reference in N.J.A.C. 5:18-1.1 to the BOCA Code.

The majority of changes are proposed in order to clarify existing language. This will allow for better understanding and, hence, more efficient and equitable enforcement of the code.

A number of new sections were added to clarify vague and overly broad language which was being widely misunderstood and misapplied. Included are specific sections on Electrical Hazards, Cooking Equipment, Heating, Ventilation and Air Conditioning (HVAC) and Mechanical Equipment, and Testing of Fire Protection Systems.

Additionally, changes in technology have necessitated the addition of code provisions to address new or modified approaches to protection in the following areas: fire safety and evacuation plans, gaseous motor fuels, flammable liquid storage and delivery, hazardous materials and pesticide storage.

In order to eliminate possible conflicts with the Uniform Construction Code (N.J.A.C. 5:23), a number of sections were deleted which dealt with installation and acceptance testing of fire protection systems.

As a result of numerous fire incidents involving propane cylinders, proposed provisions to regulate their use in barbecue grills in multi-family housing units and in hot tar roofing applications are included.

Several definitions have also been added, which include: cooking fire, dispensing, handling and open burning.

Lastly, all references to National Fire Protection Association (NFPA) Standards have been updated to the latest available editions.

The withdrawal of the existing model code adopted by reference and its replacement with a new subchapter of the Administrative Code make it difficult for members of the public to understand how the requirements of the new subchapter differ from those previously in effect through the referenced model code, without undertaking a laborious line by line comparison. Accordingly, the Department wishes to point out that these new rules will result in the following changes from the rules now in effect.

N.J.A.C. 5:18-3.3(b) allows certain kinds of open burning.

N.J.A.C. 5:18-3.3(f)2 requires storage to be at least 18 inches below sprinkler heads.

N.J.A.C. 5:18-3.3(f)5 requires minimum three-foot clearance between stored materials and heaters, furnaces and flues.

N.J.A.C. 5:18-3.3(h)3 prohibits storage or use of propane cooking equipment near or within five feet of any building.

N.J.A.C. 5:18-3.3(i)3 requires service equipment area doors to have signage identifying equipment contained within the room.

N.J.A.C. 5:18-3.3(j) deals with maintaining the integrity of rated construction.

N.J.A.C. 5:18-3.3(m)1 requires the abatement of electrical hazards in electrical wiring, equipment or appliances, and requires notifying the construction official of hazards in permanent wiring.

N.J.A.C. 5:18-3.3(m)2 requires a minimum 30-inch clearance between storage and electrical service equipment.

N.J.A.C. 5:18-3.3(m)3 prohibits use of multi-plug adaptors not approved by a recognized testing agency.

N.J.A.C. 5:18-3.3(m)4 prohibits extension cords and flexible cords in place of permanent wiring and otherwise restricts their placement.

N.J.A.C. 5:18-3.3(m)5 prohibits open junction boxes and splices and requires covers for switch and outlet boxes.

N.J.A.C. 5:18-3.3(m)6 requires all electrical motors to be kept clean.

N.J.A.C. 5:18-3.3(m)7 requires maintaining illumination for service equipment, motor control centers and electrical panelboards.

N.J.A.C. 5:18-3.3(m)8 requires removal or securing in place of all unused electrical fixtures, circuits, wiring and devices.

N.J.A.C. 5:18-3.3(m)9 prohibits placing in service electrical appliances or fixtures not approved by a recognized testing agency.

N.J.A.C. 5:18-3.3(n)1 makes clear that this section does not apply to the use of a tar kettle in conjunction with a valid construction permit.

N.J.A.C. 5:18-3.3(n)5 requires protection against vandalism and tampering for liquefied petroleum gas (LPG) containers used to fuel tar kettles and prohibits their storage on rooftops.

N.J.A.C. 5:18-3.3(u)1 requires commercial kitchen exhaust systems to be cleaned as scheduled.

N.J.A.C. 5:18-3.3(u)2 requires an approved cleaning schedule for commercial kitchen exhaust systems.

N.J.A.C. 5:18-3.3(v)1 requires that HVAC and mechanical equipment be kept clean.

N.J.A.C. 5:18-3.3(v)2 requires the maintenance and testing of emergency controls and prohibits obstruction of fire and smoke dampers.

N.J.A.C. 5:18-3.3(v)3 requires that equipment for handling hazardous materials be maintained as required by the Code or maintained in accordance with nationally recognized good practice.

N.J.A.C. 5:18-3.4(b)1 provides that any person tampering with a fire detection or alarm system shall be in violation of the Code.

N.J.A.C. 5:18-3.4(b)8 establishes safety and maintenance requirements for atmospheres made hazardous by the discharge of chemical suppression systems.

N.J.A.C. 5:18-3.4(c) requires annual testing of smoke control systems, emergency and standby power generators, elevator recall systems, and certain special extinguishing systems.

N.J.A.C. 5:18-3.4(d)1 clarifies that all standpipe systems shall be periodically tested in accordance with this Code.

N.J.A.C. 5:18-3.4(e)1 clarifies that this section pertains only to the operation and maintenance of suppression systems for range hoods and food preparation centers.

N.J.A.C. 5:18-3.4(e)5 prohibits operating protected cooking appliances until discharged suppression system has been recharged and tested.

N.J.A.C. 5:18-3.4(f)2 clarifies that portable fire extinguishers shall be provided in all buildings except Use Groups R-2 and R-3.

N.J.A.C. 5:18-3.4(f)6 clarifies that discontinued portable fire extinguishers shall be immediately removed from service.

N.J.A.C. 5:18-3.5(b)2 clarifies that exit doors shall not be decorated in a way that would obscure or confuse their purpose.

N.J.A.C. 5:18-3.5(c)1i clarifies that keys for unlocking means of egress doors in special security areas shall be individually identified by touch and sight.

N.J.A.C. 5:18-3.12(b)5 requires the prevention of accumulation of fogging agents or fumigants within fire detection or alarm system components.

N.J.A.C. 5:18-3.15(b)2 provides that employees or attendants of places of assembly and education shall receive instruction in the proper use of portable fire extinguishers and other manual suppression equipment.

N.J.A.C. 5:18-3.15(b)3 requires that employees and attendants of places of assembly and education be trained and drilled in the duties they are to perform in the event of fire or other emergency.

N.J.A.C. 5:18-3.15(e)1i requires that an announcement as to the location of exits be made prior to each program in theaters, motion picture theaters, auditoriums and similar places of assembly.

N.J.A.C. 5:18-3.16(c)1 clarifies that motor vehicle fuel shall not be transferred into unapproved containers.

N.J.A.C. 5:18-3.16(d)2i requires that when circumstances diminish the effectiveness of a concrete pump island, upon which are mounted fuel pumps or dispensers, additional safeguards shall be provided.

N.J.A.C. 5:18-3.16(e)7 requires that appropriately worded warning signs be posted in fuel dispensing areas.

N.J.A.C. 5:18-3.16(e)8 requires the posting of operating instructions on pumps at private unattended fuel dispensing areas.

N.J.A.C. 5:18-3.16(g) is a new subsection on gaseous motor fuels.

N.J.A.C. 5:18-3.16(g)1 requires that motor fuel service stations that dispense gaseous motor fuels must comply with N.J.A.C. 5:18-3.16.

N.J.A.C. 5:18-3.16(g)2 requires that the dispensing of LP gas as a motor fuel must comply with N.J.A.C. 5:18-3.30 and NFPA 54.

N.J.A.C. 5:18-3.16(g)4 prohibits the use of self-service operations of LPG and compressed natural gas (CNG) at service stations open to the public.

N.J.A.C. 5:18-3.17(d)2 clarifies that no open flame, cooking or heat producing device will be allowed inside or within 20 feet of a membrane or air-supported structure.

N.J.A.C. 5:18-3.28(d)1 removes the prohibition against the installation of new above-ground storage tanks for combustible or flammable liquid which falls under the jurisdiction of the Uniform Construction Code and not the Uniform Fire Code.

N.J.A.C. 5:18-3.28(i)4i requires vapor-tight connections between the hose and fill pipe for the delivery of flammable liquids to underground tanks of more than 1,000 gallons capacity, and also requires safe functioning of vapor recovery systems, and that hose connections shall be liquid- and vapor-tight during unloading process.

N.J.A.C. 5:18-3.28(i)4ii requires the operator of a tank vehicle to ensure that all liquid delivery and vapor recovery hoses be protected from physical damage by motor vehicles.

N.J.A.C. 5:18-3.29(b)6 requires that all containers of hazardous materials and chemicals be individually labeled or have a sign or placard in accordance with NFPA 704 posted on the container.

N.J.A.C. 5:18-3.29(b)7 requires that labels, signs and placards be permanently affixed to the container and provide the chemical name and hazard warning information related to the substance contained therein.

N.J.A.C. 5:18-3.29(b)8 requires the owner of hazardous material on a premise to have a material safety data sheet available for review and inspection and lists the required information.

N.J.A.C. 5:18-3.34(a) describes the scope of the section dealing with pesticide storage.

N.J.A.C. 5:18-3.34(b)1 lists the requirements for the safe storage of pesticides.

N.J.A.C. 5:18-3.34(b)2 requires that material safety data sheets for each toxic pesticide be available at each storage location.

N.J.A.C. 5:18-3.34(b)3 requires that pesticide storage buildings, rooms and areas be identified by prominent and legible signs.

N.J.A.C. 5:18-3.34(b)4 requires that pesticide drums and packages be stacked in a stable manner.

N.J.A.C. 5:18-3.34(b)5 requires that compressed gas pesticides be stored away from heat and direct sunlight.

N.J.A.C. 5:18-3.34(b)5i requires that compressed gas cylinders be secured against tipping over.

N.J.A.C. 5:18-3.34(b)5ii requires separation of compressed gas pesticide containers from other compressed gases.

N.J.A.C. 5:18-3.34(b)5iii requires that compressed gas pesticide containers be provided with a safety cap, whether empty or full.

Appendix 3-A contains a listing of the standards referenced in the subchapter, the effective dates of the standard, the agency which promulgated the standard, and the section(s) of the subchapter which reference the standard.

Appendix 3-B is a general cross-reference between the former codification system and the proposed codification system. Appendix 3-B may be used to find known code sections, but it is not intended to serve as a conversion table for previously listed code violations.

The Department notes that the use of "approved" or "approval" in various amendments and in N.J.A.C. 5:18-3.2 refers to the determination of the Department or of the fire code official regarding a particular item or use of an item, device, piece of equipment or process as it affects fire safety.

Social Impact

The recodification of the Fire Prevention Code will make it more user-friendly and thereby streamline the activities of enforcement officials. It will also eliminate some of the confusion relating to the appropriate fire safety standards; a number of persons subject to the requirements of the Code have the mistaken belief that compliance with the BOCA Basic/National Fire Prevention Code/1984 constitutes compliance with N.J.A.C. 5:18-3. Consequently, recodifying the Code will indirectly result in an increased level of fire safety for the general public.

Updating the Code will increase the level of fire safety for the general public as well. Fire safety standards must be reflective of current uses, occupancies, practices and conditions.

Economic Impact

Recodifying N.J.A.C. 5:18-3 will lead to increased savings to municipalities, enforcement personnel, the legal community and members of the public who wish to purchase the fire safety standards of this State: instead of purchasing two separate publications, they will be able to purchase only one.

Updating the Fire Prevention Code to reflect current practices, procedures, uses and conditions may lead to an increase in short term costs for owners of uses and occupancies subject to the same. These costs, however, are more than offset by the benefits gained from increased fire prevention activities including the potential losses not incurred as the result of fire or explosion.

Regulatory Flexibility Analysis

The rules proposed are necessary for public safety. Fire safety violations must be corrected regardless of whether the person or entity responsible is a small business, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Fire or explosions do not discriminate on the basis of size or form of business organization. Therefore, no exemption or differentiation in the compliance requirements already in the Codes, or those added by these proposed new rules as described in the Summary above, can be provided for small businesses.

Full text of the proposed repeals may be found in the New Jersey Administrative Code at N.J.A.C. 5:18-3.1 and 3.2.

Full text of the proposed new rules follows:

SUBCHAPTER 3. STATE FIRE PREVENTION CODE

5:18-3.1 Purpose and scope

(a) The purpose of this subchapter is to prescribe minimum requirements and controls to safeguard life, property, or public welfare from the hazards of fire and explosion.

(b) This subchapter shall be applicable to:

1. All buildings, structures, and premises within this State; and
2. All fire safety hazards arising from the storage, handling or use of substances, materials or devices and arising from conditions hazardous to life, property or public welfare in the use or occupancy of buildings, structures, sheds, tents, lots or premises.

5:18-3.2 Definitions

The following terms shall have the meanings indicated except where the context clearly requires otherwise. Where a term is not defined then the definition of that term found in this code at N.J.A.C. 5:18-1.5 or within the Uniform Construction Code, N.J.A.C. 5:23-1.4, shall govern:

"Acetylene, low pressure" means acetylene at a pressure not exceeding one pound per square inch gauge/(psig).

"Acetylene, medium pressure" means acetylene at pressures exceeding two psig but not exceeding 15 psig.

"Acetylenic compound" means a material, like acetylene, having a triple bond between two carbon atoms.

"Air supported structure" means a structural and mechanical system, which is constructed of high strength fabric or film and achieves its shape, stability and support by pretensioning with internal air pressure.

"Agent" means any person who shall have charge, care or control of any buildings as owner, or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person representing the actual owner shall be bound to comply with the provisions of this code to the same extent as if that person were the owner.

"Alarm" means any audible or visible signal or intelligence indicating existence of a supposed fire or emergency requiring response and emergency action on the part of the fire fighting service. Also, the alarm devices or device by which fire and emergency signals are received.

"Approved" means approved by the fire official or the Department.

"Automatic detecting device" means a device which automatically detects heat, smoke or other products of combustion.

"Automatic fire alarm system" means a fire alarm system containing automatic detecting device(s) which actuates a fire alarm signal and which may contain manual fire alarm devices.

"Automatic fire suppression system" means an engineered system using carbon dioxide (CO_2), dry chemical, a halogenated extinguishing agent, or an automatic sprinkler system to automatically detect and suppress a fire through fixed piping and nozzles.

"Automatic sprinkler system" for fire protection purposes means an integrated sprinkler system of underground and/or overhead piping designed in accordance with fire protection engineering standards. The system includes a suitable water supply. The portion of the system aboveground is a network of specially sized or hydraulically designed piping installed in a building, structure or area, generally overhead, and to which automatic sprinklers are connected in a systematic pattern. The system is usually activated by heat from a fire and discharges water over the fire area.

"Automatic water supply" means water supplied through a gravity or pressure tank or automatically operated fire pumps, or from a direct connection to an approved municipal water main.

"Blasting agent" means any material or mixture consisting of a fuel and oxidizer intended for blasting, not otherwise classified as an explosive, in which none of the ingredients are classified as explosives, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated by means of a No. 8 test blasting cap when unconfined. Materials or mixtures classified as nitro carbo nitrates by U.S. Department of Transportation (DOT) regulations shall be included in this definition.

"Boiling point" means the temperature at which the vapor pressure of a liquid equals the atmospheric pressure of 14.7 pounds per square inch gauge (psig) of mercury. Where an accurate boiling point is unavailable for the material in question, or for mixtures which do not have a constant boiling point, for purposes of this classification, the 10 percent of a distillation performed in accordance with ASTM D86 listed in Appendix 3-A, incorporated herein by reference, may be used as the boiling point of the liquid.

"Bonfire" means a large, public, open-air fire kindled to mark or highlight some public event.

"Building Code" means the New Jersey Uniform Construction Code (N.J.A.C. 5:23), including all of its component subcodes.

"Carbon dioxide (CO_2) extinguishing system" means a system to supply carbon dioxide (CO_2) from a pressurized vessel through fixed pipes and nozzles. The system includes an automatic detection and actuating mechanism.

"Catalytic combustion system" means an oven heater or any construction that employs catalysts to accelerate oxidization or combustion of fuel-air or fume-air mixtures for eventual release of heat to an oven process.

"Central station system" means a system, or group of systems, the operations of which are signaled to, recorded in, maintained and supervised from an approved central station, in which there are competent and experienced observers and operators in attendance at all times whose duty it shall be, upon receipt of a signal, to take such action as shall be required under the rules established for their guidance. Such systems shall be controlled and operated by a person, firm or corporation whose principal business is the furnishing and maintaining of supervised protective signaling service and who does not have interest in the protected properties.

"Cooking appliances" means all ranges, ovens, food boilers, upright broilers, charcoal broilers, char-broilers, griddles, deep-fat fryers or similar appliances used to heat, cook or process food for human or animal consumption.

"Cooking fire" means an outdoor fire which is used to prepare food.

"Combustible fibers" means readily ignitable and free burning fibers, such as cotton, sisal, henequen, ixtle, jute, hemp, tow, cocoa fiber, oakum, baled waste paper, kapok, hay, straw, Spanish moss, excelsior, certain synthetic fibers and other like materials.

"Combustible liquids" means any liquid having a flash point at or above 100 degrees Fahrenheit. Combustible liquids shall be known as Class II or III liquids and shall be divided into the following classifications:

1. Class II: Liquids have a flash point at or above 100 degrees F. and below 140 degrees Fahrenheit;

2. Class IIIA: Liquids having flash points at or above 140 degrees F. and below 200 degrees Fahrenheit; and

3. Class IIIB: Liquids having flash points at or above 200 degrees Fahrenheit.

"Combustible waste matter" means magazines, books, trimmings from lawns, trees or flower gardens, leaves, pasteboard boxes, rags, paper, straw, sawdust, packing material, shavings, boxes and all rubbish and refuse that will ignite through contact with flames or ordinary temperatures.

"Compressed gas" means any mixture or material, when enclosed in a container, having either a vapor pressure of 40 psia at 70 degrees Fahrenheit, or a vapor pressure of 140 psia at 130 degrees Fahrenheit; or any flammable material having a vapor pressure exceeding 40 psia at 100 degrees Fahrenheit, as determined by ASTM D323 (Reid Method) listed in Appendix 3-A, incorporated herein by reference.

"Construction official" means the officer or other designated authority charged with the administration and enforcement of the building code.

"Corrosive liquid" means those acids, alkaline caustic liquids and other corrosive liquids which, when in contact with living tissue, will cause damage to such tissue by chemical action; or in case of leakage will materially damage or destroy other containers of other hazardous commodities by chemical action and cause the release of their contents; or are liable to cause fire when in contact with organic matter or with certain chemicals.

"Cryogenic liquid" means those liquids that have a boiling point below -200 degrees Fahrenheit.

"Cryogenic vessel" means any pressure vessel, low pressure tank, or atmospheric tank on which venting, insulation, refrigeration, or a combination of these, are used in order to maintain the operating pressure, and the contents in a liquid phase.

"Decorative material" means all materials such as curtains, draperies, streamers, surface coverings applied over the building finish for decorative, acoustical or other effect, and also cloth, cotton batting, straw, vines, leaves, trees and moss used for decorative effect.

"Detector, smoke" means an approved, listed detector for sensing visible or invisible products or combustion.

"Dispensing" means the pouring or transferring of any material from a container, tank or similar vessel whereby vapors, dusts, mists or gases may be released to the atmosphere.

"DOT container" means any container approved by DOT 49CFR listed in Appendix 3-A, incorporated herein by reference, for shipping any liquid, gaseous or solid material of a flammable, toxic or other hazardous nature.

"Dry chemical" means a powder composed of small particles, usually of sodium bicarbonate, potassium chloride, potassium bicarbonate, potassium bicarbonate/urea or ammonium phosphate, with added particular material supplemented by special treatment to prevent caking and provide flowability.

"Dry chemical extinguishing system" means a system consisting of dry chemical and expellant gas storage tanks, fixed piping, and nozzles used to assure proper distribution of an approved extinguishing agent on a specific fire hazard or into a potential fire area. The system includes an automatic detection and actuating mechanism.

"Dry cleaning" means the process of removing dirt, grease, paint and other stains from wearing apparel, textiles, fabrics, rugs, etc., by the use of nonagueous liquid solvents, flammable or nonflammable, and it shall include the process of dyeing clothes or other fabrics or textiles in a solution of dye colors and nonaqueous liquid solvents.

"Dry pipe system" as applied to water fire suppression systems, shall mean a system of piping which is filled with air under pressure and a permanent water supply is controlled by an approved automatic dry pipe valve which releases the water supply by the release of air in the event of fire.

"Dry system" as applied to water fire suppression systems, shall mean a system without permanent or automatic water supply but equipped with a fire department connection.

"Engineered system" means a functional unit requiring individual calculation and design to determine the flow rates, nozzle pressures, quantities of extinguishing agent and the number and types of nozzles and their placement for the protection of a specific hazard.

"Egress" see "means of egress."

"Explosive" means a chemical compound or mechanical mixture, that is commonly used or intended for the purpose of producing an explosion, that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing, that an ignition by fire, by friction, by concussion, by percussion, or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life and limb. The term "explosive" includes all materials classified as Class A, Class B or Class C explosives by DOT regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse igniters, fuse lighters, squibs, conreau detonant fuse, instantaneous fuse, ignitor cord and igniters.

"Explosive-actuated power device" means any tool or special mechanized device which is actuated by explosives, but not to include propellant-actuated power devices. Examples of explosive-actuated power devices are jet tappers and jet perforators.

"Fire alarm system" means a functionally related group of devices that when either automatically or manually activated will sound audio or visual warning devices on or off the protected premises and may control other devices or equipment.

"Fire department connection" means a connection on a building for fire department use in supplementing or supplying water for standpipes and sprinkler systems. Also 2½ inch standpipe outlets provided for attaching fire department hose as contrasted with outlets for small first aid hose.

"Fire door" means a door and its assembly, so constructed and assembled in place as to give protection against the passage of fire.

"Fire hazard" means any thing or act which increases or may cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized by persons in the public service regularly engaged in preventing, suppressing or extinguishing fire; or which may obstruct, delay, hinder or interfere with the operations of the fire department or the egress of occupants in the event of fire.

"Fire inspector" means a person working under the direction of the fire official who is certified by the Commissioner of the Department of Community Affairs and appointed or designated to enforce the Code by the appointing authority of a local enforcing agency.

"Fire official" means a person certified by the Commissioner of the Department of Community Affairs and appointed or designated to direct the enforcement of the Code by the appointing authority of a local enforcing agency.

"Fire prevention" means the preventive measures which provide for the safe conduct and operation of hazardous processes, storage of combustible and flammable materials, conducting of fire drills and the maintenance of fire protection, detection and extinguishing service equipment and good housekeeping conditions. That part of fire protection activities exercised in advance of the outbreak of fire to prevent such outbreaks and to minimize loss when fire does occur.

"Fire protection system" means a system including systems, devices and equipment to detect a fire, actuate an alarm or suppress fire or any combination thereof.

"Flammable" means capable of burning or producing flame at ordinary temperatures, or easily being ignited.

"Flammable anesthetic" means a compressed gas which is flammabled and administered as an anesthetic and shall include among others, cyclopropane, divinyl ether, ethyl chloride, ethyl ether and ethylene.

"Flammable cryogenic liquid" means those cryogenic liquids which are flammable in their vapor state.

"Flammable compressed gas" means a gas that when either: a mixture of 13 percent or less (by volume) with air forms a flammable mixture; or, the flammable range with air is wider than 12 percent regardless of the lower limit.

"Flammable liquid" means any liquid having a flash point below 100 degrees Fahrenheit, and having a vapor pressure not exceeding 40 psia at 100 degrees Fahrenheit. Flammable liquids shall be known as Class I liquids and be divided into the following classifications:

1. Class IA: Liquids having flash points below 73 degrees Fahrenheit and having a boiling point below 100 degrees Fahrenheit;

2. Class IB: Liquids having flash points below 73 degrees Fahrenheit and having a boiling point at or above 100 degrees Fahrenheit; and

3. Class IC: Liquids having flash points at or above 73 degrees Fahrenheit and below 100 degrees Fahrenheit.

(See "combustible liquids" for Class II or III liquids.)

"Flammable liquid gas" means a "liquified compressed gas" which under the charged pressure is partially liquid at a temperature 70 degrees Fahrenheit and which is flammable.

"Flammable solid" means a solid substance, other than one classified as an explosive, which is liable to cause fires through friction, through absorption of moisture, through spontaneous chemical changes, or as a result of retained heat from manufacturing or processing.

"Flash point" means the minimum temperature in degrees Fahrenheit at which a flammable liquid will give off sufficient vapors to form an ignitable mixture with air near the surface or in the container, but will not sustain combustion. The flash point of a liquid shall be determined by appropriate test procedure and apparatus as specified in ASTM D56 and ASTM D93 listed in Appendix 3-A, incorporated herein by reference.

"Foam extinguishing system" means a special system to discharge a foam made from concentrates, either mechanically or chemically, over the area to be protected.

"Fuel gas" means acetylene, hydrogen, LP-Gas, and other liquefied and nonliquefied flammable gases.

"Fumigant" means any substance which by itself or in combination with any other substance emits or liberates a gas, fume or vapor used for the destruction or control of insects, fungi, vermin, germs, rats, or other pests, and shall be distinguished from insecticides and disinfectants which are essentially effective in the solid or liquid phases. Examples are methyl bromide, ethylene dibromide, hydrogen cyanide, carbon dissulphide and sulfuryl fluoride.

"Fumigation" means the use within an enclosed space of a fumigant in concentrations which may be hazardous or acutely toxic to man.

"Grease consuming appliances or fume incinerator" means devices intended for placement over restaurant type cooking equipment in the exhaust duct and through which all exhaust vapors or smoke must pass. Grease and other particulate matter from cooking fumes and exhaust are removed by open flames.

"Grease extractor" means a device intended for the removal of smoke and grease-laden particles from exhaust fumes or vapors created by cooking operations. A grease extractor device normally consists of a hood, a grease collecting device, a wash system, means to detect excessive temperature of the exhaust gases which activates a device to prevent flame and excessively hot gases from entering the exhaust duct, and associated electrical controls.

"Halogenated extinguishing agents" means a halogenated compound is one which contains one or more atoms of an element from the halogen chemical series; fluorine, chlorine, bromine and iodine. Halogenated extinguishing compounds shall be restricted to the following:

1. Halon 1211, bromochlorodifluoromethane, $CBrClF_2$; or

2. Halon 1301, bromotrifluoromethane, $CBrF_3$.

"Halogenated extinguished system" means a system of pipes, nozzles and an actuating mechanism and a container of halogenated agent under pressure.

"Handling" means the deliberate transport by any means to a point of storage or use.

"Highly toxic material" means a material so toxic to man as to afford an unusual hazard to life and health during fire fighting operations. Examples are: parathion, TEPP (tetraethyl phosphate), HETP (hexaethyl tetraphosphate), and similar insecticides and pesticides.

"Liquefied petroleum gas (LP-Gas or LPG)" means any material having vapor pressure not exceeding that allowed for commercial propane composed predominantly of the following hydrocarbons, either by themselves or as mixtures: propane, propylene, butane (normal butane or isobutane) and butylenes including isomers.

"Liquefied petroleum gas equipment" means all containers, apparatus, piping (not including utility distribution piping systems) and equipment pertinent to the storage and handling of liquefied petroleum gas. Gas consuming appliances shall not be considered as being liquefied petroleum gas equipment.

"Manual fire alarm system" means an interior alarm system composed of sending stations and signaling devices in a building, operated on an electric circuit, so arranged that the operation of any one station will ring all signals throughout the building and at one or more approved locations.

"Means of egress" means a continuous and unobstructed path of travel from any point in a building or structure to a public way and consists of three separate and distinct parts: the exit access; the exit; and the exit discharge. A means of egress comprises the vertical and horizontal means of travel and shall include intervening room spaces, doors, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, escalators, horizontal exits, courts and yards.

"Noncombustible building material" means one which, in the form and thickness in which it is used, meets any of the following requirements:

1. Materials which are intended to be classified as noncombustible shall be tested in accordance with ASTM E136 listed in Appendix 3-A, incorporated herein by reference. Such materials shall be acceptable as noncombustible materials when at least three of the four specimens tested meet all of the following criteria:

i. The recorded temperature of the surface and interior thermocouples shall not at any time during the test rise more than 54 degrees Fahrenheit above the furnace temperature at the beginning of the test;

ii. There shall be no flaming from the specimen after the first 30 seconds; and

iii. If the weight loss of the specimen during testing exceeds 50 percent, the recorded temperature of the surface and interior thermocouples shall not at any time during the test rise above the furnace air temperature at the beginning of the test, and there shall be no flaming of the specimen.

2. Materials having a structural base of noncombustible materials as defined in paragraph 1 above, with a surfacing not more than 1/8 inch thick which has a flame spread rating not greater than 50 when tested in accordance with ASTM E84 listed in Appendix 3-A, incorporated herein by reference.

The term noncombustible does not apply to the flame spread characteristics of interior finish or trim materials. A material shall not be classed as noncombustible building construction material which is subject to increase in combustible or flame spread rating beyond the limits herein established through the effects of age, moisture or other atmospheric conditions.

"Occupancy" means the purpose for which a building, or part thereof, is used or intended to be used. The term shall also include the building, room or enclosed space that houses such use.

"Occupancy classification" means the various use groups as classified in this Code.

"Occupant load" means the total number of persons that are permitted to occupy a building or portion thereof at any one time.

"Open burning" means the burning of any materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. For the purposes of this definition, a chamber shall be regarded as enclosed when, during the time combustion takes place, only apertures, ducts, stacks, flues, or chimneys necessary to provide combustion air and to permit the escape of exhaust gas are open.

"Organic coating" means a liquid mixture of binders such as alkyd, nitrocellulose, acrylic, or oil, and flammable and combustible solvents such as hydrocarbon, ester, ketone, or alcohol, which when spread in a thin film convert to a durable protection and decorative finish.

"Oxidizing material" means substances such as chlorates, permanganates, peroxides, or nitrates, that yield oxygen readily to stimulate combustion.

"Overcrowding" means exceeding the total number of persons that may occupy a building or portion thereof at any one time.

"Person" means a corporation, firm, partnership, association, organization and any other group acting as a unit as well as individuals. It shall also include an executor, administrator, trustee, receiver or other representative appointed according to law. Whenever the word "person" is used in any section of this Code prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members thereof, and as to corporations, shall include the officer, agents or members thereof who are responsible for any violation of such section.

"Poisonous gas" means any noxious gas of such nature that a small amount of the gas in air is dangerous to life. Examples are: chlorine, cyanogen, fluorine, hydrogen cyanide, nitric oxide, nitrogen tetraoxide and phosgene.

"Portable kerosene-fired heater" means a non-flue-connected, self-contained, self-supporting heater, with integral fuel reservoir, that is designed to be carried from one location to another.

"Radioactive material" means any material or combination of material that spontaneously emits ionizing radiation.

"Residual pressure" means pressure remaining in a fire protection system while water is being discharged from outlets.

"Riser" means a vertical water supply pipe used to carry water for fire protection to elevations above or below grade; such as a standpipe riser, sprinkler riser, etc.

"Rubbish (trash)" means combustible and noncombustible waste materials including the residue from the burning of coal, wood, or coke or other combustible material, paper, rags, cartons, tin cans, metals, mineral matter, glass crockery, dust and discarded refrigerators, heating, cooking or incinerating appliances.

"Safety can" means an approved container, not over five gallons capacity, having a spring closing lid and spout cover and so designed that it will safely relieve internal pressure when subjected to fire exposure. Such containers shall be clearly marked with the product contained therein.

"Self-closing" means, as applied to a fire door or other opening protective, normally closed and equipped with an approved device, which will insure closing after having been opened for use.

"Siamese" means a hose fitting for combining the flow from two or more lines into a single stream.

"Small arms ammunition" means any shotgun, rifle, pistol or revolver cartridge.

"Solid fuel-fired heater" means a flue connected heater, fired with solid fuels, such as a fireplace, fireplace insert or stove, free standing wood stove or similar solid fuel-fire appliance.

"Special industrial explosive device" means any explosive powerpack containing an explosive charge in the form of a cartridge or construction device. The term includes, but is not limited to, explosive rivets, explosive bolts, explosive charges for driving pins or studs, cartridges for explosive-actuated power tools and charges of explosives used in jet tapping of open hearth furnaces and jet perforation of oil well casings.

"Special industrial high explosive materials" means sheets, extrusions, pellets and packages of high explosives containing dynamite, trinitrotoluol, pentaerythritoltetranitrate, cyclotrimethylenetrinitramine, or other similar compounds used for high energy rate forming, expanding and shaping in metal fabrication, and for dismemberment and quick reduction of scrap metal.

"Spraying area" see N.J.A.C. 5:18-3.7(c)1.

"Sprinkler alarm system" means an alarm activated by waterflow from a sprinkler system.

"Standpipe" means a wet or dry pipe line, extending from the lowest to the topmost story of a building or structure, equipped with a shutoff valve with hose outlets at every story.

"Storage" means articles that are stored, kept or accumulated for some future use and drawn upon as needed.

"Story" means that portion of a building included between the upper surface of a floor and the floor or roof next above.

"Structure" means that which is built or constructed.

"Thermal insecticidal fogging" means the use of insecticidal liquids that are passed through thermal fog-generating units where they are, by means of heat, pressure and turbulence, transformed and discharged in the form of a fog or mist that is blown into an area to be treated.

"Unstable (reactive) chemical" means any substance, other than one classified as an explosive or blasting agent, that will vigorously and energetically react, is potentially explosive, will polymerize, decompose instantaneously, undergo uncontrollable auto-reaction or can be exploded by heat, shock, pressure or combinations thereof. Examples are: organic peroxides, nitromethane, and ammonium nitrate.

"Use group" see N.J.A.C. 5:18-1.5.

"Volatile-flammable" means any liquid, gas substance, mixture or compound that readily emits flammable vapors at a temperature below 73 degrees Fahrenheit when tested in accordance with ASTM D56 listed in Appendix 3-A, incorporated herein by reference.

"Wet system" as applied to water fire suppression systems shall mean a system that is filled with water and connected to a permanent water supply under pressure so that water is discharged immediately from sprinklers opened by a fire or from open hose outlet valves.

5:18-3.3 General precautions against fire

(a) The following provisions are general provisions for precautions against fire to be applied to the use of all properties.

1. Any dangerous or hazardous conditions that are outlined in (a)1i through x below shall be removed or remedied in accordance with the provisions of N.J.A.C. 5:18-2.9:

i. Dangerous conditions that are liable to cause or contribute to the spread of fire in or on said premises, building or structure or endanger the occupants thereof;

ii. Conditions that would interfere with the efficiency and use of any fire protection equipment;

iii. Obstruction to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the egress of occupants or the operation of the fire department in case of fire;

iv. Accumulations of dust or waste material in air conditioning or ventilating systems or grease in kitchen or other exhaust ducts;

v. Accumulations of grease on kitchen cooking equipment, or oil, grease or dirt upon, under or around any mechanical equipment;

vi. Accumulations of rubbish, waste, paper, boxes, shavings or other combustible materials, or excessive storage of any combustible material;

vii. Hazardous conditions arising from defective or improperly used or installed electrical wiring, equipment or appliances;

viii. Hazardous conditions arising from defective or improperly installed equipment for handling or use of combustible, explosive or otherwise hazardous materials;

ix. Dangerous or unlawful amounts of combustible, explosive or otherwise hazardous materials; or

x. All equipment, materials, processes, or operations that are in violation of the provisions and intent of this Code.

The following apply to bonfires and outdoor fires:

1. Burning of rubbish shall be prohibited except in approved incinerators. The burning of herbaceous or infested plant life, the burning of orchard prunings and cuttings, prescribed burnings and the clearing of agricultural land by burning are not prohibited by this subchapter, but are subject to the provisions of N.J.A.C. 7:27-2, administered by the State Forest Fire Service in the New Jersey Department of Environmental Protection (NJDEP).

2. A person shall not kindle or maintain any bonfire or authorize any such fire to be kindled or maintained unless:

i. The location is approved by the fire official and is not less than 50 feet from any structure, and adequate provision is made to prevent fire from spreading to within 50 feet of any structure; or

ii. The fire is contained in an approved burner located safely not less than 15 feet from any structure.

3. Fuel for bonfires shall consist of seasoned dry wood only and shall be ignited with a small quantity of paper only. Bonfires shall not contain rubbish, garbage, trash, any material made of or coated with rubber, plastic, leather or petroleum based materials and shall not contain any flammable or combustible liquids. The allowable quantity of wood to be burned shall be determined by the fire official and shall be based upon the fire safety requirements of the situation and the desirable duration of burn.

4. Bonfires shall be constantly attended by a competent person until such fire is extinguished. This person shall have fire extinguishing equipment readily available for use as deemed necessary by the fire official.

5. The fire official may prohibit any or all bonfires that are or could be offensive or objectionable due to smoke or odor emissions when atmospheric conditions or local circumstances make such fires hazardous. The fire official shall order the extinguishment, by the permit holder or the fire department, of any bonfire that creates or adds to a hazardous or objectionable situation.

6. In districts for which firewardens have been appointed in accordance with the General Forest Fire Act (N.J.S.A. 13:9-44.1 et seq.), the granting of permits for campfires shall be administered and enforced by the State Forest Fire Service.

7. Open burning shall be allowed without prior notice to the fire official for cooking fires, highway safety flares, smudge pots and similar occupational needs.

(c) A person shall not deposit hot ashes or cinders, or smoldering coals, or greasy or oily substances susceptible to spontaneous ignition into any combustible receptacle, or place the same within 10 feet of any combustible materials, except in metal or other noncombustible covered receptacles. Such receptacles, unless resting on a noncombustible floor or on the ground outside of the building, shall be placed on noncombustible stands and in every case shall be kept at least two feet away from any combustible wall or partition, or exterior window or door opening.

(d) Any person using a torch or other flame-producing device for removing paint from any building or structure shall provide one approved portable fire extinguisher or water hose connected to the water supply on the premises where such burning is done. In all cases, the person doing the burning shall remain on the premises one hour after each use of the torch or flame-producing device.

(e) Accumulations of waste paper, wood, hay, straw, weeds, litter or combustible or flammable waste or rubbish of any kind shall not be permitted to remain upon any roof or in any court, yard, vacant lot, alley, parking lot or open space. All weeds, grass, vines or other growth, when same endangers property, or is liable to be fired, shall be cut down and removed by the owner or occupant of the property. All combustible rubbish, oily rags or waste material when kept within a building, shall be stored in approved metal containers. Storage shall not produce conditions that, in the opinion and judgment of the fire official, will tend to create a nuisance or a hazard to the public health, safety or welfare.

(f) The following apply to materials storage:

1. The storage of combustible or flammable material shall be confined to approved storage areas.

2. In sprinklered buildings, storage shall be maintained a minimum of 18 inches below sprinkler head deflectors.

3. Storage in buildings and structures shall be orderly, shall not be within two feet of the ceiling, and located so as not to obstruct egress from the building.

4. The outside storage of combustible or flammable materials shall not be more than 20 feet in height and shall be compact and orderly. Such storage shall be located as not to constitute a hazard and not less than 15 feet from any other building on the site or from a lot line.

5. The clearance between stored materials and unit heaters, radiant space heaters, duct furnaces, and flues shall not be less than three feet in all directions or shall be in accordance with the clearances shown on the approval agency label.

(g) Flammable materials, such as cotton batting, straw, dry vines, leaves, trees, artificial flowers or shrubbery and foam plastic materials, shall not be used for decorative purposes in show windows or other parts of buildings in such a quantity to constitute a fire hazard, unless such material is flameproofed in an approved manner. Electric light bulbs shall not be decorated with paper or other combustible materials unless such materials shall first have been rendered flameproof.

(h) The following apply to open flame or light:

1. A person shall not take or use an open flame or light into any structure, building, barn, vessel, boat or any other place where highly

flammable, combustible or explosive material is used or stored. All lighting appliances shall be well secured in a glass globe and wire mesh cage or similar approved device.

2. Heating or lighting apparatus or equipment capable of igniting flammable materials of the types stored or handled shall not be used in the storage area of any warehouse storing rags, excelsior, hair or other highly flammable or combustible material; nor in the work area of any shop or factory used for the manufacture, repair or renovating of mattresses or bedding; nor in the work areas of any establishment used for the upholstering of furniture.

3. Propane cooking equipment such as barbecue grills shall not be stored or used on any porch, balcony or any other portion of a building, within any room or space of a building, within five feet of any combustible exterior wall, or within five feet vertically or horizontally of an opening in any wall.

(i) The following apply to chimneys and heating appliances:

1. All existing chimneys, smokestacks or similar devices for conveying smoke or hot gases to the outer air and all stoves, ovens, furnaces, incinerators, boilers or any other heat producing devices or appliances shall be constructed in accordance with the buiding and mechanical codes in effect at the time of first occupancy and maintained in accordance with NFPA 54 and 211 listed in Appendix 3-A, incorporated herein by reference, where the provisions of this section do not specifically cover conditions and operations, and in such a manner as not to create a fire hazard.

2. The fire official shall order the sealing (preventing the use) of any existing stove, oven, furnace, incinerator, boiler or any other heat producing device or appliance found to be defective or in violation of Code requirements for existing appliances after giving 10 days notice to this effect to any person, owner, firm, agent or operator in charge of same. However, the fire official may seal any device or appliance without notice when inspection shows the existence of an immediate fire hazard or when imperiling human life. The sealed defective appliance shall remain withdrawn from service until all necessary repairs or alterations have been made.

i. It shall be deemed a violation of this Code for any person or user, firm or agent to continue the use of any device or appliance which has been sealed or ordered sealed under (i)2 above, unless written authority to remove said seal is given by the fire official. Removing or breaking the seal shall be deemed a violation of this Code.

3. All incinerating operations shall be subject to the following restrictions and a sign of permanent design, furnished by the owner, shall be posted in a conspicuous location at or near the incinerator to inform the operators of said restrictions:

i. Fuel-fired incinerators shall be preheated 30 minutes before using;

ii. Only competent operators are allowed to operate the incinerator;

iii. After loading the main combustion chamber, the feed door shall be closed until the combustion cycle is complete;

iv. The waste material ash compartment shall be cleaned regularly; and

v. Waste matter shall not be burned, under permit or otherwise, if such waste matter would, if burned, cause or create a dense smoke or odor.

(j) The following apply to building protection:

1. Fire resistance rated walls, floors and ceilings shall be maintained as originally designed or constructed. Holes in rated walls, floors or ceilings that will allow the movement of fire or smoke shall be repaired to their original rating using approved materials to prevent such movement. All membrane fire protection shall be maintained at all times.

2. All required fire resistance rated doors or smoke barriers, including all hardware necessary for the proper operation thereof, shall be maintained in good working order. The use of door stops, wedges and other unapproved hold-open devices is prohibited. Where it is desired to keep the doors open, the fire official shall require the installation of approved heat rate of rise or smoke actuated self-closing devices.

i. For smoke barrier doors, only smoke actuated devices shall be allowed.

3. All doors to service equipment areas shall be identified, as to the equipment contained within the room, with a permanently affixed sign with letters at least one inch in height.

(k) The following apply to smoking conditions:

1. The smoking or carrying of a lighted pipe, cigar, cigarette or tobacco in any form is prohibited in the areas herein provided.

2. Smoking shall be prohibited where conditions are such as to make smoking a hazard, including areas of piers, wharves, warehouses, stores, industrial plants, institutions, schools, places of assembly and in spaces where combustible materials are stored or handled. The fire official shall designate specific safe locations, if necessary, in any building, structure or place in which smoking may be permitted.

3. The fire official is empowered and authorized to order the owner or occupant to post "No Smoking" signs in each building, structure, room or place in which smoking shall be prohibited. The content, lettering, size, color and location of required "No Smoking" signs shall be subject to the approval of the fire official.

4. It shall be a violation of this Code for any person to obscure, remove, deface, mutilate or destroy a posted "No Smoking" sign.

5. It shall be a violation of this Code for any person to smoke, throw or deposit any lighted or smoldering substance in any place where "No Smoking" signs are posted.

6. Where smoking is permitted, there shall be provided on each table and at other convenient locations suitable noncombustible ash trays or match receivers.

(l) The following apply to fire lanes on private property:

1. The fire official, with the approval of the chief executive officer of the fire department and the chief of police of the jurisdiction, may designate fire lanes on private property to which the public is invited or which is devoted to public use, if it is necessary to provide safety for the public or to provide proper access for fire department operations in the event of an emergency.

2. Whenever a determination has been made for the fire lane designation, pursuant to (l)1 above, the fire official shall notify the owner of the property in writing by registered or certified mail, or by hand delivering such notice, specifically describing the area designated and the reason for making the designation.

3. The marking of fire lanes shall be the responsibility of, and at the expense of, the property owner and shall be accomplished within 30 days of the receipt of the notification.

4. It shall be a violation of this Code for any person to park a motor vehicle in, or otherwise to obstruct, a fire lane.

(m) The following apply to electrical equipment and hazards:

1. When any electrical hazards arising from defective or improperly used or installed electrical wiring, equipment or appliances are identified, such conditions shall be abated. All identified hazardous electrical conditions in permanent wiring shall be referred to the construction official.

2. Clearance of not less than 30 inches shall be provided between all electrical service equipment and storage.

3. The use of multi-plug adaptors, such as cube adaptors, unfused plug strips, or any other device that is not approved by a nationally recognized testing agency shall be prohibited.

4. Extension cords and flexible cords shall not be used as a substitute for permanent wiring. Extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings, floors, under doors or floor coverings, nor be subject to environmental damage or physical impact.

5. Open junction boxes and open wiring splices shall be prohibited. Approved covers shall be provided for all switch and electrical outlet boxes.

6. All electrical motors shall be maintained free from accumulations of oil, dirt, waste, and debris.

7. Illumination shall be maintained for all service equipment areas, motor control centers and electrical panelboards.

8. All unused fixtures, circuits, wiring and electrical devices or fixtures shall be removed or properly secured in place.

9. Electrical appliances or fixtures that have not been approved by a nationally recognized testing agency shall not be placed in service.

(n) The following apply to asphalt (tar) kettles:

1. This subsection shall not apply to any use of a tar kettle in conjunction with a valid construction permit.

2. It shall be unlawful to transport or to permit to be transported any asphalt (tar) kettle beneath which is maintained any open fire, heated coals or ashes, over any highway, road or street.

3. Asphalt (tar) kettles shall not be used inside of or on the roof of any building. Fired asphalt (tar) kettles shall not be left unattended.

4. There shall be a minimum of one 20-B:C rated portable fire extinguisher within 30 feet of each asphalt (tar) kettle during the period such kettle is in use, and one additional minimum 20-B:C rated portable fire extinguisher on the roof being covered. Every kettle shall be equipped with a tight fitting cover. A kettle, when in operation, shall be placed a safe distance from any combustible material or buildings.

5. When liquified petroleum gas cylinders or containers are utilized for fueling asphalt (tar) kettles, the LPG cylinder shall be protected against vandalism and tampering.

i. When possible, all LPG cylinders and containers shall be placed in a secured area for protection against tampering.

ii. LPG cylinders or containers which cannot be secured in a protected area shall have the dome covers locked and secured or, if the container does not have a dome cover, the valve handle shall be removed or secured in the OFF position to insure against unauthorized opening of the LPG cylinders.

iii. The storage of LPG cylinders on roof tops shall be prohibited.

(o) All high rise structures served by elevators shall be equipped with emergency control devices in accordance with N.J.A.C. 5:18-4.17(e).

(p) The following apply to fire safety and evacuation plans:

1. A fire safety and evacuation plan shall be prepared as set forth in this subsection where required by (p)1i through v below and by N.J.A.C. 5:18-3.15(b)3.

i. Use Group R-1: All Use Group R-1 buildings;

ii. Use Group I: All Use Group I buildings;

iii. High rise buildings: All high rise buildings as defined in this Code;

iv. Casinos: All buildings licensed as hotel-casinos by the New Jersey Casino Control Commission pursuant to N.J.S.A. 5:12-1 et seq. (see also (t) below);

v. Flammable liquid storage terminals: All flammable liquid storage terminals required to install High Level Alarm Systems by N.J.A.C. 5:18B shall submit a fire and emergency plan as required by N.J.A.C. 5:18B-3.4(a).

2. The fire safety plan shall be approved by the fire official and shall be distributed by the owner to all tenants and employees. The plan shall contain the location of the nearest exits and fire alarms; the procedures to be followed when a smoke or fire alarm sounds; and the procedures to be followed in the event of fire or smoke.

i. A copy of the fire safety plan shall be readily available at all times within the building. In hotel-casinos the plan shall be located in the Fire Command Center.

3. The evacuation plan shall be conspicuously posted on every floor for the occupants' use.

i. Exception: In R-1 Use Groups the evacuation plan shall be posted on the inside of each guest room door, other than a door opening directly to the outside at grade level.

4. The fire safety and evacuation plan shall be maintained to reflect changes in the use and physical arrangement of the building.

5. All hotel-casino employees who are assigned duties under the plan shall be periodically instructed and kept informed in respect to their respective duties and responsibilities. Such training shall include the proper use of portable fire extinguishers and other manual fire suppression equipment. With respect to new staff members, such training shall be provided within 30 days of entrance to duty. With respect to existing staff, refresher training shall be provided at least annually and whenever a reassignment significantly alters an employee's duties and responsibilities under the plan.

(q) The following apply to portable kerosene fired and solid fuel fired heaters:

1. Portable kerosene fired and solid fuel fire heaters shall be operated and installed with at least the minimum clearance to combustibles for which the appliance has been tested.

i. Exception: Clearances may be reduced in accordance with the mechanical subcode of the Uniform Construction Code.

2. Portable kerosene fired heaters shall be tested in accordance with UL 647 and bear the label of an approved testing agency complying with the criteria for labeling specified in the mechanical subcode of the Uniform Construction Code.

i. The use of portable kerosene fired heaters is prohibited in all Use Groups except R-3.

ii. Portable kerosene fired heaters shall not be offered for sale unless a conspicuous sign is posted at the point of sale and display indicating that the use of portable kerosene fired heaters is prohibited in all buildings except one- and two-family dwellings and is prohibited by ordinance in some municipalities in all dwellings.

iii. Portable containers for kerosene shall be either of a plastic or metal construction with fill and vent openings. The container shall be predominantly medium blue. The word "Kerosene" shall be displayed around the perimeter of the container.

3. Chimneys connected to solid-fuel fired heaters shall be inspected annually and maintained free of significant deposits of creosote and soot.

i. Exceptions to (q)3 above are Use Group R-3 single family dwellings, and chimneys serving fireplaces which are not equipped with fireplace stoves or inserts.

(r) The following apply to vacant and abandoned buildings and structures:

1. All buildings or structures that are, or hereafter become, vacant as a result of damage, fire, or abandonment shall be secured against unauthorized entry as ordered by the fire official. Structures which appear to be in danger of collapse shall be referred to the building official for remedial action in accordance with the Uniform Construction Code.

2. All utilities which represent a potential source of ignition shall be disconnected in a manner approved by the fire official.

3. Fire protection systems shall be maintained as required in N.J.A.C. 5:18-3.4(b)5.

(s) The following apply to fire drills:

1. Fire drills shall be held in buildings and parts thereof, when of Use Group E or Use Group I, in day care centers regardless of use group and in dormitories having an occupancy load of 50 or more.

2. Fire drills shall be held at least once a month in day care centers and buildings of Use Group E, at least twice annually in dormitories, and at least once every three months on each work shift in buildings of Use Group I. During severe weather, fire drills may be postponed.

3. A record of fire drills shall be kept on the premises and shall be made available to the fire official upon request. Such records shall contain the date of drill, weather conditions at the time, number of occupants evacuated, total time for evacuation and any other information relevant to the drill.

4. In day care centers, educational uses and dormitories, fire drills shall include complete evacuation of all persons from the building. In institutional uses, fire drills shall be conducted to familiarize operating personnel with their assigned positions of emergency duty. Complete evacuation of occupants from the building at the time of the fire drill shall be required in institutional uses only where it is practicable and does not involve moving or disturbing persons under medical care or restraint.

(t) The following apply to casino fire safety programs:

1. Every establishment licensed as a hotel-casino by the New Jersey Casino Control Commission shall establish a Fire Safety Unit consisting of trained personnel who shall be under the direct supervision of a supervisor who shall have responsibility for the operation of the Unit and the Fire Command Center and whose sole responsibility during a fire-related emergency incident shall be

the direction of the unit and center. The supervisor shall report directly to the Director of the Department under which the Fire Safety Unit is organized.

2. The responsibilities of the Fire Safety Unit shall include the following as listed in (t)2i through ix below. The Fire Safety Unit shall:

i. Ensure continual staffing of the Fire Command Center with trained hotel-casino personnel. There shall be at least one such trained person in the Center at all times who shall, while on duty, be responsible for the direction of the unit and the center during a fire-related emergency;

ii. Develop and implement a comprehensive fire safety and evacuation plan;

iii. Provide specialized training for all employees to assure compliance with the fire safety plan;

iv. Familiarize all employees of the hotel-casino with the fire safety plan and with the built-in fire detection and suppression systems in the casino and hotel;

v. Familiarize management and security employees with local fire department operations and procedures for various emergencies in the hotel-casino;

vi. Provide training for employees on specific support functions to be performed to assist fire department personnel in an emergency;

vii. Provide training for employees in early detection and proper evaluation of a fire emegency and the proper use of first aid, firefighting equipment and techniques;

viii. Provide training annually for all security personnel and Fire Safety Unit staff in cardiopulmonary resuscitation; and

ix. Ensure the maintenance of the building and its fire protection features in compliance with the Uniform Construction Code and the Uniform Fire Code.

3. The Fire Command Center shall maintain a comprehensive log which shall include the information required in (t)3i and ii below.

i. The name and signature of each employee on duty in the Fire Command Center along with the date and time of arrival and departure; and

ii. A description of each incident occurring within the casino or hotel including the date, time, location and action taken. An incident shall include, but not be limited to, fire, alarm activation, trouble signal, fire protection equipment malfunction, and any unrecorded communication pertaining to fire or life safety which are made to or from the Fire Command Center.

(u) The following apply to kitchen exhaust systems:

1. Commercial kitchen exhaust systems shall be cleaned to remove deposits of residue and grease in the system at intervals specified in the cleaning schedule. Thorough cleaning of ducts, hoods and fans shall require scraping, brushing or other positive cleaning methods.

2. When a cleaning schedule is not on file, the fire official shall require an approved cleaning schedule to be submitted indicating the method of cleaning and the time intervals between cleanings.

(v) The following apply to HVAC and mechanical equipment:

1. All heating ventilating and air conditioning (HVAC) and mechanical equipment shall be maintained free of excessive accumulations of oil, grease, dust or waste materials.

2. All emergency controls shall be maintained and tested in accordance with N.J.A.C. 5:18-3.4(d). All fire and smoke dampers shall be free at all times of obstructions that prevent proper operations.

3. All equipment for the handling or use of combustible, explosive or otherwise hazardous materials shall be installed and maintained as required by this Code. Where the provisions of this Code do not specifically cover conditions and operations, the equipment shall be installed and maintained in accordance with nationally recognized good practice so as not to create any hazardous conditions.

5:18-3.4 Fire protection systems

(a) The general provisions of this section on fire protection systems are as follows:

1. The provisions of this section shall govern the operation, maintenance, and testing of all existing fire protection systems, devices, units and fire safety equipment in all occupancies as herein provided. Such systems shall comply with maintenance provisions of NFPA 13, 13A, 14, 15, 20, 22, 24, 71, 72A, 72B, 72C, 72D, 231, 231C and 231D listed in Appendix 3-A, incorporated herein by reference, where provisions of this section do not specifically cover conditions and operations.

2. Before any fire alarm, detection or fire suppression system is installed, enlarged or extended, a construction permit shall be secured from the construction official.

3. All required tests shall be conducted by and at the expense and risk of the owner or a representative of the owner. The fire official shall not be held responsible for any damages incurred during any such test. Where the presence of the fire official is required for tests under the provisions of this section, the fire official shall be notified not less than 48 hours before said test is made.

4. All fire department connections and fire pump test connections shall be properly marked with a sign indicating their purpose and shall be maintained in a manner and location satisfactory to the fire official. A metal sign with raised letters at least one inch in size shall be mounted on all fire department connections serving fire sprinklers, standpipes and/or fire pump connections. Such signs shall read Automatic Sprinklers and/or Standpipes and/or Test Connection.

5. All threads provided for fire department connections to sprinkler systems, standpipe systems, yard hydrants or any other fire hose connections shall be uniform to those used by the fire department.

(b) The following apply to protection maintenance:

1. All fire protection systems, devices, units, and service equipment which were installed in compliance with any law, ordinance or order, shall be maintained in an operative condition at all times, and it shall be a violation of this Code for any owner or occupant to reduce the effectiveness of the protection so required; except this shall not prohibit the owner or occupant from temporarily reducing or discontinuing the protection where necessary to make tests, repairs, alterations or additions. The fire official shall be notified before disconnection and interruption of protection, tests, repairs, alterations or additions are started and upon its completion, and shall be advised of the extent of and reason for such work. The restoration of the protection shall be diligently pursued.

2. Anyone disabling, tampering or interfering with the effectiveness of any component of a fire detection or alarm system shall be in violation of this Code.

3. When any required fire alarm, fire communication, fire extinguishing, fire detecting, first-aid fire fighting system, device or unit, or part thereof becomes inoperative and affects the fire safety of a building or structure or the occupants therein, the fire official may order said building or structure or portion thereof vacated until said inoperative system, device or unit is repaired and returned to full service.

4. For buildings under construction, the standpipe system shall be carried up with each floor and shall be installed and ready for use as each floor progresses as required by the Uniform Construction Code. Standpipes shall not be more than one floor below the highest forms or staging.

5. Vacant or unoccupied buildings or portions thereof shall maintain all required sprinkler and standpipe systems and all component parts in a workable condition at all times. Fire alarm systems shall be maintained in operating condition at all times, except when the building is vacated for periods of more than one week, and the system shall be tested in the presence of the fire official upon restoration to use.

i. Exception: In vacant or unoccupied buildings, where the fire official determines the type of construction, fire separation and security of the building is such as not to create a fire hazard, the fire official may permit the fire protection systems to be taken out of service in such a manner and for such a time as the official specifically prescribes.

6. When a building is being demolished and a standpipe or sprinkler system exists within said building, such standpipe and/or sprinkler system shall be maintained in an operable condition so as to be available for use by the fire department. Such standpipe and/or sprinkler system shall be demolished with the building, but in

no case shall the system, or systems, be more than one floor below the floor being demolished.

7. Existing non-required fire protection systems, devices, units and service equipment that do not conform to current Code requirements shall continue in service without alteration provided the fire official determines said system, device, unit or equipment does not constitute a serious protection deficiency. Serious protection deficiencies shall be corrected at the discretion of the fire official.

i. All non-required fire protection equipment shall be arranged and maintained in a manner consistent with the requirements at the time of installation unless discontinuation of the equipment is approved by the fire official. All discontinued equipment and devices (pullstations, nozzles, detectors, heads, sensors, panels, hose connections, etc.) shall be removed so as not to give a false indication that the building, area, or space is protected.

8. In any use of carbon dioxide, dry chemical, or halon total flooding systems where there is a possibility that personnel will be trapped in, or enter into, atmosphere made hazardous by a discharge, warning signs, discharge alarms and breathing apparatus, when provided, shall be maintained to insure prompt evacuation of and to prevent entry into such atmospheres and also to provide means for prompt rescue of any trapped personnel.

(c) The following apply to periodic inspections and tests:

1. Inspections and field tests of fire suppression, alarm, detection and any other fire protection systems, devices and equipment shall be conducted by the owner or an authorized representative as herein required.

2. When testing any suppresssion system, standpipe or fire alarm system which is connected through a central supervisory station directly to the fire or police department, notification shall be given to the fire official before initiation of the tests.

3. All standpipe fire lines in all buildings and structures shall be tested at least every five years. In high rise structures, tests shall be made at intervals of not more than two years. Wet and dry pipe systems shall meet the flow demands required at the time of installation or as required by (d)2i below, and dry systems shall meet the pressure demands of (d)2 below. At the time of the test, all control valves, including those inside hose cabinets, shall be operated and then reset in their proper position to insure the workability of these valves. Wet and dry systems unable to meet the flow requirements at the time of installation or as required by (d)2i below shall be required to install automatic fire pumps or tanks if deemed necessary by the fire official for the occupancy of the building.

4. The inspector's test connections, main drain valves and all control valves on all sprinkler systems shall be operated at least once a year to determine that there is a free water flow at adequate pressure and that the supervisory service, if any exists, is operating properly. An internal inspection of the piping shall be performed periodically, but at least once every 10 years to check for debris buildup, and the piping is to be flushed if needed. If debris buildup is noted, internal inspections shall be at five year intervals thereafter. Each dry pipe valve shall be cleaned and reset at least once each year. Automatic antifreeze solution systems and limited area systems that are supplied from a domestic water source and which are not required to provide a test line shall be exempt from the requirements of this section.

5. All fire pumps that automatically supply water to suppression systems and standpipes shall be operated periodically until water is discharged freely from the relief valve and at least once every 30 days. A yearly test shall be made in accordance with NFPA 20 listed in Appendix 3-A, incorporated herein by reference, to make sure that neither pump nor suction pipe is obstructed. Where the suction supply is from public mains, the test shall not draw the residual suction pressure at the pump below 20 pounds per square inch (psi).

6. Automatic and manual fire alarm systems and each of their components shall be tested annually in accordance with (c)6i through iii below.

i. An alarm shall be simulated for each zone of the system and shall cause the alarm to be audibly and/or visually received throughout the entire building and at the control panel and at any other location at which the alarm signal is required to be received.

ii. The supervisory circuits of each zone shall be tested in accordance with the manufacturer's instructions and cause a trouble signal to be received both audibly and visually at the control panel.

iii. A failure of the main power supply to the fire alarm system shall be simulated. The emergency power supply shall then be capable of indicating, both audibly and visually, trouble and alarm signals at the control panel.

7. All high level alarm systems installed in accordance with N.J.A.C. 5:18B shall be periodically tested in accordance with N.J.A.C. (a)4 above.

8. Smoke control systems shall be tested annually in accordance with (c)8i through iv below.

i. Smoke detection systems utilized to activate smoke control systems shall be tested in accordance with (f)6 above.

ii. Smoke control systems shall be placed into operation by manual and automatic means. The proper sequence and operation of system components shall be kept in writing on the premises, shall be available to the fire official and shall be verified when the system is activated.

iii. For pressurization systems, pressure readings shall be taken with all doors closed to verify that the system continues to meet the standards of its approval under the Uniform Construction Code, including maintaining the exhaust capacity.

iv. For smoke removal systems, exhaust discharge readings shall be taken to verify that the system maintains the exhaust capacity required by the Uniform Construction Code.

9. Tests shall be performed on emergency and standby power generation systems annually in accordance with (c)9i and ii below.

i. The main power supply shall be interrupted and cause the generator to start automatically under full load.

ii. Emergency power shall be supplied by the generator in 10 seconds or less under full load. Standby power shall be supplied by the generator in 60 seconds or less under full load.

10. Elevators shall be tested annually in accordance with (c)10i and ii below.

i. Upon simulated activation of an elevator lobby detector, the elevator controller shall cause all elevator cars that serve that lobby to return nonstop to the designated lobby, and prevent further operation of the elevators without the use of an emergency service key.

ii. The emergency service keys shall be utilized to place the recalled elevators into emergency operation and to verify proper functioning of the elevator for fire service operation.

11. Foam extinguishing systems shall be periodically tested and maintained in accordance with NFPA 11, 11A and 16 listed in Appendix 3-A, incorporated herein by reference.

12. Carbon dioxide extinguishing systems shall be periodically tested and maintained in accordance with NFPA 12 listed in Appendix 3-A, incorporated herein by reference.

13. Halogenated extinguishing systems shall be periodically tested and maintained in accordance with NFPA 12A and 12B listed in Appendix 3-A, incorporated herein by reference.

14. Dry chemical extinguishing systems shall be periodically tested and maintained in accordance with NFPA 17 listed in Appendix 3-A, incorporated herein by reference.

15. Wet chemical extinguishing systems shall be periodically tested and maintained in accordance with NFPA 17A listed in Appendix 3-A, incorporated herein by reference.

16. Water spray fixed extinguishing systems shall be periodically tested and maintained in accordance with NFPA 15 listed in Appendix 3-A, incorporated herein by reference.

17. A complete written record of all tests and inspections required under this section shall be maintained on the premises by the owner or occupant in charge of said premises, and all such records shall be submitted to the fire official when requested for inspection and evaluation.

(d) The following apply to standpipe systems:

1. All standpipe systems and equipment, including fire pumps, shall be periodically tested in accordance with this Code.

2. All standpipe systems, including dry, wet and dry pipe systems, shall be tested hydrostatically to demonstrate that the system will

sustain for two hours a pressure of not less than 200 psi or 50 psi in excess of the maximum static pressure when the maximum static pressure is in excess of 150 psi.

i. Wet and dry pipe systems shall be tested to determine that the source of water supply, held back by air pressure, is adequate to maintain a minimum flow and pressure at the topmost hose outlet as required for the system design by the Uniform Construction Code. A working test of dry pipe valves, quick opening devices and air maintenance devices, if installed, shall be made before acceptance. Dry pipe systems must deliver water at the most remote hose outlet in not more than 60 seconds, starting at the normal operating air pressure.

ii. Standpipe fire lines without permanent or automatic water supply and equipped with a fire department connection shall be capable of delivering 250 gallons per minute (gpm) simultaneously from each of any three outlets under the operation of one fire engine or pumper.

3. All fire hose stations for dry standpipe fire lines shall be marked with a permanently attached noncombustible sign with letters not less than two inches high, in a color which contrasts with the background color, and reading "Dry Hose—Fire Department Use Only" which is mounted or painted on or near said fire hose station.

4. When fire fighting equipment (standpipe, fire hose, fire extinguishers, fire axes, fire department valves, and so forth) is enclosed in cabinets, these cabinets shall not be blocked from use or obscured from view in any manner.

5. When fire fighting equipment is enclosed in cabinets which are equipped with doors, said doors shall conform with the following provisions:

i. Painted over, covered, or solid metal cabinet doors without visual identificaton glass panels shall not be bolted, locked, or secured in any manner unless said lock is approved by the fire official. Such doors shall be marked by a permanently attached noncombustible sign with letters not less than two inches high, in a color which contrasts with the background color, and shall indicate what equipment is contained therein. The fire official may allow doors to be marked with a permanently attached noncombustible picture of the equipment contained therein provided said doors are not large enough to accommodate a written sign.

ii. Cabinet doors with an approved visual identification clear glass panel need not be marked provided said door is not locked, bolted or secured in any unapproved manner. Cabinet doors with approved visual identification clear glass panels may be locked provided the following conditions are met:

(1) All locking devices shall be approved by the fire official and shall be capable of being opened when a glass panel is broken away;

(2) Unlocking handles shall be painted red and shall indicate the direction in which the handle must be pushed or pulled to unlock said door; and

(3) Visual identification glass panels shall be unobscured or painted panes that can readily be broken so that access can be obtained, and a permanently attached noncombustible sign with letters not less than two inches high, in a color that contrasts with the background color, and reading "Fire Equipment—In Case of Fire Break Glass and Operate Red Handle" shall be mounted or painted on the cabinet doors.

iii. Cabinet doors that have complete glass door panels may be locked provided said glass can readily be broken and access obtained, and a noncombustible sign with letters not less than two inches high in a color that contrasts with the background color and reading "In Case of Fire Break Glass" shall be mounted or painted on the glass panel.

(e) The following apply to fire suppression systems for cooking operations:

1. The provisions of this subsection shall govern the operation and maintenance of fire suppression systems for range hoods and food preparation centers in all buildings and structures.

2. An approved automatic fire suppression system shall be installed in all hoods and connecting hood and duct sytems as required by N.J.A.C. 5:18-4.7(g). Such fire suppression systems shall provide surface protection for all cooking appliances and equipment that may be a source of ignition in or under the hood.

i. Automatic safe shut-off valves, remote manual pull stations, surface protection or extended surface protection shall be required by the fire official on any existing automatic or nonautomatic fire suppression system when said system does not conform to the provisions of this section and when additional protection is deemed necessary by the fire official for the safety and protection of the operation, the occupants or the operator.

3. All nozzles, fusible links and cylinders shall be readily accessible for cleaning, replacement, inspection and service. It shall be the responsibility of the person in charge of said cooking operation to see that the extinguishing systems are inspected at least every six months and whenever said system is activiated or found inoperative. Inspections shall be made only by properly trained and qualified personnel. Regular service contracts with the manufacturer or an authorized installing or maintenance company are recommended. All actuation components, including remote manual pull stations, mechanical or electrical devices, detectors, actuators, etc., shall be checked for proper operation during inspection. All fusible links and fusible link sprinkler heads shall be replaced annually. Manual stations shall be sealed and safety pinned or latched. An inspection tag shall be located at the manual pull station indicating the date of the last inspection and the signature and name of the person and company who performed the work.

i. A certificate of inspection shall be forwarded to the fire official whenever any system is placed back into service after being discharged or deactivated for repair work, and after each required semi-annual inspection, by the person or company who performed said inspection. Certificates of inspection shall be submitted in such form as the fire official may prescribe.

4. All cooking operations and all food preparation centers within any occupancy, except individual dwelling units, shall provide a sufficient number of portable fire extinguishers to afford adequate fire safety as determined by the fire official but not less than one unit. All extinguishers shall carry a minimum of 20-B:C rating and capacity and be compatible with the fire suppression system extinguishing agent. The extinguisher shall be located not more than 15 feet and not less than 10 feet from the hazard.

5. When an existing kitchen exhaust suppression system discharges, the protected cooking appliances shall not be operated until the suppression system has been recharged and placed back in service. When the system is recharged, it shall be tested in accordance with (h)10 above.

(f) The following apply to portable fire extinguishers:

1. All hand operated portable fire extinguishers shall be selected, distributed, inspected, maintained, tested and recharged in accordance with NFPA 10 listed in Appendix 3-A, incorporated herein by reference, and (f)2 below.

2. Portable fire extinguishers shall be provided in all buildings and structures except Use Group R-2 and R-3 as set forth in (f)2i through vi below.

i. Theaters shall be provided with at least two approved fire extinguishers in the stage area behind the proscenium wall where movable scenery is installed; not less than one fire extinguisher on stages or platforms without scenery or stage equipment; one in each tier of dressing rooms; and one immediately outside the entrance to every motion picture booth.

ii. Schools, assembly and lecture halls shall be provided with one fire extinguisher for each 2,500 square feet of floor area or fraction thereof but not less than one fire extinguisher in each laboratory, shop or other vocational room.

iii. In hotels, dormitories and lodging houses, at least one fire extinguisher shall be provided on each floor at the stairway landing and in the corridor at each elevator or bank of elevators.

iv. Hospitals, nursing homes, prisons and group homes shall be provided with one fire extinguisher for each 2,500 square feet of floor area, but not less than one per floor, and one in each kitchen.

v. Portable fire extinguishers shall be provided as required by the fire official in accordance with NFPA 10 listed in Appendix 3-A, incorporated herein by reference.

vi. Where required in other sections of this Code as outlined by Table 3.4(f)2 below:

TABLE 3.4(f)2
PORTABLE FIRE EXTINGUISHERS

Code Section	Description
3.3(d)1	Torches for removing paint
3.3(n)4	Asphalt (tar) kettles
3.4(e)3	Cooking operations
3.6(e)1	Airports
3.6(e)2	Aircraft towing vehicles
3.6(e)3	Welding apparatus
3.6(e)4	Aircraft refueler
3.6(e)5	Aircraft service areas
3.7(c)9	Spray finishing
3.7(d)8	Dip tanks
3.9(b)3	Dry cleanng plants
3.13(b)7	Lumber yards
3.13(c)2	Woodworking machines
3.16(e)6	Service stations
3.17(d)6	Tents, air supported and other temporary structures
3.20(d)4	Welding and cutting operations
3.25(e)2	Cryogenic liquid tank vehicles
3.28(h)1	Flammable and combustible liquid storage
3.28(h)1i	Interior storage rooms
3.28(h)1ii	Inside storage
3.31(d)2	Magnesium processing
3.33(b)3	Organic coatings manufacturing

3. When auxiliary emergency equipment is enclosed in cabinets, said cabinets shall conform to (d)4 through 5 above.

4. In isolated hazardous locations, incidental to the general use of the building, a limited area sprinkler system serviced from the building water supply complying with the Uniform Construction Code may be accepted as a substitute for portable fire extinguishers.

5. Actuated extinguishers shall be immediately moved away from their designated location and shall be temporarily replaced with a standby or spare unit of the same type and capacity as the actuated unit.

6. Soda acid, foam, loaded stream, antifreeze and water portable fire extinguishers of the inverting type shall not be recharged or placed in service for fire protection use. Extinguishers of these types shall not be considered approved devices for fire protection use under the provisions of this code and shall immediately be removed from service.

(g) The following apply to fire alarm systems:

1. Fire alarm systems and all devices attached thereto shall be maintained in proper working order at all times and shall be subjected to periodic tests as required by (c) above.

i. Exception to maintenance and periodic tests: Vacant buildings (see (b)5 above).

5:18-3.5 Means of egress

(a) The provisions of this section shall govern the maintenance and use of means of egress as provided in buildings and structures in accordance with the requirements of the Uniform Construction Code and this code (see N.J.A.C. 5:18-3.15 for additional requirements for places of assembly and education).

(b) The following apply to hazards relating to means of egress:

1. All means of egress elements, such as egress doors and their hardware, corridors, stairways, fire escapes and similar egress components, shall be maintained in a safe and operable condition at all times, and be available for immediate use. The fire official may require a load test on any exterior stairway or fire escape to determine structural stability.

2. A person shall not at any time place any encumbrance within or upon any element of a means of egress which reduces its width to less than that required by the Uniform Construction Code. Draperies or similar decorative hangings shall not obstruct the view of, nor access through, any element of a means of egress. Mirrors shall not be placed in or adjacent to a means of egress in any manner which may confuse the direction of egress. Exit doors shall not be decorated in any way that would obscure or confuse the purpose of the door.

3. Exits shall not be used for any purpose other than a means of egress. Spaces within a stairway enclosure shall not be utilized for storage or location of any materials or items. Exterior spaces below and within 10 feet horizontally of fire escapes and exterior stairs shall not be utilized for the storage of combustible materials or location of refuse containers.

4. Enclosed exit access corridors shall be maintained free of accumulations of flammable or combustible materials at all times except for the conditions listed in (b)4i and ii below:

i. Decorative items affixed directly to walls or ceilings; or

ii. Furniture located within seating or waiting areas which is fixed in place which does not reduce the required width of the corridor.

(c) The following apply to egress doors:

1. All interior exit stairway doors shall be openable from either side; and all egress doors shall be openable from the side from which egress is to be made without the use of a key or special knowledge or effort at all times the building or area served is occupied except as provided in (c)2 below.

i. All keys necessary for unlocking doors installed in means of egress shall be individually identifiable by both touch and sight.

2. Exceptions: Locks or fasteners may be installed on egress doors under the following conditions only:

i. In mental, penal or other institutions where the security of inmates is necessary, in which case properly trained supervisory personnel shall be continuously on duty and approved provisions are made to safely remove occupants in case of fire or other emergency;

ii. In problem security areas, special purpose door alarms or locking devices shall be approved by the fire official prior to installation. Manually operated edge or surface molded flush bolts are prohibited; and

iii. In high rise buildings with stairway doors arranged in accordance with the Uniform Construction Code.

(d) The following apply to emergency escape windows:

1. Emergency escape windows and doors shall be maintained operational and available to occupants of sleeping rooms in residential uses.

2. Bars, grilles, grates or similar devices may be installed in required emergency escape windows provided such devices are equipped with approved release mechanisms which are openable from the inside without the use of a key or special knowledge or excessive force.

(e) The following apply to signs and lighting:

1. All exit signs shall be maintained in a clean and legible condition and shall be clearly illuminated at all times that the building is occupied. Supplemental internally illuminated directional signs, when necessary, shall be installed indicating the direction and way of egress.

i. A sign shall be provided at each landing in all interior stairways more than three stories in height designating the floor level above the exit discharge.

2. Any door, passage or stairway which is neither a means of egress nor access to a means of egress and which is so located or arranged as may be mistaken for a means of egress shall be properly identified as to its use.

3. Decorations, furnishings or equipment which impair the visibility of egress signs shall not be permitted nor shall there be any brightly illuminated sign (for other than egress purposes), display or object in or near the line of vision to the required egress sign of such a character as to so detract attention from the egress sign that it may not be noticed.

4. Stairways, hallways and other means of egress, including exterior open spaces to or through which an exit leads, shall be kept adequately lighted at all times that the building served thereby is occupied.

5. All elevator lobby call stations on all floor levels in buildings more than six stories or 75 feet in height shall be marked with approved signs reading as follows: "Use Stairways in Case of Fire—

Do Not Use Elevators." The requirements of this paragraph shall apply to existing as well as new buildings.

(f) The following apply to fire and exit doors:

1. All self-closing and automatic doors serving as a means of egress or providing a fire or smoke barrier as required by the building code in effect at the time of first occupancy shall be maintained in operable condition at all times in accordance with NFPA 80 listed in Appendix 3-A, incorporated herein by reference, where provisions of this section do not specifically cover conditions and operations.

i. It shall be unlawful to block open any interior egress door or any fire door which is required to be self-closing.

5:18-3.6 Airports, heliports and helistops

(a) The following are general provisions applicable to this section:

1. The provisions of this section shall apply to all airports, heliports, helistops and aircraft hangers.

2. All applicable facilities shall be operated and maintained in accordance with the provisions of this code.

(b) The following apply to service areas:

1. A person shall not install, operate, or maintain an aircraft service except in accordance with the provisions of N.J.A.C. 5:18-3.16 and 3.28. All transferring apparatus, pumps, hoses, electrical equipment, fueler units and accessory equipment shall be approved and shall comply with NFPA 407 listed in Appendix 3-A, incorporated herein by reference.

2. The dispensing, transfer or storage of flammable or combustible liquid shall not be permitted inside of or upon any building or structure. Flammable or combustible liquid shall not be dispensed into or removed from a container, tank, vehicle or aircraft except in a location approved by the fire official.

3. All repairing of aircraft requiring the use of open flames, spark-producing devices or the heating of parts above 500 degrees Fahrenheit shall be done in the open or in an area conforming to the provisions of the Uniform Construction Code.

4. A person shall not smoke or produce any open flame within 50 feet of any point where fuel is being transferred, nor shall any electrical or motor driven device be connected to or disconnected from any aircraft at any time fueling operations are in progress on such aircraft.

(c) Safety requirements are as follows:

1. Application of flammable finishes shall be conducted in areas approved by the fire official.

2. A person shall not clean any aircraft, engine or parts of an aircraft or engine with any Class I flammable liquid.

3. Every aircraft hanger shall be provided and maintained with metal drip pans under the engines of all aircraft, except turbine-powered aircraft, stored or parked therein.

4. An open flame, flame-producing device or other source of ignition shall not be permitted in any hanger, except in approved locations.

5. Smoking shall be prohibited on loading and servicing ramps or within 50 feet of any parked aircraft. Smoking in hangars shall be allowed only in areas designated by the fire official. "No Smoking" signs shall be provided in accordance with (k) below.

6. The engines of any aircraft shall not be run in an aircraft hangar except in approved engine test areas.

7. Combustible materials or other hazardous materials shall not be stored in an aircraft hangar except in locations and containers approved by the fire official.

8. The touchdown area for helicopters shall be surrounded on all sides by a clear area having a minimum average width at roof level of 15 feet with no width less than five feet and shall be so maintained.

9. Landing areas on structures shall be so maintained as to confine any flammable liquid spillage to the landing area itself and provision shall be made to drain such spillage away from any exit servicing the landing area or from a structure housing such exit.

(d) The following apply to passenger facilities:

1. Passenger traffic may be permitted during the time fuel transfer operations are in progress, provided the following provisions are strictly enforced by the owner of the aircraft or an authorized employee.

i. A person shall not smoke or produce any open flame in the cabin of the aircraft or on the outside thereof within 50 feet. A qualified employee of the aircraft owner shall be responsible for seeing that passengers are not allowed to smoke when remaining aboard the aircraft, nor while crossing the ramp from the gate to the aircraft or vice versa.

ii. Passengers shall not be permitted to linger about the aircraft but shall proceed directly between the loading gate and the aircraft.

iii. Passenger loading stands shall be left in loading position until all fuel transfer operations are completed.

iv. Fuel transfer operations shall not be performed on the main exit side of any aircraft containing passengers except when the owner of the aircraft or a capable and qualified employee of the owner shall remain inside to direct and assist the escape of such passengers through regular and emergency exits in the event of fire. A passenger shall not board or exit the aircraft on the same side as the refueling operation.

2. Exits from applicable facilities shall be maintained in compliance with N.J.A.C. 5:18-3.5 except that all landing areas located on buildings shall have at least two independent exits.

(e) The following apply to portable fire extinguishers:

1. Portable fire extinguishers suitable for flammable liquid and electrical type fires shall be provided as specified by the fire official.

2. Every vehicle for towing aircraft shall be equipped with at least one fire extinguisher having a minimum 20-B:C rating.

3. Every welding apparatus shall be equipped with at least one fire extinguisher having a minimum rating of 2-A:10-B:C.

4. Every aircraft refueler shall be equipped with a minimum of two extinguishers having a 20-B:C rating. A fire extinguisher shall be readily accessible from either side of the vehicle.

5. Every aircraft service area shall be provided with at least two fire extinguishers as specified in NFPA 407 listed in Appendix 3-A, incorporated herein by reference.

6. The use of any fire extinguishing equipment under any circumstances shall be reported to the airport manager and the fire official immediately after use.

5:18-3.7 Application of flammable finishes

(a) The following are general provisions applicable to this section:

1. The locations or areas where the following activities are intended to be conducted or are done shall comply with the provisions of this section.

i. The application of flammable or combustible paint, varnish, lacquer, stain or other flammable or combustible liquid applied as a spray by whatever means, in continuous or intermittent processing; and

ii. Dip tank operations in which articles or materials are passed through contents of tanks, vats or containers of flammable or combustible liquids, including coating, finishing, treating and similar processes.

(b) Fire safety requirements are as follows:

1. The layout, arrangement and construction of buildings and structures in which spraying or dipping operations are done shall comply with the applicable requirements of the building code in effect at the time of first occupancy for the appropriate use group classification, and shall be provided with fire protection and fire extinguishing equipment as required by N.J.A.C. 5:18-4 and that code. Buildings and structures and their service equipment shall be maintained in proper operating condition as required by this code and NFPA 33 and 34 listed in Appendix 3-A, incorporated herein by reference, where provisions of this section do not specifically cover conditions and operations.

2. Smoking and open flames shall be prohibited in any spray finishing area and in the vicinity of dip tanks. Signs with lettering of approved size shall be conspicuously posted in such areas and shall read "No Smoking By Order of the Fire Official."

3. Electrical wiring and equipment shall conform to the provisions of N.J.A.C. 5:18-3.3(m) and shall be installed as specified in NFPA 70 listed in Apepndix 3-A, incorporated herein by reference.

(c) The following apply to spray finishing:

1. Any area in which quantities of flammable vapors or combustible residues, dusts or deposits are present due to the operation

of spraying processes shall be considered a spraying area. The fire official may define the limits of the spraying area in any specific case. A spraying area shall include:

i. The interior of spray booths;

ii. The interior of ducts exhausting from spraying processes; and

iii. Any area in the direct path of spray or any area containing dangerous quantities of air-suspended combustible residue, dust, deposits, spray or vapor as a result of spraying operations.

2. Spray-finishing operations shall not be conducted in buildings used for assembly, educational, institutional or residential occupancies, except in a room designed for that purpose, protected with an approved fire suppression system and separated vertically and horizontally from other areas as required by the Uniform Construction Code or N.J.A.C. 5:18-4.

3. Spray booths shall be maintained according to (c)3i through vii below.

i. The interior surfaces of spray booths shall be smooth and continuous without edges and otherwise maintained to prevent pocketing of residues and facilitate cleaning and washing without injury.

ii. The floor construction of spray areas, if combustible, shall be covered by approved noncombustible material. All spraying areas shall be kept free from the accumulation of deposits of combustible residues. Combustible coverings (thin paper, plastic, and so forth) and strippable coatings may be used to facilitate cleaning operations in spraying areas. If residue accumulates to excess in booths, ducts or duct discharge points or other spraying areas, then all spraying operations shall be discontinued until conditions are corrected.

iii. If installed, baffle plates shall be of noncombustible material, readily removable or accessible on both sides for cleaning and designed to promote an even flow of air through the booth and to prevent the deposit of overspray before it enters the exhaust duct. Such baffle plates shall not be located in exhaust ducts.

iv. Each spray booth having a frontal area larger than nine square feet shall have a metal deflector or curtain not less than 4½ inches deep installed at the upper outer edge of the booth, over the opening.

v. Each spray booth shall be separated from other operations by at least three feet or by such partition or wall as the fire official may require to reduce the hazard from adjoining operations.

vi. Spray booths shall be so installed that all portions are readily accessible for cleaning. A clear space of not less than three feet on all sides shall be kept free from storage or combustible construction. This does not preclude the installation of a spray booth against a partition or wall having a one hour fire resistance rating providing the booth can be maintained and cleaned.

vii. When spraying areas are illuminated through glass panels or other transparent materials, only fixed lighting units shall be used as a source of illumination. Panels shall effectively isolate the spraying area from the area in which the lighting unit is located and shall be of noncombustible material of such a nature or so protected that breakage will be unlikely. Panels shall be so arranged that normal accumulations of residue on the exposed surface of the panel will not be raised to a dangerous temperature by radiation or conduction from the source of illumination.

4. Overspray dry filters or filter rolls, if installed in conventional dry-type spray booths, shall conform to the provisions of (c)4i through v below.

i. All discarded filter pads and filter rolls shall be immediately removed to a safe, well-detached location or placed in a water filled metal container and disposed of at the close of the day's operation unless maintained completely immersed in water.

ii. The location of filters in a spray booth shall be so as to not reduce the effective booth enclosure of the objects being sprayed.

iii. Clean filters or filter rolls shall be noncombustible or of an approved type.

iv. Filters or filter rolls shall not be used when applying a spray material known to be highly susceptible to spontaneous heating and ignition.

v. Filters and filter rolls shall not alternately be used for different types of coating materials where the combination of materials may be conducive to spontaneous ignition.

5. There shall be no open flame, spark-producing equipment or exposed surfaces exceeding the ignition temperature of the material being sprayed in the areas specified in (c)5i and ii below, except as specifically permitted in (c)11 and (e) below. Further, there shall be no equipment or processes that may produce sparks or particles of hot metal located above or adjacent to the areas in (c)5i and ii below, unless means are provided to prevent the sparks or particles of hot metal from entering these areas.

i. A spraying area as defined in (c)1 above; and

ii. An area adjacent to a spraying area which would require electrical equipment conforming to the provisions of NFPA 70 listed in Appendix 3-A for Division 2 locations, incorporated here by reference, unless separated therefrom by a partition extending at least to the boundary of the Division 2 location.

6. Room heating appliances, steam pipes or hot surfaces shall not be located in a spraying area where deposits of combustible residues may readily accumulate.

7. A ventilation system shall be operated and maintained for all spray booths and spray areas in accordance with the BOCA Mechanical Code listed in Appendix 3-A, incorporated herein by reference.

8. The storage and handling of flammable liquids shall be in accordance with N.J.A.C. 5:18-3.28 and shall also conform to the provisions of this paragraph.

i. Where the quantity of liquid in five gallon and smaller containers, other than original sealed containers, exceeds a total of 10 gallons, it shall be stored in a storage cabinet or an interior storage room conforming to N.J.A.C. 5:18-3.28.

ii. Original closed containers, approved portable tanks, approved safety cans or a properly arranged system of piping shall be used for bringing flammable liquids into spray finishing areas. Open or glass containers shall not be used.

iii. Containers supplying spray nozzles shall be of a closed type or provided with metal covers kept closed. Containers not resting on floors shall be on noncombustible supports or suspended by wire cables. Containers supplying spray nozzles by gravity flow shall not exceed 10 gallons capacity.

iv. All containers or piping to which is attached a hose or flexible connection shall be provided with a shutoff valve at the connection. Such valves shall be kept shut when spraying operations are not being conducted, except when a circulating system is used and it is provided with an automatically operated anti-runaway control.

v. Heaters shall not be located in spray booths or other locations subject to the accumulation of deposits of combustible residue.

vi. If flammable or combustible liquids are supplied to spray nozzles by positive displacement pumps, means shall be provided to prevent the discharge pressure from exceeding the operating pressure of the system. Any discharge shall be to a safe location.

vii. Whenever flammable liquids are transferred from one container to another, both containers shall be bonded or effectively grounded. Piping systems for flammable liquid shall be permanently grounded.

9. An approved automatic fire suppression system shall be installed, and portable fire extinguishers, small hoses or other fire extinguishing equipment shall be installed near all spraying areas as may be required by the fire official.

10. All spraying areas shall be kept free from the accumulation of deposits of combustible residues. Combustible coverings (thin paper, plastic, and so forth) and strippable coatings may be used to facilitate cleaning operations in spraying areas. If residue accumulates to excess in booths, duct or duct discharge points or other spraying areas, then all spraying operations shall be discontinued until conditions are corrected.

i. Scrapers, spuds or other such tools used for cleaning purposes shall be of nonsparking material.

ii. Residue scraping and debris contaminated with residue shall be immediately removed from the premises and properly disposed of.

iii. Solvents for cleaning operations shall have flash points above 100 degrees Fahrenheit except that for cleaning spray nozzles and auxiliary equipment, solvents having flash points not less than those normally used in spray operations may be used. Cleaning operations using flammable or combustible solvents shall be conducted inside spray booths with ventilating equipment operating during the cleaning procedure.

iv. Spray booths shall not be alternately used for different types of coating materials, where the combination of the materials may be conducive to spontaneous ignition, unless all deposits of the first used material are removed from the booth and exhaust ducts prior to spraying with the second.

v. Approved metal waste cans equipped with self-closing lids shall be provided wherever rags or waste are impregnated with finishing material and all such rags or waste shall be deposited therein immediately after use. The contents of waste cans shall be properly disposed of at least once daily and at the end of each shift.

11. In addition to conforming to the requirements of this section, drying apparatus shall comply with the applicable provisions of N.J.A.C. 5:18-3.14.

i. Spray booths, rooms or other enclosures used for spraying operations shall not alternately be used for the purpose of drying by any arrangement which will cause a material increase in the surface temperature of the spray booth, room or enclosure.

ii. Except as specifically provided in (c)11iii below, drying or baking units utilizing a heating system having open flames or which may produce sparks shall not be installed in a spraying area as defined in (c)1 above, but may be installed adjacent thereto when equipped with an interlocked ventilating system arranged to:

(1) Thoroughly ventilate the drying space before heating system can be started;

(2) Maintain a safe atmosphere at any source of ignition; and

(3) Automatically shut down the heating system in the event of failure of the ventilating system.

iii. Automobile refinishing booths or enclosures, installed and maintained in conformity with this section, may alternately be used for drying with portable infrared drying apparatus when conforming to all of the following requirements:

(1) The procedure shall be restricted to low-volume, occasional spray application;

(2) The interior of spray enclosures shall be kept free of overspray deposits; and

(3) During spray operations, the drying apparatus and electrical connections and wiring thereto shall not be located within spray enclosure nor in any other location where spray residue may be deposited thereon.

iv. Spraying apparatus, drying apparatus, and ventilating system of spray enclosure shall be equipped with suitable interlocks so arranged that:

(1) Spraying apparatus cannot be operated while drying apparatus is inside spray enclosure;

(2) Spray enclosure will be purged of spray vapors for a period of not less than three minutes before drying apparatus can be energized; and

(3) Ventilating system will maintain a safe atmosphere within the enclosure during the drying process and drying apparatus will automatically shut off in the event of failure of the ventilating system.

v. All electrical wiring and equipment of drying apparatus shall conform to the provisions of N.J.A.C. 5:18-3.3(m). Only equipment of a type approved for Class I, Division 2, hazardous locations shall be located within 18 inches of floor level. All metallic parts of drying apparatus shall be properly electrically bonded and grounded.

(d) The following apply to dip tanks:

1. The provisions of this subsection shall apply to any tank, vat or container of flammable or combustible liquid in which articles or materials are immersed for the purpose of coating, finishing, treating or similar processes, which are known as dip tanks, and to any area containing dangerous quantities of flammable vapors in the vicinity of dip tanks, their drain boards or associated drying, conveying or other equipment, during operation or shutdown periods, which shall be known as vapor areas. The fire official may determine the extent of the vapor area, taking into consideration the characteristics of the liquid, the degree of sustained ventilation and the nature of the operations.

2. Dip tank operations shall not be conducted in buildings used for assembly, educational, institutional or residential occupancies, except in a room designed for the purpose, protected with an approved automatic fire suppression system and separated vertically and horizontally from other areas as required by the Uniform Construction Code.

3. A ventilation system shall be operated and maintained in all areas in accordance with this code and the BOCA mechanical code listed in Appendix 3-A.

4. Dip tanks, including drain boards if provided, shall be constructed of substantial noncombustible material and their supports shall be of heavy metal, reinforced concrete or masonry and shall comply with the following provisions of (d)14i through iii below.

i. Dip tanks of over 150 gallons in capacity or 10 square feet in liquid surface area shall be equipped with a properly trapped overflow pipe leading to a safe location outside the building. The bottom of the overflow connection shall not be less than six inches below the top of the tank.

ii. Dip tanks over 500 gallons in liquid capacity shall be equipped with bottom drains automatically and manually arranged to quickly drain tank in event of fire unless the viscosity of the liquid at normal atmospheric temperature makes this impractical. Manual operation shall be from a safely accessible location. Where gravity flow is not practicable, automatic pumps shall be provided.

iii. All bottom drains shall be trapped and shall discharge to a closed properly vented salvage tank or to a safe outside location.

5. Dip tanks utilizing a conveyor system shall be so arranged that, in the event of fire, the conveyor system shall automatically cease motion and required bottom drains shall open.

6. There shall be no open flames, spark producing devices or heated surfaces having a temperature sufficient to ignite vapors in any vapor area.

i. Electrical wiring and equipment in any vapor area shall be explosion-proof type approved for use in such hazardous locations. Such area shall be considered as Class I, Division 1, hazardous locations as specified in NFPA 70 listed in Appendix 3-A.

ii. Unless specifically approved for locations containing both deposits of readily ignitable residues and explosive vapors, there shall not be electrical equipment in the vicinity of dip tanks or associated drain boards or drying operations which are subject to splashing or dripping of dip tank liquids, except wiring in rigid conduit or in threaded boxes or fittings not containing taps, splices or terminal connections, and except as specifically permitted in (e) below relating to electrostatic apparatus.

iii. In any floor space outside a vapor area, but within 20 feet therefrom, and not separated by tight partitions, open flames or spark producing devices shall be prohibited, except drying and baking apparatus may be installed adjacent to vapor areas when conforming to (c)11ii above. Such area shall be considered a Class I, Division 2, hazardous location as specified in NFPA 70 listed in Appendix 3-A.

7. Areas in the vicinity of dip tanks shall be maintained as clear combustible stock as practical and shall be kept entirely free of combustible debris.

i. When waste or rags are used in connection with dipping operations, approved metal waste cans equipped with self-closing lids shall be provided and all impregnated rags or waste deposited therein immediately after use. The contents of waste cans shall be disposed of at least once daily and at the end of each shift.

8. Areas in the vicinity of dip tanks shall be provided with portable fire extinguishers suitable for flammable liquid fires as specified for extra hazardous occupancies in NFPA 10 listed in Appendix 3-A, incorporated herein by reference.

i. Dip tanks of over 150 gallons capacity or 10 square feet liquid surface area shall be protected with at least one of the following automatic facilities:

(1) Approved automatic water spray extinguishing system;

(2) Approved automatic foam extinguishing system;

(3) Approved automatic carbon dioxide system;
(4) Approved automatic dry chemical extinguishing system; or
(5) Dip tank covers conforming to (d)9 below.

ii. Dip tanks containing a liquid with a flash point below 110 degrees Fahrenheit, when used in such manner that the liquid temperature may equal or be greater than its flash point from artificial or natural causes, shall conform to (d)8i above when having both a capacity of more than 10 gallons and a liquid surface area of more than four square feet.

9. Covers arranged to close automatically in the event of fire shall be actuated by approved automatic devices and shall also be arranged for manual actuation and operation.

i. Covers shall be of substantial noncombustible material or of tinclad type with enclosing metal applied with locked joints.

ii. Chains or wire rope shall be used for cover support or operating mechanism where the burning of a cord would interfere with the action of a device.

iii. Covers shall be kept closed when tanks are not in use.

10. Hardening and tempering tanks shall conform to (d)4, 7 and 8 above, as well as (d)10i through v below.

i. Tanks shall be located as far as practicable from furnaces and shall not be located on or near conbustible construction.

ii. Tanks shall be provided with a noncombustible hood and vent or other equally effective means, terminating outside of the building to serve as a vent in case of fire. All such vent ducts shall be treated as flues and proper clearances shall be maintained from combustible materials.

iii. Tanks shall be equipped with a high temperature limit switch arranged to sound an alarm when the temperature of the quenching medium reaches 50 degrees Fahrenheit below the flash point.

iv. Hardening and tempering tanks of over 500 gallons capacity or 25 square feet liquid surface area shall be protected as specified in (d)8i above.

v. Air under pressure shall not be used to fill or to agitate oil in tanks.

11. Flow coat operations shall conform to the requirements for dip tanks, considering the area of the sump and any areas on which paint flows as the area of a dip tank.

i. Paint shall be supplied by direct low pressure pumping arranged to automatically shut down by means of approved heat actuated devices in case of fire, or by a gravity tank not exceeding 10 gallons in capacity.

12. The processes of roll coating, spreading and impregnating, in which fabrics, paper or other materials are passed directly through a tank or trough containing flammable liquids, or over the surface of a roller that revolves partially submerged in a flammable liquid, shall conform to the requirements of this subsection and to the applicable provisions of this section.

i. Adequate arrangements shall be made to prevent sparks from static electricity by electrically bonding and grounding all metallic rotating and other parts of machinery and equipment and by the installation of static collectors or maintaining a conductive atmosphere such as a high-relative humidity.

(e) The following apply to electrostatic apparatus:

1. Approved electrostatic equipment shall be used in connection with paint spraying operations.

2. Transformers, power packs, control apparatus and all other electrical portions of the equipment, with the exception of high voltage grids and electrostatic atomizing heads and their connections, shall be located outside of the spraying or vapor areas as defined in (c) and (d) above or shall conform to the requirements of (c)5 and (d)6 above.

3. A space of at least twice the sparking distance shall be maintained between goods painted and fixed electrodes, electrostatic atomizing heads or conductors. A suitable sign stating the sparking distance shall be conspicuously posted near the assembly.

4. Electrostatic apparatus shall be equipped with automatic controls which will operate without time delay to disconnect the power supply to the high voltage transformer and to signal the operator under any of the following conditions:

i. Stoppage of ventilating fans or failure of ventilating equipment from any cause;

ii. Stoppage of the conveyor carrying goods past the high voltage grid;

iii. Occurrence of a ground or of an imminent ground at any point of the high voltage system; or

iv. Reduction of clearance below that specified in (e)3 above.

(A) Hand electrostatic equipment shall be interlocked with the ventilation system for the spraying area so that the equipment cannot be operated unless the ventilating system is in operation.

5. Adequate booths, fencing, railings or guards shall be so placed about the equipment that it is either by their location or character or both that a safe isolation of the process is maintained from plant storage or personnel. Such railings, fencing and guards shall be of conducting material, adequately grounded, and shall be at least five feet from processing equipment.

6. Signs shall be posted designating the process zone as dangerous with respect to fire and accident.

7. All insulators shall be kept clean and dry. Drip plates and screens subject to paint deposits shall be removable and shall be taken to a safe place for cleaning.

8. The spraying area shall be adequately ventilated so as to insure a safe condition from a fire and health standpoint.

(f) The following apply to automobile undercoating:

1. Automobile undercoating spray operations, conducted in areas having adequate natural or mechanical ventilation, may be exempt from the provisions of (c) above as approved by the fire official when using undercoating materials that are not more hazardous than fuel oil or undercoating materials using only solvents having a flash point in excess of 100 degrees Fahrenheit.

2. Undercoating spray operations not conforming to (f)1 above shall be subject to all applicable provisions of this section.

5:18-3.8 Bowling establishments

(a) The equipment, processes and operation of bowling alleys and establishments shall comply with the applicable requirements of this Code and the provisions of this section.

(b) Fire safety requirements are as follows:

1. The layout, arrangement and construction of buildings and structures used for bowling alleys or establishments shall comply with the applicable requirements of the building code in effect at the time of first occupancy for the appropriate use group classification, and shall be provided with fire protection and fire extinguishment equipment as required by that code. Buildings and structures and their service equipment shall be maintained in proper operating condition as required by this Code.

2. A metal waste can with self-closing cover shall be provided for all waste materials and rags, and the contents shall be disposed of daily.

(c) In the operation and maintenance of bowling establishments, the following conditions shall be observed.

1. Resurfacing operations shall not be carried on while the establishment is open for business. The fire official shall be notified when the bowling lanes are to be resurfaced. Mechanical ventilation shall be provided to adequately remove flammable vapors. Heating, ventilating or cooling systems employing recirculation of air shall not be operated during resurfacing operations or within one hour following the application of flammable finishes. All electric motors or other equipment in the area which might be a source of ignition shall be shut down, and all smoking and use of open flame shall be prohibited during the application of flammable finishes and for one hour thereafter.

2. Pin refinishing involving the application of flammable finishes shall be done only in a special room meeting the requirements of the building code in effect at the time of first occupancy or N.J.A.C. 5:18-4. Smoking shall be prohibited at all times in refinishing rooms.

3. All power tools in the room shall be effectively grounded. A substantial metal box or other receptacle approved by the fire official shall be provided for catching dust of lathes and sanding or buffing machines thrown off during operation. The contents shall be removed daily and disposed of safely.

4. Storage of flammable or combustible liquids in such rooms shall not exceed a combined aggregate of 60 gallons in original metal containers, or five gallons individual capacity in approved safety containers in accordance with N.J.A.C. 5:18-3.28, where provisions of this section do not specifically cover conditions and operations.

5:18-3.9 Dry cleaning plants

(a) The following general provisions apply to dry cleaning plants:

1. The equipment, processes and operation of dry cleaning plants shall comply with the construction requirements of the building code in effect at the time of first occupancy and the maintenance provisions of NFPA 32 listed in Appendix 3-A, incorporated herein by reference, where the provisions of this section do not specifically cover conditions and operations.

2. Dry cleaning systems shall be classified as follows:

i. High hazard: All such establishments shall be classified as high hazard which employ gasoline or other solvents having a flash point below 100 degrees Fahrenheit per ASTM D56 listed in Appendix 3-A, incorporated herein by reference, in quantities of more than three gallons, or more than 60 gallons of combustible solvents with a flash point between 100 and 140 degrees Fahrenheit.

ii. Moderate hazard: All such establishments employing less than three gallons of volatile flammables with a flash point of less than 100 degrees Fahrenheit or less than 60 gallons of solvent with a flash point between 100 and 140 degrees Fahrenheit shall be classified as moderate hazard.

iii. Low hazard: All such establishments using solvents of other than flammable liquids or solvents with a flash point more than 140 degrees Fahrenheit in cleaning and dyeing operations shall be classified as low hazard.

(b) Fire safety requirements are as follows:

1. The layout, arrangement and construction of buildings and structures used for drycleaning operations shall comply with the applicable requirements of the building code in effect at the time of first occupancy for the appropriate use group classification, and shall be provided with fire protection and fire extinguishing equipment as required by that code or by N.J.A.C. 5:18-4. Buildings and structures and their service equipment shall be maintained in safe condition as required by this Code.

2. Every dry cleaning room, and dry dyeing room employing high and moderate hazard solvents, shall be protected with an approved automatic fire suppression system in accordance with this Code and the Uniform Construction Code.

3. Adequate portable fire extinguishing appliances of a type suitable for fighting fires involving flammable liquids shall be provided in all dry cleaning plants; at least one extinguisher shall be provided at each entrance to every room or area where flammable liquids are stored or used.

4. Smoking in all plants shall be strictly prohibited, except in smoking rooms so designated by the fire official, and "No Smoking" signs shall be posted.

(c) Storage and handling of cleaning solvents shall be as follows:

1. All solvent containers for storage of high hazard solvent shall be kept underground. Solvent storage tanks for moderate hazard systems may be inside of buildings if individual capacity of tanks does not exceed 275 gallons and the aggregate capacity of storage tanks does not exceed 550 gallons.

2. The handling of solvents from storage tanks or containers through the various machines and equipment and back to the settling and clear solvent tanks shall be through closed circuits of piping. Pipe systems shall contain a sufficient number of valves to operate the system properly and to protect the plant.

i. All piping shall be tested to a pressure of at least 50 percent in excess of normal operating pressure and proven tight and protected against physical damage.

ii. Piping, valves, fittings and ground joint unions for solvents shall be designed for the working pressures and structural stresses to which they may be subjected. They shall be of steel or other material suitable for use with the solvent. Pipe systems shall be substantially supported and protected against physical damage and excessive stresses arising from settlement, vibration, expansion or contraction. Cast iron fittings for pressure piping shall be prohibited.

3. Pumps of positive displacement-type shall have a bypass and relief valve.

4. Sight glasses, the breakage of which would permit the escape of liquids, shall be of a type not readily damaged by heat and shall be protected against physical damage.

i. Liquid level gauge glasses in moderate hazard systems shall be equipped with an automatic device which will immediately shut off the flow of solvent if the glass is broken. These liquid level gauge glasses shall be guarded against physical damage.

5. Pressure-type filters shall be equipped with a reliable pressure gauge and shall not be operated at pressures exceeding those for which they are designed. The filters shall be provided with an air-bleeding valve and line connected to discharge into the washer or into the storage tank vent line. Such air-bleeding lines shall not discharge into the room.

6. When underground treating and settling tanks are used, a separate suction and discharge connection shall be provided to the pump for removal of sludge. The suction pipe shall be carried to the tank bottom, and the discharge connection to a suitable container.

(d) The following apply to stills and condensers:

1. Steam or hot water only shall be used as the source of heat. If steam is used, a pressure regulating valve shall be installed in the steam supply line to the still.

2. Stills shall be designed for operation on the vacuum principle.

3. Stills and condensers shall be liquid and gas tight. If a relief valve is provided, it shall be equipped with a vent line extending to the outside.

4. Each still shall be provided with a combination vacuum and pressure gauge.

5. Each still shall be equipped with a constant level valve to automatically maintain the solvent liquid level in the still at the proper height.

(e) The following apply to washing machines:

1. Washing machines shall be substantially constructed. The loading door opening shall be equipped with a close fitting door so designed as to prevent solvent leaks due to splash. The machine shall be provided with interlocks to prevent cylinder rotation under power except for inching when doors are open.

i. Individual button and lint traps shall be provided for each washer.

2. The cylinders and shells of all washing machines shall be permanently and effectively grounded to dissipate static electricity in accordance with NFPA 77 listed in Appendix 3-A, incorporated herein by reference. The grounding of the cylinder in each case shall be through the trunnion shaft and, in cases where wooden cylinders are used, shall be grounded also across the inner surface of the cylinder.

3. Each washing machine shall be provided with an overflow pipe one size larger than the size of the solvent supply line to the machine. Such overflow pipe shall be connected to the shell of the washer so that the top of the overflow is below the bottom of the trunnion shaft; it shall be without shutoff valves and shall be arranged to discharge to a suitable tank. The supply pipe shall enter the washing machine above the charged liquid level.

4. In high hazard and moderate hazard systems, each washing machine shall be provided with an approved automatic fire suppression system in accordance with this Code and the building code in effect at the time of first occupancy.

(f) The following apply to drying tumblers and cabinets:

1. Drying tumblers in high hazard and moderate hazard systems shall be of substantial construction, well secured to substantial foundations, and shall be provided with self-closing explosion hatches having an area equal to at least one square foot for each 30 cubic feet of cylinder volume. Hatches shall be arranged to open away from the operator.

i. Drying tumblers in high hazard and moderate hazard systems shall be provided with a steam jet of not less than 3/8 inch size for humidifying during the drying process.

2. The cylinder and shell of all drying tumblers shall be permanently and effectively grounded to dissipate static electricity in accordance with NFPA 77 listed in Appendix 3-A, where provisions of this section do not specifically cover conditions and operations. The grounding of the cylinder in each case shall be through the trunnion shaft.

3. Drying tumblers and drying cabinets shall be ventilated to the outside air by means of properly constructed pipes or ducts connected to an exhaust fan of sufficient capacity to remove all dust, vapors, or lint generated by the process. Such discharge pipes or ducts shall be carried to a height of not less than six feet above the roof and shall be provided with cleanout facilities if used for the high hazard or moderate hazard systems.

i. Discharge pipes shall not terminate within 10 feet measured horizontally of any door, window or frame walls of any adjoining or adjacent building.

ii. The fan shall be properly housed and so interlocked as to insure operation while the drying tumbler is in use. The fan spiders, blades or running rings shall be constructed of non-ferrous metal. The fan motor shall not be mounted within the ventilating duct.

4. Each drying tumbler in high hazard or moderate hazard systems shall be provided with an approved automatic fire suppression system in accordance with this Code and the building code in effect at the time of first occupancy.

(g) The following apply to extractors:

1. Extractors shall be provided with liquid-tight covers, or they shall be designed so that none of the liquid solvent is thrown out of the extractor while it is in operation. Covers shall be equipped with automatic mechanical or electrical interlocks which will prohibit operating the extractors while the cover is open and which will prohibit opening the cover until the basket comes to rest. The basket shall have a rim of non-ferrous metal and shall be well balanced.

i. Extractors shall be provided with a drain pipe not less than 1½ inches in diameter connected direct to underground storage tanks or to a suitable aboveground container, or to the washer through an approved extractor pump with connections fitted with proper valves.

ii. Brakes, if used, shall be so designed as to prevent the creation of sparks or excessive heat.

2. The outside shell of extractors shall be permanently and effectively grounded for dissipation of static electricity in accordance with NFPA 77 listed in Appendix 3-A.

3. Extractors shall not be operated at a speed in excess of that prescribed by the manufacturer as shown on name plate, which must be provided on each machine.

4. Extractors equipped with a solvent spray nozzle for spray rinsing of garments after the primary extraction shall comply with the following provisions:

i. Installation of spray rinse equipment on existing extractors shall be subject to approval of the fire official.

ii. Extractor covers shall be made splashproof to prevent leakage of the solvent, and shall be equipped with a latch to hold the cover closed during operation.

iii. Supply pumps of positive displacement-type shall be provided with a bypass and relief valve set so as to prevent excessive pressure.

iv. Valves in the supply line between pump and outlet shall be installed in such a manner that the cutoff is effected ahead of any flexible portion of the supply line.

v. Extractor drain lines shall not be less than two inches for extractors up to and including 40 inches in diameter and three inches for extractors in excess of 40 inches in diameter.

vi. Extractors shall be provided with at least one drain line open at all times. If more than one extractor drain line is provided for the purpose of alternating use, quick opening valves or equivalent shall be installed in each line and interlocked so that when either valve is shut, the other valve is open.

vii. If a separate extractor drain tank is provided, it shall have a capacity equal to the combined total gallonage of the charged solvent extraction, the rinse and the rinse extraction.

viii. Drainage from extractors to all tanks shall be by gravity flow.

(h) The following apply to combination dry cleaning units:

1. Machines in which the washing and extracting cycles are complete within the same enclosure shall be of substantial construction. The machines shall be provided with splashproof doors, or covers, with interlocking means to prevent cylinder rotation, under power, except for inching at slow speed when doors or covers are open. Such interlocks shall provide that during the extracting cycle, opening of the door or cover will disconnect the drive motor and apply braking means to bring the cylinder to rest before access to cylinder is possible. Machines shall be provided with braking means to insure stoppage within reasonable time without the creation of sparks or excessive heat.

i. Cylinders shall be supported so as to provide sufficient clearance to prevent striking or rubbing adjacent parts during rotation.

ii. Individual button and lint traps with suitable lids shall be provided for each machine.

2. The cylinders and shells of all machines in high hazard and moderate hazard systems shall be permanently and effectively grounded to dissipate static electricity in accordance with NFPA 77 listed in Appendix 3-A, where the provisions of this section do not specifically cover conditions and operations.

3. Each machine shall be provided with an overflow pipe one size larger than the size of the solvent supply line to the machine. Such overflow shall be connected so that the top of the overflow is below the bottom of the trunnion shaft and arranged to discharge into a suitable tank. The supply pipes to machines, whether from pumps, filters or storage tanks, shall be arranged to deflect solvent steam away from tub openings.

4. The machine shall be furnished with name plate indicating maximum cylinder speed and a warning that it shall not be operated in excess of such speed.

5. Each machine in a high hazard and moderate hazard system shall be provided with an approved automatic fire suppression system in accordance with this Code and the building code in effect at the time of first occupancy.

(i) The following apply to scouring, brushing and spotting operations:

1. The brushing (prespotting) table shall have a liquid-tight top with a curb on all sides not less than one inch high. The top of the table shall be pitched so as to insure thorough draining to a 1½ inch drain connected to a suitable container especially provided and marked for that purpose.

2. All scouring or brushing and spotting (prespotting) operations utilizing solvents of a higher hazard than the solvent used in the plant dry cleaning machines shall be limited to one gallon and dispensed from an approved safety can. Additional storage shall be in approved safety cans of not over one gallon capacity, or in unopened shipping containers.

i. Scouring or brushing operations utilizing in excess of one gallon of solvents of a higher hazard than the solvent used in the plant dry cleaning machines shall be conducted only in a room or building conforming to all the requirements for a dry cleaning system utilizing the same type of solvent.

ii. The total amount of Class II and III solvents used on scouring or brushing tables or in scrubbing tubs, in accordance with (i)2i above, shall not exceed three gallons. The scouring or brushing table or scrubbing tub shall be so located as to insure thorough and effective disposal of vapors through the ventilating system. Scrubbing tubs shall be used only for articles, the character of which prevents their washing in the usual washing machines. Scrubbing tubs shall be secured to the floor and shall be provided with permanent 1½ inch trapped drains to a suitable container specially provided and marked for that purpose.

5:18-3.10 Dust explosion hazards

(a) Equipment, processes and operations which involve dust consisting of pulverized particles of any material which, if mixed with air in the proper portions, becomes explosive and may be ignited by flame or spark shall comply with the applicable requirements of this code and the provisions of this section, and shall be maintained in accordance with NFPA 61A, 61B, 61C, 65, 68, 69, 85F, 91, 120, 490, 651, 654, and 655 listed in Appendix 3-A, incorporated herein by reference, where provisions of this section do not specifically cover conditions and operations.

(b) General requirements pertaining to dust explosion hazards are as follows:

1. Equipment and processes in plants where dust hazards exist shall comply with the requirements of the following paragraphs. Where specific requirements are not otherwise established, plants producing dusts shall comply with nationally recognized good practice.

2. All dust-producing or dust-agitating machinery, such as grinding mills and separators, and all elevators, elevator legs, spouts, hoppers and other conveyors shall be provided with casing or enclosures maintained as nearly dust-tight as possible.

3. Approved magnetic or pneumatic separators shall be installed ahead of all shellers, crackers, crushers, grinding machines, pulverizers and similar machines in which the entrance of foreign materials may cause sparks to be generated.

4. Suitable dust collecting equipment shall be installed and accumulation of dust shall be kept at a minimum in the interior of buildings.

5. All machinery and metal parts of the crushing, drying, pulverizing and conveying systems shall be electrically grounded in accordance with NFPA 77 listed in Appendix 3-A.

(c) Fire safety requirements are as follows:

1. Buildings and structures in which equipment or processes involving dust hazards are housed shall comply with the applicable requirements of the building code in effect at the time of first occupancy for the appropriate use group classification and shall be provided with fire protection and fire extinguishing equipment as required by that code or by N.J.A.C. 5:18-4. Buildings and structures and their service equipment shall be maintained in a safe condition as required by this Code.

2. Smoking and the carrying of matches, the use of heating or other devices employing an open fire, or use of any spark producing equipment is prohibited in areas containing dust-producing or dust-agitating operations. Artificial lighting in such areas shall be by electricity with all wiring and electrical equipment installed in accordance with NFPA 70 listed in Appendix 3-A, incorporated herein by reference.

5:18-3.11 Crop ripening or coloring processes

(a) This section shall apply to the equipment and operations for the process of ripening bananas, tomatoes, pears or honeydew melons, and coloring tobacco, citrus fruits or other crops in tightly closed rooms, and shall include those processes where ethylene gas is introduced into the room to assist these processes.

(b) Fire safety requirements are as follows:

1. The layout, arrangement and construction of buildings and structures in which the process of ripening or coloring of crops is conducted shall comply with the applicable requirements of the building code in effect at the time of first occupancy for the appropriate use group classification, and shall be provided with fire protection and fire extinguishing equipment as required by that code. Buildings and structures and their service equipment shall be maintained in safe conditions as required by this Code.

2. The location of buildings in which crop ripening or coloring processes utilizing gas containers of ethylene are conducted shall be approved by the fire official.

i. The method for introducing ethylene shall provide positive control. The ethylene shall be measured so that the quantity introduced does not exceed one part ethylene to 1,000 parts of air.

ii. Containers storing ethylene gas shall be built in an approved manner.

iii. Ethylene gas containers other than those connected for use shall be stored outside of the building or in a special building except that not more than two portable U.S. Department of Transportation (DOT) containers not connected for use may be stored inside of the building premises. Such inside rooms or portions of buildings used for storage of these containers shall be constructed in accordance with N.J.A.C. 5:18-3.20(g)4.

iv. Ethylene piping shall be of steel pipe. Flexible connectors and hose, when used, shall be an approved type. Tubing shall be of brass or copper with not less than 0.049 inch wall thickness.

3. Electrical wiring and equipment shall be installed as specified in NFPA 70 listed in Appendix 3-A. Artificial lighting shall be by electricity only.

4. Heating of ripening and coloring rooms shall be by indirect means with low pressure steam, hot water or warm air; approved electric heaters; or approved gas heaters or approved kerosene heaters, both of which shall have sealed combustion chambers.

i. Steam and hot water pipes and radiators shall have a clearance of at least one inch to combustible material.

ii. Gas heaters and their vents shall be installed in an approved manner. Gas heaters shall be equipped with an automatic pilot device to shut off gas supply whenever the flame is extinguished.

iii. Burners for gas or kerosene heaters shall be installed so that air for combustion is taken from outside the ripening or coloring room and the products of combustion are discharged outside the building in an approved manner.

iv. Kerosene heaters shall be installed in accordance with the applicable provisions of the Building Code.

v. Electric heaters shall be of a type not having an exposed surface at a temperature higher than 800 degrees Fahrenheit and with thermostatic elements which do not produce sparks. They shall be of a type approved for use in hazardous locations.

vi. A protective guard shall be provided around any heater to prevent the possibility of its being knocked over by other equipment such as vehicles or lift trucks.

5. Open flame heaters and open lights shall not be permitted in ripening or coloring rooms using ethylene from gas tanks or cylinders. "No Smoking" signs shall be posted at every entrance and smoking shall be prohibited in the ripening or coloring rooms.

6. Rooms for ripening or coloring shall be frequently cleared of all combustible material.

5:18-3.12 Fumigation and thermal insecticidal fogging

(a) Fumigation and thermal insecticidal fogging operations shall conform to the provisions of this section and all other applicable requirements of this Code.

(b) Fire safety requirements are as follows:

1. Any building where fumigation and thermal insecticidal fogging operations are conducting shall comply with the following fire protection and safety requirements.

2. All fires, open flames and similar sources of ignition shall be eliminated from the space under fumigation or thermal insecticidal fogging. Heating, if needed, shall be by indirect means with steam or hot water.

i. Electricity shall be shut off, except that circulating fans may be used provided such equipment is designed and installed so as not to create an ignition hazard. Electrical equipment shall be designed and installed in accordance with NFPA 70 listed in Appendix 3-A.

3. The fire official shall be notified in writing at least 24 hours before any building or structure is to be closed in connection with the use of any toxic or flammable fumigant. Such notification shall give the location of the building, structure, ship or enclosed space to be fumigated or fogged as well as its character and use, the fumigants or insecticides to be used, the person or persons in charge of the operation and the date and time when it will be started. Notice of any fumigation or thermal insecticidal fogging shall be served with sufficient advance notice upon the occupants of any building or other enclosed space involved in the operation to enable them to evacuate the premises.

i. Suitable warning signs indicating the danger, type of chemical involved and recommended precautions shall be posted on all doors and entrances to the premises and upon all gangplanks and ladders from the deck, pier or land to the ship. Such notice is to be printed in red ink on white background. Letters in the headlines are to be at least two inches in height and shall state the date and time of the operation, the name and address of the person, the name of the operator in charge, together with a warning to the effect that the premises so occupied shall be vacated at least one hour before the operation is started and must not be re-entered until the danger signs have been removed by the proper authorities.

ii. All persons engaged in the business of fumigation or thermal insecticidal fogging shall maintain and have available approved protective breathing apparatus.

iii. During the period fumigation is in progress, except when fumigation is conducted in a gastight vault or tank, a capable, alert watchman or watchmen shall remain on duty at the entrance or entrances to the building, ship, or enclosed space fumigated until after the fumigation is completed and until the premises are properly ventilated and again safe for human occupancy. Sufficient watchmen shall be provided to prevent any person from entering the building, ship or enclosed space under fumigation without being observed.

4. Thermal insecticidal fogging liquids with a flash point below 100 degrees Fahrenheit shall not be used.

5. The fire official shall require that any fire detection or alarm system components be safeguarded to prevent accumulation of the fogging agent or fumigant within the devices.

5:18-3.13 Lumber yards and woodworking plants

(a) Lumber yards and woodworking plants shall comply with the applicable requirements of this Code and the provisions of this section.

(b) Fire safety requirements are as follows:

1. The layout, arrangement and construction of buildings and structures used for lumber yards or woodworking plants shall comply with the applicable requirements of the building code in effect at the time of first occupancy for the appropriate use group classification, and shall be provided with fire protection and fire extinguishing equipment as required by that code. Buildings and structures and their service equipment shall be maintained in safe condition as required by this Code and in accordance with NFPA 46 listed in Appendix 3-A, incorporated herein by reference, where the provisions of this section do not specifically cover conditions and operations.

2. Lumber shall be piled with due regard to stability of piles and in no case higher than 20 feet.

i. Driveways between and around lumber piles shall be at least 15 feet wide and maintained free from accumulation of rubbish, equipment or other articles or materials. Driveways shall be so spaced that a maximum grid system unit of 50 feet by 150 feet is produced.

ii. Permanent lumber storage shall be surrounded with a suitable fence at least six feet high, unless storage is within a building.

3. The burning of shavings, sawdust and refuse materials shall be permitted only under boilers, in furnaces or in incinerators or refuse burners safely constructed and located. Stacks shall be provided with approved spark arresters having openings not greater than ¾ inch, or other effective means provided, such as an expansion chamber, baffle walls or other effective arrangement, which will eliminate the danger from sparks. At the boiler or other points where sawdust or shavings are used as fuel, a storage bin of noncombustible construction with raised sill shall be provided.

4. Smoking shall be prohibited except in specified safe locations in buildings. Large "No Smoking" signs shall be painted on exterior building walls and on signs erected at edges of driveways. "No Smoking" signs shall be posted throughout all buildings except in specific locations designated as safe for smoking purposes.

5. Weeds shall be kept down throughout the entire yard and shall be sprayed as often as needed with a satisfactory weed killer or cut or grubbed out. Dead weeds shall be removed.

6. Debris such as sawdust, chips and shorts shall be removed regularly from piling areas and not less frequently than quarterly. Proper housekeeping shall be maintained at all times.

7. Portable fire extinguishing equipment suitable for the fire hazard involved shall be provided at convenient, conspicuous, accessible locations in open yards. When used, approved Class A portable fire extinguishers, properly protected against freezing where necessary, shall be provided so that the travel distance to the nearest unit does not exceed 75 feet. In buildings, fire protection equipment shall be provided as required by the building code in effect at the time of first occupancy.

(c) The following apply to woodworking plants:

1. Sawmills, planing mills and other woodworking plants shall be equipped with refuse removal systems which will collect and remove sawdust and shavings as produced, or suitable metal or metal-lined bins, provided with normally closed covers or automatically closing covers, shall be installed at or near such machines, and shavings and sawdust shall be swept up and deposited in such bins at sufficiently frequent intervals as to keep the premises clean. Blower and exhaust systems shall be installed in accordance with nationally recognized good practice.

2. Fire fighting equipment, either portable fire appliances or small hose supplied from a suitable water system, shall be provided near any machine producing shavings or sawdust.

3. Where specific requirements are not otherwise established, woodworking plants shall comply with NFPA 91 and 664 listed in Appendix 3-A, incorporated herein by reference.

5:18-3.14 Industrial processing ovens and furnaces

(a) The following general provisions apply to industrial processing ovens and furnaces:

1. The provisions of this section shall apply to the location, design, construction and operation of industrial processing ovens and furnaces operating at approximately atmospheric pressures and temperatures not exceeding 1,400 degrees Fahrenheit which are heated with oil or gas fuel or which during operation contain flammable vapors from the product being processed. It is the intent of this section to provide for the operation of these ovens and furnaces within certain limitations of control depending on oven or furnace design, flammable formulations and ventilation needs, the disregard of which may cause them to function in an unsafe manner, thereby becoming liable to destruction by fire or explosion. Where applicable for maintenance, NFPA 86 listed in Appendix 3-A, incorporated herein by reference, shall be used where provisions of this section do not specifically cover conditions and operations.

2. An application for a permit shall be accompanied by plans showing all essential details as to location, design, construction, controls, and calculations for safe operation. The process and materials involved shall be fully described. Catalytic combustion systems utilized for the oxidation or combustion of the exhaust gases or vapors shall be described.

(b) Fire safety requirements are as follows:

1. The layout, arrangement and construction of buildings and structures in which industrial processing ovens and furnaces are installed or operated shall comply with the applicable requirements of the building code in effect at the time of first occupancy for the appropriate use group classification, and shall be provided with fire protection and fire extinguishing equipment as required by that code. Buildings and structures and their service equipment shall be maintained in safe condition as required by this Code.

(c) Location and construction requirements are as follows:

1. Ovens, furnaces and related equipment shall be located with due regard to the possibility of fire resulting from overheating or from the escape of fuel gas or fuel oil, and the possibility of damage to the building and injury to persons resulting from explosion.

2. Ovens and furnaces shall be located at or above grade, or, if in basements, at least 50 percent of the wall area of the room in which the oven or furnace is located shall be above grade.

3. Ovens and furnaces shall be so located as to be readily accessible for inspection and maintenance and with adequate clearances to permit the proper functioning of explosion vents. Roofs and floors of ovens and furnaces shall be sufficiently insulated and ventilated to keep temperatures at combustible ceilings and floors below 160 degrees Fahrenheit.

4. Ovens and furnaces shall be constructed of noncombustible materials throughout except where the maximum oven temperature is not over 160 degrees Fahrenheit. The amount of insulation used in oven panel construction shall be enough to prevent the outside surface temperature from exceeding 160 degrees Fahrenheit or adequate guards shall be provided to protect personnel. The metal frames of ovens or furnaces shall be electrically grounded.

5. Ovens and furnaces which may contain flammable air-gas mixtures shall be equipped with relief vents for freely relieving internal

explosion pressures and all explosion-venting panels or doors shall be arranged so that when open, the full vent opening will be an effective relief area.

6. All duct work shall be constructed of noncombustible material. Ducts shall be made tight throughout and shall have no openings other than those required for the proper operation and maintenance of the system. Ducts passing through combustible walls, floors, or roofs shall have adequate insulation and clearances to prevent surface temperatures from exceeding 160 degrees Fahrenheit. Exhaust ducts shall not discharge near doors, windows or other air intakes in a manner that will permit re-entry of vapors into the building.

(d) Ventilation requirements are as follows:

1. Ovens and furnaces in which flammable or toxic vapors are liberated or through which products of combustion are circulated shall be ventilated by the introduction of a supply of fresh air and proper exhaust to the outdoors. Discharge pipes shall not terminate within 10 feet measured horizontally of any door, window or wood frame walls of any building.

2. Ventilation shall be arranged to provide vigorous and well distributed air circulation within the oven or furnace to insure that the flammable vapor concentration will be safely below the lower explosive limit at all times. Unless the oven or furnace is operated in accordance with specific approval specifying particular solvents and rate of ventilation, the rate of ventilation shall not be less than 10,000 cubic feet of fresh air per gallon of solvent evaporated in continuous process ovens or furnaces, and not less than 380 cubic feet per minute per gallon of flammable solvent evaporated in batch process ovens or furnaces.

3. Exhaust duct openings shall be located in the area of greatest concentration of vapors.

4. All exhaust shall be by mechanical means using power driven fans.

5. Safety controls shall be sufficient in number and substantially constructed and arranged to maintain the required conditions of safety and prevent the development of fire and explosion hazards.

i. Ventilation controls, suitably interlocked, shall be provided which will insure the required preventilation and ventilation of the system.

ii. Fuel safety controls, suitably interlocked and arranged to minimize the possibility of dangerous accumulations of explosive air-fuel mixtures in the heating system, shall be provided.

iii. Excess temperature controls shall be provided to maintain a safe operating temperature within the oven or furnace.

iv. Conveyor interlocks shall be provided in conveyor ovens or furnaces having a flammable vapor hazard, so that the conveyor cannot move unless ventilating fans are operating and discharging the required amount of air.

5:18-3.15 Places of assembly and education

(a) General provisions concerning places of assembly and education are as follows:

1. The decoration, operation or use of places of assembly and education shall comply with the applicable requirements of this Code and the provisions of this section.

2. A place of assembly shall be a room or space accommodating individuals for religious, recreational, political, social or amusement purposes or for the consumption of food and drink, including all connected rooms or spaces with a common means of egress and entrance.

3. Each place of assembly or education shall be posted with an approved legible sign in contrasting colors conspicuously located near the main exit from the room or space stating the number of occupants permitted within such space. The number of occupants permitted shall be determined by the Fire Safety Code, N.J.A.C. 5:18-4.11(f). Assembly rooms or spaces which have multiple use capability shall be posted for all such uses. The owner shall be responsible for installing and maintaining such signs.

i. An owner shall not permit overcrowding or admittance of any person beyond the established posted occupant load of any place of assembly or education. The fire official, upon finding overcrowding conditions or obstruction in aisles, passageways or other means of egress, or upon finding any condition which constitutes a hazard to life and safety, shall cause the performance, presentation, spectacle or entertainment to be stopped until such a condition or obstruction is corrected and the addition of any further occupants prohibited until the posted occupant load is reestablished.

(b) Fire safety requirements are as follows:

1. The layout, arrangement and construction of buildings and structures in which rooms or places of assembly or education are located shall comply with the applicable requirements of the building code in effect at the time of first occupancy for the appropriate use group classification, and shall be provided with fire protection and fire extinguishing equipment as required. Buildings and structures and their service equipment shall be maintained in safe condition.

2. Employees or attendants of places of assembly and education shall be instructed in the proper use of portable fire extinguishers and other manual fire suppression equipment if provided.

3. A fire safety and evacuation plan shall be prepared as set forth in N.J.A.C. 5:18-3.3(p). All employees shall be trained in the duties they are to perform under the plan.

(c) The following apply to decorative material:

1. Decorative materials shall include all such materials as curtains, draperies, streamers, fabrics, cotton batting, straw, hay, vines, leaves, stalks, trees and moss used for decorative effect, including surface coverings applied over interior finish materials for acoustical or decorative purposes. All such decorative materials shall be noncombustible or they shall be flame resistant complying with the requirement of NFPA 701 listed in Appendix 3-A, incorporated herein by reference. The term decorative materials shall not include ordinary window shades or interior finish materials, such as wainscotting, paneling or wallpaper which are regulated by the Uniform Construction Code.

i. A finished floor covering shall be exempt from the requirements of this paragraph, provided, however, that in any case where the fire official finds a floor surface to be of unusual hazard, the floor surface shall be considered a part of the interior finish for the purposes of this code.

ii. No burlap, fish netting, or other similar type material shall be suspended from the ceiling of any building, unless approved by the fire official.

2. The fire official shall subject decorative materials, where required to be flameresistant, to a field test in accordance with Chapter 6 of NFPA 701 listed in Appendix 3-A.

i. Treatments used to accomplish this flameproofing shall be renewed as often as may be necessary to maintain the flameproof effect. The fire official may require a certificate to be supplied by the firm or person providing the flameproofing and such certificate shall indicate the date of treatment, the name of the chemical used, and nature of the process. The certificate shall be filed with the fire official.

ii. Pyroxylin coated fabric used as a decorative material in accordance with (c)1 above or as a surface covering on fixed furnishings shall be limited in amount to the following: such fabrics containing 1.4 ounces or more of cellulose nitrate per square yard shall not be used in excess of a total amount equivalent to one square foot of fabric surface to 15 cubic feet of room volume. Each square foot of such fabric which contains 1.7 ounces or more of cellulose nitrate per square yard shall be counted as two square feet in making this computation.

(d) In places of assembly or education, a motion picture screen or screen masking shall not be used which will ignite and allow flame to spread over the surface when exposed to the field test described in (c)2 above.

(e) The following apply to means of egress:

1. The operator or the person in charge of operation or use of any place of assembly or education shall check egress facilities before such building is occupied for any use, to determine compliance with the provisions of this section. If such inspection reveals that any element of the required means of egress is obstructed, inaccessible, locked, fastened or otherwise unsuited for immediate use, admittance to the building shall not be permitted until necessary corrective action has been completed.

i. As may be required by the fire official, not more than 10 minutes prior to the scheduled commencement of any activity, event, performance, show, meeting, function, or other occasion for which persons will gather at a place of assembly or education with a capacity of 50 or more people, the owner or his authorized agent shall orally notify all attendees concerning the location of the exits to be used in case of fire or other emergency, and shall also notify all attendees of smoking regulations.

ii. In theaters, motion picture theaters, auditoriums and other similar places of public assembly where there are noncontinuous programs, an audible or visual announcement shall be made immediately prior to the start of each program to notify occupants of the location of the exits to be used in case of a fire or other emergency.

2. During the period of occupancy, an egress door shall not be locked, bolted or otherwise fastened or obstructed by any means, so that the door cannot be opened from the inside by the use of the ordinary door latch or knob or by pressure on the door or on a panic release device except as provided in N.J.A.C. 5:18-3.5(c).

3. Each room where chairs, or tables and chairs, are used the arrangement shall be such as to provide for ready access by aisles to each egress door. Aisles leading directly to an egress door shall have not less than 44 inches clear width. When serving an occupant load of 50 or less, such required clear width shall be 37 inches. Aisles shall not be obstructed by chairs, tables or other objects.

4. A part of a stairway, whether interior or exterior, or of a hallway, corridor, vestibule, balcony or bridge leading to a stairway or exit shall not be used in any way that will obstruct or restrict its use as a means of egress or that will present a hazardous condition.

5. A plan showing the occupant load, seating diagram and location of exits and of aisles leading thereto shall be submitted for approval to the fire official and an approved copy shall be kept on the premises. Temporary deviation from the specifics of the approved seating diagram shall be permitted provided the occupant load is not increased and the intent of this section is maintained.

i. The employees or attendants of places of public assembly and education shall be trained and drilled in the duties they are to perform in case of fire, panic or other emergency.

6. The signs and lighting of means of egress required for places of assembly or education shall be maintained in proper operating condition as required by N.J.A.C. 5:18-3.5(e).

(f) The following apply to projection rooms:

1. Every projection room shall be of permanent construction consistent with the requirements of the building code in effect at the time of first occupancy.

2. Temporary projection rooms shall be permitted for incidental amusement and educational purposes by the fire official when in accordance with N.J.A.C. 5:18-3.

3. Each projection room shall be provided with rewind and film storage facilities. A maximum of four containers for flammable liquids not greater than 16 ounce capacity and of a nonbreakable type may be permitted in each projection room.

5:18-3.16 Service stations, garages and fuel dispensing operations

(a) General provisions concerning service stations, garages and fuel dispensing operations are as follows:

1. The provisions of this section shall apply to all service stations and all other locations where flammable and combustible fuels are stored and dispensed to motor vehicles, and all buildings and structures used for the storage or servicing of motor vehicles. The maintenance provisions of NFPA 30A listed in Appendix 3-A, incorporated herein by reference, shall apply where the provisions of this section do not specifically cover conditions and operations.

2. The layout, arrangement and construction of buildings and structures shall comply with the applicable requirements of the building code in effect at the time of first occupancy and shall be provided with fire protection and fire extinguishing equipment as required.

3. All service stations, garages, buildings, storage areas and premises shall be operated and maintained in a safe condition at all times and shall conform to all applicable provisions of this Code.

(b) Flammable and combustible liquids used or intended to be used as fuel for motor vehicles shall be stored in underground tanks on the premises in conformance with N.J.A.C. 5:18-3.28. Flammable and combustible fuel may be stored in approved containers inside a building provided the total amount does not exceed 120 gallons.

(c) Fuel dispensing requirements are as follows:

1. Motor vehicle fuels shall be transferred from underground storage tanks to vehicle tanks by means of approved dispensing units located at least 15 feet from a property line. A pump or other mechanical equipment for dispensing Class I flammable liquids shall not be installed inside a building or less than 10 feet from the outside of the building unless it has been specifically approved by the construction official. The transfer of such liquids shall not be made into an open container.

2. Special type dispensers, such as coin or card operated devices, for self-service operations shall be installed and operated in accordance with the Uniform Construction Code.

3. These provisions shall not prevent the use of portable or semi-portable tanks and dispensing devices to refuel vehicles or motorized equipment on property not generally accessible to the general public provided specific approval is obtained from the fire official.

(d) The following apply to fuel pumps and dispensers:

1. Dispensers shall be designed to prevent leakage or accidental discharge and shall be provided with remote master control devices to shut off all pumps in the event of an emergency. Such devices shall be adequately identified as pump shutoff controls.

2. All dispensers shall be protected from vehicle damage by mounting them on a concrete platform at least 6 inches in height extending a minimum of 12 inches beyond the dispenser in any direction.

i. When the protective devices required above are diminished in effectiveness by repaving or other circumstances, additional safeguards shall be provided such as pipe bollards or guard rails.

3. All dispenser hoses shall be equipped with automatic self-closing type nozzles.

4. Each service station open to the public shall have an attendant on duty familiar with the location of pump controls and operation of safety equipment.

5. An approved, rigidly anchored emergency shutoff valve designed to close automatically in the event of a fire or severe impact shall be properly installed in the liquid supply line at the base of each dispenser supplied by a remote pump. The valve shall be so installed that the shear groove is flush with or within 3/4 inch of the top of the concrete dispenser island, and that there is ample clearance provided around the valve body and operating parts. In cases of overhead-type dispensers, the valve shall be installed at the liquid supply line inlet of each dispenser. If installed, a vapor return line inside the dispenser housing shall have a shear section or approved flexible connector so that the liquid supply line emergency shutoff valve will function properly. All emergency shutoff valves shall further be installed and maintained in accordance with the manufacturer's instructions, shall be tested at the time of initial installation and shall be tested at least yearly thereafter by manually tripping the hold-open linkage.

(e) Fire safety requirements are as follows:

1. Motors of vehicles receiving fuel shall be shut off during the fueling operation. Smoking shall not be permitted in areas where motor vehicles are fueled or serviced.

2. All heating and ventilating appliances and equipment shall comply with the provisions of the building code in effect at the time of first occupancy. Other devices generating a glow, spark or flame capable of igniting flammable vapors shall not be installed or used within 18 inches of the floor of a building without proper ventilation.

3. Floor drains to oil or gasoline separators or traps discharging to the sewer shall be installed in accordance with the Uniform Construction Code. Contents of oil separators or traps of floor drainage systems shall be collected at sufficiently frequent intervals and removed from the premises to prevent oil from being carried into the sewers. Self-closing metal cans shall be used for all oily waste or waste oils.

4. A Class I flammable liquid shall not be used in any building for washing parts or removing grease or dirt.

5. Service station buildings shall not contain basements or rooms partially below grade. Pits in service areas shall comply with the requirements of the Uniform Construction Code.

6. Fire extinguishers shall be provided in all service stations of a size, type and location approved by the fire official, and shall be maintained in accordance with NFPA 10 listed in Appendix 3-A, incorporated herein by reference, where the provisions of this section do not specifically cover conditions and operations.

7. Warning signs shall be visibly posted in every fuel dispensing area. The signs shall indicate: Smoking is prohibited; and, Engine must be shut off during refueling; and additional signage as required by N.J.A.C. 5:18-3.28(b)2iii.

8. Operating instructions shall be visibly posted on every pump at a private unattended fuel dispensing area.

(f) Marine service stations shall be installed and operated in conformance with NFPA 30A and 303 listed in Appendix 3-A, incorporated herein by reference.

(g) The following apply to gaseous motor fuels:

1. Motor fuel service stations which store, handle and dispense gaseous motor fuels in addition to or instead of flammable and combustible liquid motor fuels shall comply with the provisions of this section.

2. The storage, handling and dispensing of LP gas as a motor fuel shall comply with the requirements of N.J.A.C. 5:18-3.30 and NFPA 58 listed in Appendix 3-A, incorporated herein by reference.

3. The compressing, storage, handling and dispensing of natural gas as a motor fuel shall comply with the applicable provisions of NFPA 54 listed in Appendix 3-A, incorporated herein by reference.

4. The use of liquefied petroleum gas (LP gas) and compressed natural gas (CNG) for self-service operations in service stations open to the public shall be prohibited.

5:18-3.17 Tents and air-supported and other temporary structures

(a) General provisions concerning texts and air-supported and other temporary structures are as follows:

1. The provisions of this section shall apply to air-supported, air-inflated, membrane-covered cable and membrane-covered frame structures, collectively known as membrane structures, erected for a period of less than 90 days. Those erected for a longer period of time shall comply with the building code in effect at the time of first occupancy.

2. The entire membrane or air-supported structure system shall be inspected at regular intervals to assure that the installation is maintained in proper condition.

i. Every three months, the owner of the membrane or air-supported structure shall file a maintenance inspection report. The inspection report shall verify that the structure has been inspected and serviced by a qualified representative of the structure's manufacturer.

ii. All anchors shall be inspected daily and shall be adjusted or repaired immediately to insure a secure base attachment and seal.

iii. The fabric envelope shall be inspected daily and any fabric damage shall be repaired immediately to prevent more extensive damage.

(b) Construction requirements are as follows:

1. All structures shall be constructed and erected in conformance with requirements of the building code in effect at the time of first occupancy and maintained in accordance with NFPA 102 listed in Appendix 3-A, incorporated herein by reference, where the provisions of this section do not specifically cover conditions and operations.

2. All membrane shall be constructed of flame resistant in a manner approved by the fire official. The membrane material shall be either noncombustible as defined in N.J.A.C. 5:18-3.2 or flame resistant conforming to NFPA 701 listed in Appendix 3-A, incorporated herein by reference.

3. An affidavit or affirmation shall be submitted to the fire official and a copy retained on the premises on which the membrane or air-supported structure is located, attesting to the following information relative to the flame resistance of the fabric:

i. The names and addresses of the owners of the membrane or air-supported structure;

ii. The date fabric was last treated with flame resistant solution;

iii. The trade name or kind of chemical used in treatment;

iv. The name of person or firm treating the material; and

v. The name of testing agency and test standard by which the fabric was tested.

4. Operating pressure shall be maintained at the design pressure specified by the manufacturer to assure structural stability and to avoid excessive distortion during high wind or snow loads.

5. Under high wind over 50 miles per hour or snow conditions, the use of doors in air-supported structures shall be controlled to avoid excessive air loss. Doors shall not be left open under any conditions.

(c) The following apply to means of egress:

1. All membrane or air-supported structures, and every balcony or tier thereof considered separately, shall be provided with means of egress meeting the following provisions:

i. At least two exits as remote from each other as practical and leading directly to the outside shall be provided. When the occupant load exceeds 500, additional exits shall be provided in accordance with Table 3.17(c)1 below.

ii. The length of travel to an exit shall not be greater than 100 feet.

iii. The aggregate clear width of all elements of a means of egress from any membrane or air-supported structure shall be determined on a basis of not less than one unit of 22 inches width for each 100 persons. Exit openings shall not be less than 36 inches wide and aisles, corridors or passageways shall not be less than 44 inches wide.

iv. Grandstands and bleachers shall comply with the requirements of the building code in effect at the time of first occupancy in respect to occupant loading, type of construction, design, aisles and seats.

v. The height of doors, aisles or passageways shall in no case be less than 6⅔ feet.

vi. When exit doors are located above the ground level, a ramp approved by the fire official shall be provided on both sides of the doorway.

vii. Exit doors from air-supported structures shall swing in the direction of exit travel. All such doors shall be capable of automatically closing against operating pressures. Fasteners on the door shall be capable of being readily opened from the inner side. The opening force on the door shall not exceed 15 pounds.

viii. Exit openings from any tent shall remain open or may be covered by canvas provided said coverings shall be free sliding on a proper support. The support shall not be less than 12 inches above the top of the opening. The coverings shall be so arranged that, when open, no part of the covering shall obstruct the opening; and, said coverings shall be of a color or colors which definitely contrast with the color of the tent.

ix. Exits, aisles and passageways leading to them shall be adequately lighted at all times when said structures are occupied. Artificial light shall be provided whenever natural light is inadequate.

x. Exit doorways shall be adequately indicated by signs reading "Exit" in red letters on a white background or in other approved distinguishable colors. Sign letters shall be at least six inches high and not less than ¾ inch in width. "Exit" signs shall be illuminated in membrane and air-supported structures with occupant loads over 100 persons in the following manner:

(1) Two separate electrical sources for occupant loads over 600; and

(2) Two separate electrical circuits, one of which shall be separate from other circuits, for occupant loads under 600.

Table 3.17(c)1.
NUMBER OF ADDITIONAL EXITS

Capacity	Minimum number of exits
501 to 900	3
901 to 1,500	4
over 1,500	one additional for each 500 persons

(d) Fire safety requirements are as follows:

1. Hay, straw, shavings or similar combustible materials shall not be allowed within any tent or air-supported structure used for public assembly other than that necessary for the daily feeding and care of animals. Sawdust and shavings may be used for a public performance or exhibit when kept damp. Combustible materials shall not be permitted under stands or seats at any time. The area within, and adjacent to the membrane or air-supported structure, shall be maintained clear of all flammable material or vegetation which will create a fire hazard within a distance of 20 feet from the structure. All combustible trash shall be regularly (daily) removed from the structure during the period that the structure is used by the public.

2. Gasoline, gas, charcoal or other cooking device or any other unapproved, open flame shall not be allowed inside or within 20 feet of the membrane or air-supported structure.

3. Spot or effect lighting shall be by electricity only; and all combustible construction within six feet of such equipment shall be protected with asbestos not less than ¼ inch thick or other approved noncombustible insulation.

4. Membrane or air-supported structures shall not be used for the display of motion pictures unless safety film is used.

5. Proper clearance shall be maintained between the fabric envelope and all material or equipment stored inside the air-supported structure. There shall be a minimum clearance of at least three feet between the envelope and the inside contents.

6. Fire extinguishing equipment of approved types shall be furnished by the owner or operator of membranes or air-supported structures in such amount and in such locations as may be directed by the fire official. Such fire extinguishing equipment shall be maintained in proper working order and shall be operated by employees of said operation who shall be properly trained for the purpose, and who shall be required to exhibit their skill on order of the fire official.

5:18-3.18 Vehicle tire rebuilding plants

(a) The equipment, processes and operation of automobile tire rebuilding and recapping plants shall comply with the applicable requirements of this Code and the provisions of this section.

(b) Fire safety requirements are as follows:

1. The layout, arrangement and construction of buildings and structures used for tire rebuilding or recapping shall comply with the applicable requirements of the building code in effect at the time of first occupancy for the appropriate use group classification, and shall be provided with fire protection and fire extinguishing equipment as required by that code. Buildings and structures and their service equipment shall be maintained in safe condition as required by this Code.

2. Fire doors or other opening protectives to exit or elevator enclosures or similar shaft enclosures required by the Uniform Construction Code shall be kept closed except when the opening is in actual use.

3. When tire rebuilding plants are required to be separated from other uses in the building by the Uniform Construction Code, such separation shall be maintained in good condition and shall not be pierced or broken in any manner. When a sprinkler system is required in a tire rebuilding plant, it shall be maintained in proper and continuous working order.

4. Buffing machines shall be located in a room separated from the remainder of the plant as required by the Uniform Construction Code and fire doors in such separations shall be maintained free of all obstructions at all times. Each machine shall be connected to an ample dust collecting system conforming to NFPA 91 listed in Appendix 3-A, incorporated herein by reference.

5. Each room where rubber cement is used or mixed, or flammable or combustible solvents are applied, shall be equipped with effective mechanical or natural ventilation.

5:18-3.19 Vehicle wrecking yards, junkyards, and waste material handling plants

(a) General provisions concerning vehicle wrecking yards, junkyards and waste material handling plants are as follows:

1. The equipment, processes and operation of vehicle wrecking yards, junk yards and waste material handling plants shall comply with the applicable requirements of this Code and the detail provisions of this section.

2. Materials stored within a vehicle wrecking yard, junk yard or waste material handling plant shall not be located as to seriously expose adjoining or adjacent properties to any hazard of fire or explosion.

(b) Fire safety requirements are as follows:

1. The layout, arrangement and construction of buildings and structures used in connection with a vehicle wrecking yard or waste material handling plant shall comply with the applicable requirements of the building code in effect at the time of first occupancy for the appropriate use group classification, and shall be provided with fire protection and fire extinguishing equipment as required by that code. Buildings and structures and their service equipment shall be maintained in safe condition as required by this Code.

2. Reasonably safe aisles, driveways and uniform passageways shall be provided to permit reasonable access for firefighting operations. This shall include areas where stripped vehicle bodies are stored.

3. Picking rooms shall be provided with exhaust systems of sufficient capacity to remove dust and lint.

4. The burning of wrecked or discarded vehicles, or any parts thereof, or junk, or any waste materials shall be prohibited unless specifically authorized by the fire official.

5:18-3.20 Welding or cutting, calcium carbide and acetylene generators

(a) Welding or cutting shall include gas, electric arc or flammable liquid welding or cutting or any combination thereof. The operation and maintenance of equipment for use of such materials shall comply with the provisions of this section and NFPA 51 listed in Appendix 3-A, incorporated herein by reference, where provisions of this section do not specifically cover conditions and operations.

(b) For the purpose of this section and as used in this Code, the following words and terms shall have the meaning shown:

"Machine" means a device in which one or more torches using fuel gas and oxygen are incorporated.

"Manifold" means an assembly of pipe and fittings for connecting two or more cylinders for the purpose of supplying gas to a piping system or directly to a consuming device.

"Oxygen manifold, high pressure" means a manifold connecting oxygen containers having a U.S. Department of Transportation (DOT) service pressure exceeding 200 psig.

"Oxygen manifold, low pressure" means a manifold connecting oxygen containers having a DOT service pressure not exceeding 200 psig.

"Piping" means rigid conduit.

"Portable outlet header" means an assembly of piping and fittings used for service outlet purposes which is connected to the permanent service piping by means of hose or other nonrigid conductors.

"Station outlet" means the point at which gas is withdrawn from the service piping system.

"Tubing" means semi-rigid conduit.

(c) General requirements are as follows:

1. In the performance of welding or cutting operations, only approved equipment shall be used and the equipment shall be installed and operated in accordance with nationally recognized good practice.

2. A permit for welding or cutting operations shall not be issued unless the individuals in charge of performing such operations are capable of doing such work in a safe manner. Demonstration of a working knowledge of the provisions of this section shall constitute acceptable evidence of compliance with this requirement.

3. Companies, corporations, copartnerships and owner-operators required to have a permit shall maintain a record of all locations

where welding or cutting operations are performed and have it available for inspection by the fire official.

(d) Fire safety requirements are as follows:

1. The layout, arrangement and construction of buildings and structures designed and approved for welding shall comply with the applicable requirements of the building code in effect at the time of first occupancy for the appropriate use group classification, and shall be provided with fire protection and fire extinguishing equipment as required by that code. Buildings and structures and their service equipment shall be maintained in safe condition as required by this Code.

2. Before welding or cutting operations are begun in areas not designed or approved for the purpose, specific authorization shall be obtained from the owner of the premises or a duly authorized agent.

3. When welding or cutting operations are performed above or within 35 feet of combustible construction or material exposed to the operation, or within 35 feet of the floor, ceiling or wall openings so exposed, the requirements listed in (d)3 i through iii below shall be met:

i. Such combustible construction or material shall be protected by noncombustible shields or covers from possible sparks, hot metal or oxide.

ii. Such floor, ceiling or wall openings shall be protected by noncombustible shields or covers.

iii. A fire watcher shall be provided to watch for fires, make use of portable fire extinguishers or fire hose, and perform similar fire prevention duties. The fire watcher shall remain on the job at least 30 minutes after the welding or cutting operations have been completed to insure that no fire exists. A signed inspection report attesting to that fact shall be filed and available for inspection by the fire official.

4. One portable fire extinguisher having a rating of not less than 2-A:20-B:C shall be kept at the location where welding or cutting is to be done, and one portable fire extinguisher having a rating of not less than 2-A:10-B:C shall be attached to all portable welding carts.

5. Welding or cutting shall not be done in or near rooms or locations where flammable gases, liquids or vapors, lint, dust or loose combustible stocks are present when sparks or hot metal from the welding or cutting operations may cause ignition or explosion of such materials.

6. Except as provided herein, welding or cutting shall not be performed on containers and equipment which contain or have contained flammable liquids, gases or solids until these containers and equipment have been thoroughly cleaned or inerted or purged; except that "hot tapping" may be permitted on tanks and pipe lines.

7. Sprinkler protection shall not be shut off while welding or cutting work is being performed. When welding or cutting is done close to automatic sprinkler heads, sheet asbestos or damp cloth guards may be used to shield the individual heads, but shall be removed when the work is completed.

(e) Gas welding and cutting requirements are as follows:

1. Devices or attachments facilitating or permitting mixture of air or oxygen with combustible gases prior to consumption, except at the burner or in a standard torch or blow pipe, shall not be allowed unless approved for the purpose.

2. Fuel gas cylinders stored inside of buildings, except those in actual use or attached ready for use, shall be limited to a total capacity of 2,000 cubic feet of gas or 300 pounds of liquefied petroleum gas. Storage exceeding 2,000 cubic feet total gas capacity of cylinders or 300 pounds of liquefied petroleum gas shall be in a separate room in accordance with (h)4 and (h)4i below, or cylinders shall be stored outside or in a separate building. All compressed gas cylinders in storage or in service shall be adequately secured to prevent falling or being knocked over.

i. Separate rooms or buildings for fuel gas storage shall be well ventilated. Heating shall be by steam, hot water or other indirect means. Heating by flames or fires shall be prohibited in outside generator houses or inside generator rooms or in any enclosure communicating with them. All electrical wiring and equipment in outside generator houses or inside generator rooms shall be reasonably safe to persons and property. When electrical wiring and equipment are used in outside generator houses or inside generator rooms, such electrical wiring and equipment shall be of a type approved for use in Class I, Division 2, hazardous locations as specified in NFPA 70 listed in Appendix 3-A, incorporated herein by reference, and such equipment shall be installed in accordance with nationally recognized safe practice. Sources of ignition shall be prohibited in outside generator houses or inside generator rooms.

ii. Cylinders permitted inside of buildings shall be stored at least 20 feet from highly combustible materials and where they will not be exposed to excessive rise in temperature, physical damage or tampering by unauthorized persons.

iii. Oxygen cylinders in storage shall be separated from fuel gas cylinders or combustible materials (especially oil or grease), a minimum distance of 20 feet or by a noncombustible barrier at least five feet high having a fire resistance rating of at least one-half hour.

iv. Oxygen cylinders shall not be stored in inside acetylene generator rooms.

v. Oxygen cylinders stored in outside generator houses shall be separated from the generator or carbide storage rooms by a noncombustible partition having a fire resistance rating of at least one hour. This partition shall be without openings and shall be gas-tight.

vi. Cylinders of dissolved acetylene shall be stored with the valve end up to minimize the possibility of solvent being discharged as liquid.

3. When moving compressed gas cylinders by crane, suitable cradles shall be used to prevent the possibility of dropping them. Ordinary rope slips or electromagnets shall not be used.

4. Fuel gas cylinders shall be placed with valve end up whenever they are in use.

5. The user shall not transfer gases from one cylinder to another or mix gases in a cylinder.

6. When a cylinder is not in use, the valve shall be closed and the valve protection cap shall be in place, hand-tight.

7. A cylinder or cylinder manifold for oxygen shall be provided with a pressure regulating device intended for use with oxygen, and so marked.

8. Empty cylinders shall have their valves closed while in storage and during shipment.

9. Fuel gas shall not be used from cylinders through torches or other devices equipped with shutoff valves without reducing the pressure through a suitable regulator attached to the cylinder valve or manifold.

i. Pressure adjusting screws on regulators shall be fully released before the regulator is attached to a cylinder and the cylinder valve opened.

ii. Before a regulator is removed from a cylinder valve, the cylinder valve shall be closed and the gas released from the regulator.

10. Valves on cylinders or compressed gas shall be opened slowly.

11. Cylinders, valves, regulators, hose and other apparatus and fittings containing or using oxygen shall be kept free from oil or grease. Oxygen cylinders, apparatus and fittings shall not be handled with oily hands, oily gloves, or greasy tools or equipment.

12. Acetylene gas shall not be generated, piped (except in approved cylinder manifolds and cylinder manifold connections), or utilized at a pressure in excess of 15 psig unless dissolved in a suitable solvent in cylinders manufactured according to DOT 49 CFR listed in Appendix 3-A, incorporated herein by reference. Acetylene gas shall not be brought in contact with unalloyed copper except in a blowpipe or torch.

13. Oxygen and fuel gas cylinders and acetylene generators shall be placed far enough away from the welding area to prevent them from being heated by radiation from heated materials, by sparks or slag, or by misdirection of the torch flame.

14. When gas welding or cutting operations are discontinued for a substantial period of time, such as during lunch hour or overnight, the torch valve shall be closed and the gas supply to the torch completely shut off.

15. Welding or cutting work shall not be supported on compressed gas cylinders or containers.

16. Tests for leaks in any piping system or equipment shall be made with soapy water. Flames shall not be used.

(f) Electric arc welding and cutting requirements are as follows:

1. The frame or case of electric arc welding or cutting machines, except internal combustion engine driven machines, shall be grounded. Ground connections shall be mechanically strong and electrically adequate for the required current.

2. Welding current return circuits from the work to the machine shall have proper electrical contact at all joints and periodic inspection shall be made to ascertain that proper electrical contact is maintained.

3. When electric arc welding or cutting is to be discontinued for any substantial period of time, such as during lunch hour or overnight, all electrodes shall be removed from the holders, the holders shall be carefully located so that accidental contact cannot occur, and the machines shall be disconnected from the power source.

(g) The following apply to calcium carbide systems:

1. Containers used for the storage of calcium carbide shall be of metal of sufficient strength to insure handling without rupture, and shall be provided with a screw top or its equivalent. They shall be of water-tight and air-tight construction. Solder shall not be used on joints in such manner that fire would disrupt the package. Packages shall be marked "Calcium carbide—Dangerous If Not Kept Dry".

2. Storage of calcium carbide inside buildings shall be in a dry, waterproof and well ventilated location.

i. Calcium carbide not in excess of 600 pounds may be stored inside of buildings or in the same room with fuel gas cylinders, but not with oxygen cylinders.

ii. Calcium carbide in excess of 600 pounds, but not in excess of 5,000 pounds, shall not be stored in a building containing other uses unless in an acetylene generator room or separate room or compartment in a one-story building without a basement underneath the carbide storage section. Such rooms shall be separated from the remainder of the building by construction having a fire resistance rating required under the applicable provisions of the building code in effect at the time of first occupancy. Openings to other parts of the building shall be protected by approved self-closing fire doors. Adequate ventilation shall be provided. This storage room shall not be used for any other purpose.

3. Calcium carbide in excess of 5,000 pounds shall be stored in buildings not exceeding one story in height without a basement and used for no other purpose, or in outside acetylene generator houses. Location of such storage buildings shall be outside congested mercantile and manufacturing districts. If the storage building is of noncombustible contruction, it may adjoin other one-story buildings if separated therefrom by unpierced fire walls; if detached less than 10 feet from such building or buildings, there shall not be an opening within that distance. If the storage building is of combustible construction, it shall not be within 20 feet of any other one of two-story building, nor within 30 feet of any other building exceeding two stories.

(h) The following apply to acetylene generators:

1. Acetylene generators shall be of approved type, and shall be plainly marked with the rate in cubic feet of acetylene per hour for which they are designed, the amount or weight of carbide necessary for a single charge, the manufacturer's name and address, and the name or number of the type of generator.

2. Stationary generators shall be installed either in a well ventilated one-story noncombustible outside generator house, or in a well ventilated room or compartment of ample size and of construction as outlined in (h)4 below, either in a one-story building or on the top floor or roof of a multistory building. The storage of fuel gas cylinders in such rooms or compartments shall not exceed a total capacity of 2,000 cubic feet of gas, 300 pounds in case of liquefied petroleum gas.

3. The walls or partitions, floor and ceiling of such room or compartment shall be constructed having fireresistance ratings as required by the applicable provisions of the building code in effect at the time of first occupancy. At least one wall of an inside generator room shall be an exterior wall.

i. Openings from a generator room or compartment to other parts of the building shall be protected by an approved self-closing fire door of the swinging type and close into a rabbet, or otherwise be made tight to prevent passage of flame around the edge. Exit doors shall be located so as to be readily accessible in case of emergency. Windows, if provided in partitions, shall be wired glass in approved metal frames with fixed sash.

ii. A portion of the exterior wall equal to not less than 10 percent of the combined areas of the enclosing walls shall be of light noncombustible material such as single thickness, single strength glass. Single thickness, single strength window glass skylights, or lightly fastened roof hatch covers, swinging doors in exterior wall opening outward, sheet metal siding or lightly fastened roofs, may be accepted in part or entirely in lieu of the glass area or its equivalent, provided the required percentage of explosion venting area is thus obtained.

4. Portable generators shall not be used in rooms of total volume less than 35 times the total gas generating capacity per charge of all generators in the room. The gas generating capacity in cubic feet per charge shall be assumed as four and one-half times the weight of carbide per charge in pounds. Generators shall not be used in rooms having a ceiling height less than 10 feet. An acetylene generator shall not be moved by derrick, crane or hoist while charged.

5. Generators shall be placed where water will not freeze. Common salt (sodium chloride) or other corrosive chemical shall not be used as a protection against freezing.

6. Cylinders of fuel gases stored inside a building, except those in actual use or attached ready for use, shall be limited to a total capacity of 2,000 cubic feet of gas or 300 pounds of liquefied petroleum gas. For storage in excess of 2,000 cubic feet total gas capacity of cylinders or 300 pounds of liquefied petroleum gas, a separate room or compartment as required by (g)2ii above shall be provided, or cylinders shall be kept outside or in a special building. Buildings, rooms or compartments provided for such storage shall be well ventilated and shall be without open flame heating or lighting devices.

7. Cylinders or oxygen stored inside of buildings shall comply with the requirements for oxygen manifolds covered in (i)2 below.

(i) The following apply to piping manifolds and hose systems for fuel gases and oxygen:

1. Except as herein provided, piping shall be steel, wrought iron, brass or copper pipe, or seamless copper, brass or stainless steel tubing. Piping and fittings shall comply with nationally recognized good practice except that pipe and fittings shall be standard weight as a minimum for sizes not over six inches in normal size.

i. Acetylene piping shall be steel or wrought iron pipe only.

ii. Oxygen piping at pressures in excess of 700 pounds per square inch shall be stainless steel or nonferrous tubing.

iii. Joints in steel or wrought iron pipe shall be welded or made up with threaded or flanged fittings, or rolled, forged or cast steel, or malleable iron fittings may be used. Joints in brass or copper pipe may be welded, brazed, threaded or flanged. Joints in seamless copper, brass or stainless steel tubing shall be by approved gas tubing fittings or shall be brazed. Socket type points in brass or copper pipe or in seamless copper, brass or stainless steel tubing shall be brazed with silver brazing alloy or similar high melting point filler. Cast iron fittings shall be prohibited. Threaded connections in oxygen piping shall be tinned, or made up with litharge and glycerine, or other joint compound approved for oxygen service and applied to male threads only.

iv. Piping shall be protected against physical damage, and allowance made for contraction, expansion, jarring and vibration. If laid underground, it shall be below the frost line and protected against corrosion. Low points in piping shall be provided with drip pots and drain valves, the latter to be normally closed with screw cap or plugs.

v. All piping shall be tested and proved tight at one and one-half times its maximum working pressure. Any medium used for testing oxygen lines shall be oil free.

vi. All buried pipe and tubing and outdoor ferrous pipe and tubing shall be covered or painted with a suitable corrision-resisting material.

2. Oxygen manifolds shall not be located in an acetylene generator room. Oxygen manifolds shall be located at least 20 feet away from both highly flammable material, such as oil or grease, and combustible gas cylinders unless the combustible gas cylinders are separated by a fire resistive partition constructed as required by (g)2ii above.

i. The aggregate capacity of oxygen cylinders connected to one manifold inside a building shall not exceed 6,000 cubic feet. More than one such manifold may be located in the same room provided the manifolds are at least 50 feet apart.

ii. An oxygen manifold connected to cylinders having an aggregate capacity of more than 6,000 cubic feet shall be located outside, in a separate building, or in a separate room constructed in accordance with (g)2ii above with no combustible material within 20 feet of the manifold.

iii. Oxygen manifolds with service pressures not exceeding 200 psig shall be marked:

"Low Pressure Manifold
Do Not Connect High Pressure Clylinders"

iv. The aggregate capacity of fuel gas cylinders connected to one manifold inside a building shall not exceed 3,000 cubic feet of gas or 300 pounds of liquefied petroleum gas. More than one such manifold may be located in the same room provided the manifolds are at least 50 feet apart.

v. A fuel gas manifold connected to cylinders having an aggregate capacity of more than 3,000 cubic feet of gas or 300 pounds of liquefied petroleum gas shall be located outside, in a separate building, or in a separate room constructed in accordance with (g)2ii above.

3. Hose shall be capable of withstanding a hydrostatic pressure of at least 800 psi.

i. A single hose having more than one gas passage, a wall failure of which would permit the flow of one gas into the other gas passage, shall not be used.

ii. Single and double hose, except as provided herein, shall be identified by exterior colors using green for oxygen hose, red for acetylene, LP-gas and other fuel gases and black for inert gases and air hose.

iii. When two hoses are joined by a web to form integral lengths of double hose, the color of both hoses shall be red, and the exterior surface of oxygen hose shall be smooth to the touch, while fuel gas hose shall be corrugated or ribbed.

iv. When parallel lengths of oxygen and acetylene hose are taped together for convenience and to prevent tangling, there must be at least one foot between taped sections and the taped section shall not be more than two inches in length.

v. Hose connections shall be clamped or otherwise securely fastened in a manner that will withstand, without leakage, twice the pressure to which they are normally subjected in service, but not less than a pressure of 300 psi.

vi. Hose shall be inspected frequently for leaks, burns, worn places, loose connections or other defects which may render the hose unfit for service. Where hose shows excessive wear or has been subjected to flashback, it shall be inspected and tested at twice the normal pressure to which it is subjected in service, but not at less than 200 psi before being returned to service. Defective lengths of hose shall be discarded.

5:18-3.21 Cellulose nitrate motion picture film

(a) The equipment, processes and operation of the storage and handling of cellulose nitrate motion picture film, hereafter referred to as "nitrate film," shall comply with NFPA 40 listed in Appendix 3-A, incorporated herein by reference.

(b) A person shall not sell, lease or otherwise dispose of any nitrate film to any person not having a permit to handle, use or display such film.

(c) Fire safety requirements are as follows:

1. The layout, arrangement and construction of buildings and structures used for the use or storage of flammable film shall comply with the applicable requirements of the Uniform Construction Code for the appropriate use group classification, and shall be provided with fire protection and fire extinguishing equipment as required by that code. Buildings and structures and their service equipment shall be maintained in safe condition as required by this Code.

5:18-3.22 Cellulose nitrate (pyroxylin) plastics

(a) The equipment, processes and operations for the storage or handling of any plastic substance, material or compound other than cellulose nitrate film covered by N.J.A.C. 5:18-3.21, having cellulose nitrate as a base, by whatever name known, when in the form of blocks, slabs, sheets, tubes or fabricated shapes shall comply with NFPA 40E listed in Appendix 3-A, incorporated herein by reference.

(b) Fire safety requirements are as follows:

1. The layout, arrangement and construction of buildings and structures in which cellulose nitrate (pyroxylin) plastics are used or stored shall comply with the applicable requirements of the building code in effect at the time of first occupancy for the appropriate use group classification, and shall be provided with fire extinguishing equipment as required by that code. Buildings and structures and their service equipment shall be maintained in safe condition as required by this Code. Smoking shall be in accordance with N.J.A.C. 5:18-3.3(k).

2. All new and existing buildings or any portions of the building used for the manufacture or storage of articles of cellulose nitrate (pyroxylin) plastic shall be equipped with an approved automatic fire suppression system as required by the building code in effect at the time of first occupancy. Vaults located within buildings for the storage of raw pyroxylin shall be protected with an approved automatic sprinkler system capable of discharging 1.66 gallons per minute (gpm) per square foot over the area of the vault.

3. In buildings or rooms where cellulose nitrate (pyroxylin) plastics are handled or stored, heating systems shall be installed in accordance with the requirements of the building code in effect at the time of first occupancy.

5:18-3.23 Combustible fibers

(a) The equipment, processes and operations for handling, storage or use of combustible vegetable or animal fibers, including, among others, readily ignitable and free burning fibers such as cotton, sisal, henequen, ixtel, jute, hemp, tow, cocoa fiber, oakum, baled waste, baled waste paper, kapok, hay, straw, Spanish moss, excelsior, certain synthetic fibers and cloth in the form of scraps and clippings, shall comply with the applicable requirements of this Code and the provisions of this section.

(b) Fire safety requirements are as follows:

1. The layout, arrangement and construction of buildings and structures involving the storage or use of combustible fibers shall comply with the applicable requirements of the building code in effect at the time of first occupancy for the appropriate use group classification, and shall be provided with fire protection and fire extinguishing equipment as required by that code. Buildings and structures and their service equipment shall be maintained in safe condition as required by this Code.

2. Loose combustible fibers (not in suitable bales or packages), whether housed or in the open, shall not be stored within 100 feet of any building, except as hereinafter specified.

i. Not more than 100 cubic feet of loose combustible fibers may be kept in any building, provided storage is in a metal or metal-lined bin equipped with a self-closing cover.

ii. Quantities exceeding 100 cubic feet of loose combustible fibers, but not exceeding 500 cubic feet, may be stored in rooms or compartments having floor, walls and ceiling with a fireresistance rating of not less than one hour. Each opening into such rooms or compartments from other parts of the building shall be equipped with an approved opening protective. Such fire separations shall comply with the applicable requirements of the building code in effect at the time of first occupancy.

iii. Quantities exceeding 500 cubic feet of loose combustible fibers may be stored in approved vaults, constructed as required by the Uniform Construction Code.

iv. A maximum of 2,500 cubic feet of loose fibers may be stored in a detached "loose house" suitably located, with openings properly protected against entrance of sparks. The "loose house" shall not be used for any other purpose.

3. A single block or pile shall not contain more than 25,000 cubic feet of fiber exclusive of aisles or clearances. Blocks or piles of baled fiber shall be separated from adjacent storage by aisles not less than five feet wide, or by flash fire barriers consisting of continuous sheets of noncombustible material extending from floor to a height of at least one foot above the highest point of piles and projecting at least one foot beyond the sides of the piles.

i. Sisal and other fibers in bales bound with combustible tie ropes, and also jute and other fibers liable to swell when wet, shall be stored to allow for expansion in any direction without endangering building walls, ceilings or columns. Not less than three feet clearance shall be left between walls and sides of piles, except that if the storage compartment is not more than 30 feet in width, one foot clearance at side walls will be sufficient, provided a center aisle not less than five feet wide is maintained.

4. Not less than three feet clearance shall be maintained between the sprinklers and tops of piles.

5. A person shall not store hay, straw or similar agricultural products adjacent to buildings or combustible material unless a cleared horizontal distance equal to the height of pile is maintained between such storage and combustible material and buildings. Storage shall be limited to stacks of 100 tons each. Unlimited quantities of hay, straw and other agricultural products may be stored in or near farm buildings located outside closely built areas. A permit shall not be required for agricultural storage.

6. Ashes, waste, rubbish or sweepings shall not be kept in wood or other combustible receptacles and shall be removed from the building daily. Grass or weeds shall not be allowed to accumulate at any point on the premises.

5:18-3.24 Compressed gases

(a) The equipment, processes and operations of bulk oxygen systems for the storage, handling and use of compressed gases, as defined herein, shall comply with the applicable requirements of this Code and the provisions of this section, and shall be maintained in accordance with NFPA 50, 99, and 99C listed in Appendix 3-A incorporated herein by reference, where the provisions of this section do not specifically cover conditions and operations. Liquefied petroleum gases and compressed gases used in conjunction with welding or cutting operations are exempt from these provisions.

(b) For the purpose of this section and as used in this Code, the following words and terms shall have the meaning indicated.

"Bulk oxygen system" means an assembly of equipment, such as oxygen storage containers, pressure regulators, safety devices, vaporizers, manifolds and interconnecting piping, which has a storage capacity at normal temperature and pressure of more than 13,000 cubic feet of oxygen connected in service or ready for service, or more than 25,000 cubic feet of oxygen, including unconnected reserve on hand at the site. The bulk oxygen system terminates at the point where oxygen at the service pressure first enters the supply line. The oxygen may be stored as a liquid or gas in either stationary or portable containers.

"Gaseous hydrogen system" means a facility in which hydrogen is delivered, stored and discharged in the gaseous form to consumer piping. The system includes stationary or movable containers, pressure regulators, safety relief devices, manifolds, interconnecting piping and controls. The system terminates at the point where hydrogen at service pressure first enters the consumer's distribution piping.

"Nonflammable medical gas" means a compressed gas which is nonflammable and used for therapeutic purposes and includes, among others, oxygen and nitrous oxide.

"Piped distribution system" means a central supply system with control equipment, and a system of piping extending to the points in the hospital where nonflammable medical gases are used, and to suitable station outlet valves at each use point.

(c) Storage and use requirements are as follows:

1. The containers, systems and methods of use of compressed gases shall comply with the following conditions of this subsection.

2. Cylinders and pressure vessels shall be designed, constructed, tested and maintained in accordance with ANSI K61.1, DOT 49 CFR or NFPA 50, 50A, 99 or 99C listed in Appendix 3-A, incorporated herein by reference.

3. Each cylinder, pressure vessel or group of containers shall be marked with the name of the gas contained in accordance with DOT 49 CFR listed in Appendix 3-A.

4. Cylinders containing flammable anesthetics and nonflammable medical gases, in hospitals and similar facilities, shall be stored, handled and used so as to be reasonably safe to persons and property.

5. Piping systems shall not be used to distribute flammable medical gases in any hospital or similar facility. Piped distribution systems handling non-flammable medical gases, in hospitals and similar facilities, shall be installed and used in accordance with NFPA 99 listed in Appendix 3-A.

6. Bulk oxygen systems located at industrial and institutional consumer sites shall be installed and maintained in accordance with NFPA 50 listed in Appendix 3-A.

7. Anhydrous ammonia shall be stored and handled in accordance with ANSI K61.1 listed in Appendix 3-A.

8. Gaseous hydrogen systems shall be installed and maintained in accordance with NFPA 50A listed in Appendix 3-A.

9. All compressed gas cylinders in storage or in service shall be adequately secured to prevent falling or being knocked over. Separate cylinder storage or manifold enclosure shall be provided for flammable gases and oxidizing gases. Such enclosures shall serve no other purpose and shall be constructed in accordance with the requirements of the Uniform Construction Code.

5:18-3.25 Cryogenic liquids

(a) This section shall apply to the storage, handling and transportation of cryogenic liquids except that this section shall not include liquefied petroleum gas as defined in N.J.A.C. 5:18-3.30(a). The storage, handling and transportation shall comply with NFPA 50, 50A and 50B listed in Appendix 3-A, incorporated herein by reference, where provisions of this section do not specifically cover conditions and operations.

(b) For the purpose of this section and as used in this Code, the following words and terms shall have the meaning indicated.

"Container" means any cryogenic vessel whether used for transportation or storage.

(c) The following apply to containers and equipment:

1. All containers, valves and piping shall be located so that they are readily accessible for inspection and repair and shall be protected against tampering.

2. All containers including piping, valves and pressure relief devices shall be located, designed and constructed in accordance with the requirements of the Uniform Construction Code and NFPA 50, 50B and 59A listed in Appendix 3-A, incorporated herein by reference, and they shall be maintained in a safe condition.

3. Warning labels and signs shall be posted on all containers and equipment.

(d) Fire safety requirements are as follows:

1. Dispensing of flammable cryogenic liquids, liquefied oxygen or liquid oxidizers shall be only at locations approved by the fire official. Water lines and hose shall be provided for cleaning and melting areas.

2. Flammable cryogenic liquids, liquid oxygen or cryogenic oxidizers shall not be loaded, unloaded, dispensed or handled where vapors can reach a source of ignition. Smoking shall be prohibited and "No Smoking" signs shall be conspicuously posted. Loading, unloading and dispensing of oxygen shall not be permitted in the vicinity of loading, unloading or dispensing of gaseous or liquid fuel.

(e) Transportation requirements are as follows:

1. Containers, tanks and vessels used for transporting cryogenic liquids shall meet all applicable requirements of the DOT 49 CFR listed in Appendix 3-A.

2. Vehicles used for transportation of cryogenic liquids shall be placarded at the front, rear and each side with the name of the product in addition to placards which are required by DOT 49 CFR

listed in Appendix 3-A. Vehicles shall be equipped with at least one approved fire extinguisher with a minimum 20-B:C rating and with adequate wheel chock blocks.

5:18-3.26 Explosives, ammunition and blasting agents

(a) General provisions applicable to explosives, ammunition and blasting caps are as follows:

1. The equipment, processes and operations involving the manufacture, possession, storage, sale and use of explosives and blasting agents shall comply with the applicable requirements of this code and the provisions of this section and shall be maintained in accordance with NFPA 495 and DOT 49 CFR listed in Appendix 3-A, incorporated herein by reference, except as herein specifically exempted or where provisions of this section do not specifically cover conditions and operations.

2. Exceptions: Nothing in this section shall be construed as applying to the following uses:

i. The possession, storage, transportation or use of explosives or explosive weaponry in any form by the Armed Forces of the United States or of a state;

ii. Explosives in forms prescribed by the official United States Pharmacopoeia;

iii. The sale or use of fireworks which are regulated by N.J.A.C. 5:18-3.27;

iv. The possession, transportation and use of small arms ammunition for personal use;

v. The possession, storage, transportation and use of not more than 15 pounds of smokeless powder and 1,000 small arms primers for hand loading of small arms ammunition for personal use;

vi. The possession, transportation and use of special industrial explosive devices that are legally permitted; or

vii. The transportation and use of explosives or blasting agents by the United States Bureau of Mines, the Federal Bureau of Investigation, the United States Secret Service or police and fire departments acting in their official capacity.

3. The following explosives shall not be permitted:

i. Liquid nitroglycerin;

ii. Dynamite (except gelatin dynamite) containing over 60 percent of liquid explosive ingredient;

iii. Dynamite having an unsatisfactory absorbent or one that permits leakage of a liquid explosive ingredient under any conditions liable to exist during storage;

iv. Nitrocellulose in a dry and uncompressed condition in quantity greater than 10 pounds net weight in one package;

v. Fulminate of mercury in a dry condition and fulminate of all other metals in any condition except as a component of manufactured articles not hereinafter forbidden;

vi. Explosive compositions that ignite spontaneously or undergo marked decomposition, rendering the products or their use more hazardous, when subjected for 48 consecutive hours or less to a temperature of 167 degrees Fahrenheit;

vii. New explosive until approved by DOT 49 CFR listed in Appendix 3-A, except that permits may be issued to educational, governmental or industrial laboratories for instructional or research purposes;

viii. Explosives condemned by DOT 49 CFR listed in Appendix 3-A;

ix. Explosives not packed or marked in accordance with the requirements of DOT 49 CFR listed in Appendix 3-A; and

x. Explosives containing an ammonium salt and a chlorate.

4. Any self-employed person in possession of a valid permit to use explosives for blasting purposes, issued by the New Jersey Department of Labor pursuant to N.J.A.C. 12:190-3.11, shall have an insurance coverage for blasting damage not less than $500,000 for property damage including explosion, collapse, and underground utility damage and $500,000 to $1,000,000 for personal injury.

i. Any person in possession of a valid permit to use explosives for blasting purposes, as outlined in (a)4 above, and who is not self-employed, shall not use explosives unless the employer is insured as specified in that paragraph.

ii. Proof of the possession of a valid insurance policy covering blasting damage shall be readily available for inspection at the site.

iii. Nothing in this section shall be construed as preventing greater insurance coverage for damage from blasting when requested by any person for whom blasting is being performed.

5. For the purpose of this section and as used in this Code, the following words and terms shall have the meaning shown.

"Carrier" means a person who engages in the transportation of articles or materials by rail, highway, water or air.

"Highway" means any public street, alley or road.

"Magazine" means any building, structure or other enclosure or container other than an explosives manufacturing building, used for the storage of explosives. Magazines shall be of five types as follows:

i. A Type 1 magazine means a permanent outdoor magazine used for storage of high explosives or other classes of explosives;

ii. A Type 2 magazine means an indoor or outdoor magazine that is portable or mobile; such as a skid magazine or a trailer or semi-trailer used for the temporary storage of high explosives or other classes of explosives;

iii. A Type 3 magazine means a portable outdoor magazine; such as a "day-box" or a magazine on skids used, while attended, for the temporary storage of high explosives or other classes of explosives;

iv. A Type 4 magazine means an indoor or outdoor magazine used for the storage of low explosives, smokeless powder, or blasting agents. Detonators that will not mass detonate may also be stored in Type 4 magazines;

v. Type UG magazine means a magazine for the permanent storage of explosives in underground operations.

"Public conveyance" means any railway car, streetcar, cab, bus, airplane or other vehicle transporting passengers for hire.

"Railway" means any steam, electric or other railroad or railway which carries passengers for hire.

"Terminal" means those facilities used by carriers for the receipt, transfer, temporary storage or delivery of articles or materials.

"Testing blasting cap No. 8" means one containing two grams of a mixture of 80 percent mercury fulminate and 20 percent postassium chlorate, or a cap of equivalent strength.

"Vehicle" means a conveyance of any type operated upon the highways.

(b) Prohibitions on manufacture, storage, display and use are as follows:

1. The manufacture of explosives or blasting agents shall be prohibited unless such manufacture is authorized by the fire official. This shall not apply to hand loading of small arms ammunition for personal use when not for resale.

2. The storage of explosives and blasting agents is prohibited within the limits established by law as the limits of the district in which such storage is to be prohibited, except for temporary storage for use in connection with approved blasting operations, provided, however, this prohibition shall not apply to wholesale and retail stocks of small arms ammunition, explosive bolts, explosive rivets or cartridges for explosive-actuated power tools in quantities involving less than 500 pounds of explosive material.

3. The fire official may limit the quantity of explosives or blasting agents to be permitted at any location.

4. A person shall not sell or display explosives or blasting agents on highways, sidewalks, public property or in places of public assembly or education.

i. No person shall sell or use explosives without obtaining a permit for that purpose from the Commissioner of Labor, pursuant to the applicable provisions of N.J.A.C. 12:190.

(c) Fire safety requirements are as follows:

1. The layout, arrangement and construction of buildings and structures in which explosives, ammunition and blasting agents are permitted shall comply with the applicable provisions of this Code. Buildings and structures and their service equipment shall be maintained in safe condition as required by this Code.

(d) Requirements for storage of explosives are as follows:

1. Explosives, including special industrial high explosive materials, shall be stored in magazines which meet the requirements of this section. This shall not be construed as applying to wholesale and retail stocks of small arms ammunition, explosive bolts, explosive

rivets or cartridges for explosive-actuated power tools in quantities involving less than 500 pounds of explosive material. Magazines shall be in the custody of a competent person at all times who shall be at least 21 years of age, and who shall be held responsible for compliance with all safety precautions.

2. The fire official may authorize the storage of up to 50 pounds of explosives and 5,000 blasting caps in wholesale or retail hardware stores or other approved establishments. Explosives and blasting caps shall be stored in separate Type 2 and Type 4 indoor magazines at approved locations on the first floor not more than 10 feet from an entrance. A distance of 10 feet shall be maintained between the magazines. Their location shall not be changed without approval of the fire official. Two such magazines may be located in the same building provided one magazine is used for the storage of not more than 5,000 detonators and when a distance of ten feet is maintained between magazines.

3. Smokeless powder not exceeding 400 pounds intended for resale shall be stored in a warehouse or storage room which is not accessible to unauthorized personnel. It shall be stored in non-portable cabinets as follows:

i. Not more than two cabinets in a building and not more than 200 pounds of smokeless powder in a single cabinet.

ii. Cabinets shall be located against the walls of the warehouse or storage room with a minimum separation of 10 feet between cabinets.

iii. A cabinet for smokeless powder shall have walls at least one inch thick with an interior of non-sparking material. Shelves shall not exceed a three foot separation. The cabinet shall have at least one lock and hinges and hasps that cannot be removed when the door is closed and locked.

4. Magazines shall be located as provided in this subsection, except as specifically provided in (d)4ii below for Type 2 indoor magazines.

i. Type 1 magazines and Type 2 outdoor magazines shall be located outside of buildings. When used for the storage of high explosives, they shall be located no closer to inhabited buildings, passenger railways, public highways, or other magazines in which high explosives are stored than the distance specified in Table 3.26(d) below.

ii. The location, either outside or inside buildings, of Type 3 magazines, shall be as far as practicable from the neighboring inhabited buildings, railways, highways, and any other magazine, and shall be closely attended when in a use location.

iii. Type 4 outdoor magazines shall be located outside of buildings and, when used for the storage of low explosives, shall be located no closer to inhabited buildings, passenger railways, public highways, or other magazines in which explosives are stored than the distances specified in Table 3.26(d)1 below whether barricaded or unbarricaded. When a Type 4 outdoor magazine is used for storage of blasting agents, Table 3.26(d) below shall be used.

iv. Type 2 indoor and Type 4 indoor magazines shall be located as provided in (d)2 above.

4. Location of ammonium nitrate and blasting agents from high explosives or blasting agents shall be as follows:

i. Ammonium nitrate and ammonium nitrate based blasting agents shall be separated from nearby stores of high explosives or blasting agents referred to as the "donor" by the distances provided in Table 3.26(d)2 below;

ii. If storage of ammonium nitrate is located within the sympathetic detonation distance of explosives or blasting agents, one-half the mass of the ammonium nitrate shall be included in the mass of the "donor" when calculating separation distances;

iii. When ammonium nitrate or a blasting agent, or both, is not barricaded, the distances shown in Table (d)2 below shall be multiplied by six. These distances allow for the possibility of high velocity metal fragments from mixers, hoppers, truck bodies, sheet metal structures, metal containers and the like which may enclose the "donor." Where storage is in bullet-resistant magazines recommended for explosives or where the storage is protected by a bullet-resistant wall, the distances and barricade thickness need not exceed those prescribed in Table 3.26(d) below;

iv. Table 3.26(d)1 below shall apply to blasting agents which pass the insensitivity test prescribed in the definition of blasting agent;

v. Earthen dikes, sand dikes or enclosures filled with the required minimum thickness of earth or sand shall be acceptable artificial barricades. Hills of timber of sufficient density shall be acceptable natural barricades;

vi. For determining the distances to be kept from inhabited buildings, passenger railways, and public highways, Table 3.26(d) below shall apply. Ammonium nitrate, when stored with blasting agents or explosives, may be counted at one-half its actual weight.

TABLE 3.26(d)
HIGH EXPLOSIVES
DISTANCES IN FEET

Quantity of Explosives		Inhabited Buildings		Public Highways with Traffic Volume of 3,000 or less Vehicles/Day		Passenger Railways Public Highways with Traffic Volume of More Than 3,000 Vehicles/Day		Separation of Magazines	
Pounds Over	Pounds Not Over	Barricaded	Unbarricaded	Barricaded	Unbarricaded	Barricaded	Unbarricaded	Barricaded	Unbarricaded
2	5	70	140	30	60	51	102	6	12
5	10	90	180	35	70	64	128	8	16
10	20	110	220	45	90	81	162	10	20
20	30	125	250	50	100	93	186	11	22
30	40	140	280	55	110	103	206	12	24
40	50	150	300	60	120	110	220	14	28
50	75	170	340	70	130	127	254	15	30
75	100	190	380	75	150	139	278	16	32
100	125	200	400	80	160	150	300	18	36
125	150	215	430	85	170	159	318	19	38
150	200	235	470	95	190	175	350	21	42
200	250	255	510	105	210	189	378	23	46
250	300	270	540	110	220	201	402	24	48
300	400	295	590	120	240	221	442	27	54
400	500	320	640	130	260	238	476	29	58
500	600	340	680	135	270	253	506	31	62
600	700	355	710	145	290	266	532	32	64
700	800	375	750	150	300	278	556	33	66
800	900	390	780	155	310	289	578	35	70
900	1,000	400	800	160	320	300	600	36	72

1,000	1,200	425	850	165	330	318	636	39	78
1,200	1,400	450	900	170	340	336	672	41	82
1,400	1,600	470	940	175	350	351	702	43	86
1,600	1,800	490	980	180	360	366	732	44	88
1,800	2,000	505	1,010	185	370	378	756	45	90
2,000	2,500	545	1,090	190	380	408	816	49	98
2,500	3,000	580	1,160	195	390	432	864	52	104
3,000	4,000	635	1,270	210	420	474	948	58	116
4,000	5,000	685	1,370	225	450	513	1,026	61	122
5,000	6,000	730	1,460	235	470	546	1,092	65	130
6,000	7,000	770	1,540	245	490	573	1,146	68	136
7,000	8,000	800	1,600	250	500	600	1,200	72	144
8,000	9,000	835	1,670	255	510	624	1,248	75	150
9,000	10,000	865	1,730	260	520	645	1,290	78	156
10,000	12,000	875	1,750	270	540	687	1,374	82	164
12,000	14,000	885	1,770	275	550	723	1,446	87	174
14,000	16,000	900	1,800	280	560	756	1,512	90	180
16,000	18,000	940	1,880	285	570	786	1,572	94	188
18,000	20,000	975	1,950	290	580	813	1,626	98	196
20,000	25,000	1.055	2,000	315	630	876	1,752	105	210
25,000	30,000	1,130	2,000	340	680	933	1,866	112	224
30,000	35,000	1,204	2,000	360	720	981	1,962	119	238
35,000	40,000	1,275	2,000	380	760	1,026	2,000	124	248
40,000	45,000	1,340	2,000	400	800	1,068	2,000	129	258
45,000	50,000	1,400	2,000	420	840	1,104	2,000	135	270
50,000	55,000	1,460	2,000	440	800	1,140	2,000	148	280
55,000	60,000	1,515	2,000	455	910	1,173	2,000	145	290
60,000	65,000	1,565	2,000	470	940	1,206	2,000	150	300
65,000	70,000	1,610	2,000	485	970	1,236	2,000	155	310
70,000	75,000	1,655	2,000	500	1,000	1,263	2,000	160	320
75,000	80,000	1,695	2,000	510	1,020	1,293	2,000	165	330
80,000	85,000	1,730	2,000	520	1,040	1,317	2,000	170	340
85,000	90,000	1,760	2,000	530	1,060	1,344	2,000	175	350
90,000	95,000	1,790	2,000	540	1,080	1,369	2,000	180	360
95,000	100,000	1,815	2,000	545	1,090	1,392	2,000	185	370
100,000	110,000	1,835	2,000	550	1,100	1,437	2,000	195	390
110,000	120,000	1,855	2,000	555	1,110	1,479	2,000	205	410
120,000	130,000	1,875	2,000	560	1,120	1,521	2,000	215	430
130,000	140,000	1,890	2,000	565	1,130	1,557	2,000	225	450
140,000	150,000	1,900	2,000	570	1,140	1,593	2,000	235	470
150,000	160,000	1,935	2,000	580	1,160	1,629	2,000	245	490
160,000	170,000	1,965	2,000	590	1,180	1,662	2,000	255	510
170,000	180,000	1,990	2,000	600	1,200	1,695	2,000	265	530
180,000	190,000	2,010	2,010	605	1,210	1,725	2,000	275	550
190,000	200,000	2,030	2,030	610	1,220	1,755	2,000	285	570
200,000	210,000	2,055	2,055	620	1,240	1,782	2,000	295	590
210,000	230,000	2,100	2,100	635	1,270	1,836	2,000	315	630
230,000	250,000	2,155	2,155	650	1,300	1,890	2,000	335	670
250,000	275,000	2,215	2,215	670	1,340	1,950	2,000	360	720
275,000	300,000	2,275	2,275	690	1,380	2,000	2,000	385	770

TABLE 3.26(d)1
LOW EXPLOSIVES

Low Explosives		Distance in Feet from		
Pounds over	Pounds not over	Inhabited Building	Public Railroad and Highway	Above-ground Magazine
0	1,000	75	75	50
1,000	5,000	115	115	75
5,000	10,000	150	150	100
10,000	20,000	190	190	125
20,000	30,000	215	215	145
30,000	40,000	235	235	155
40,000	50,000	250	250	165
50,000	60,000	260	260	175
60,000	70,000	270	270	185
70,000	80,000	280	280	190
80,000	90,000	295	295	195
90,000	100,000	300	300	200
100,000	200,000	275	275	250
200,000	300,000	450	450	300

TABLE 3.26(d)2
LOCATION OF AMMONIUM NITRATE AND BLASTING AGENTS FROM HIGH EXPLOSIVES OR BLASTING AGENTS

Donor* pounds over	Weight pounds not over	Minimum Separation Distance of Acceptor** When Barricaded (feet) Ammonium Nitrate	Blasting Agent	Minimum Thickness of Artifical Barricades (inches)
0	100	3	11	12
100	300	4	14	12
300	600	5	18	12
600	1,000	6	22	12
1,000	1,600	7	25	12
1,600	2,000	8	29	12
2,000	3,000	9	32	15
3,000	4,000	10	36	15
4,000	6,000	11	40	15
6,000	8,000	12	43	20
8,000	10,000	13	47	20
10,000	12,000	14	50	20
12,000	16,000	15	54	25
16,000	20,000	16	58	25
20,000	25,000	18	65	25
25,000	30,000	19	68	30
30,000	35,000	20	72	30
35,000	40,000	21	76	30
40,000	45,000	22	79	35
45,000	50,000	23	83	35
50,000	55,000	24	86	35
55,000	60,000	25	90	35
60,000	70,000	26	94	40
70,000	80,000	28	101	40
80,000	90,000	30	108	40
90,000	100,000	32	115	40
100,000	120,000	34	122	50
120,000	140,000	37	133	50
140,000	160,000	40	144	50
160,000	180,000	44	158	50
180,000	200,000	48	173	50
200,000	220,000	52	187	60
220,000	250,000	56	202	60
250,000	275,000	60	216	60
275,000	300,000	64	230	60

*High explosives and blasting agents are donors. Ammonium nitrate, by itself, is not considered to be a donor.
**Ammonium nitrate and blasting agnets are acceptors.

Notes to Tables

(1) If any two or more Type 1 and Type 2 magazines are separated from each other by less than distances specified in the column reading "Separation of Magazines," the two or more magazines, as a group, shall be considered as one magazine. The total quantity of explosives stored in that group shall then be treated as if stored in a single magazine and shall comply with the distances from other magazines, inhabited buildings, railways, or highways of Table 3.26(d).

(2) For quantity and distance purposes, the following shall apply to blasting caps and detonating cord:

(A) All types of blasting caps in strengths through No. 8 cap shall be rated at one and one-half pound of explosives per 1,000 caps. For strengths higher than No. 8 caps, consult the manufacturer.

(B) Detonating cord of 50 to 60 grains shall be calculated as equivalent to nine pounds of explosives per 1000 feet. Heavier or lighter core loads shall be rated proportionately.

5. A Type 1 magazine shall be a permanent structure: a building, an igloo, a tunnel, or a dugout. It shall be resistant to fire, theft, bullets, and the weather, and shall have no openings except for entrances and ventilation. Materials and methods of construction shall be as follows:

i. Masonry wall construction shall consist of at least six inches of brick, concrete, tile, cement block, or cinder block. Hollow masonry units shall have all hollow spaces filled with well-tamped, coarse, dry sand or weak concrete (at least a mixture of one part cement and eight parts sand with enough water to dampen the mixture while tamping in place).

ii. Fabricated metal wall construction shall consist of sectional sheets of steel or aluminum not less than No. 14 gauge, securely fastened to a metal framework. Metal wall construction shall be either lined inside with brick, solid cement blocks, or hardwood not less than four inches thick, or shall have at least a six inch sand fill between interior and exterior walls.

iii. In wood frame wall construction, the exterior of outer wood walls shall be covered with iron or alumnium not less than No. 26 gauge. The interior wall shall be constructed so as to provide a space of not less than six inches between the outer and inner walls. The space shall be filled with coarse, dry sand or weak concrete.

iv. Interior walls shall be constructed of or covered with a non-sparking material.

v. Floor shall be constructed of or covered with a suitable non-sparking material and shall be strong enough to bear the weight of the maximum quantity of explosives to be stored.

vi. Foundations shall be constructed of brick, concrete, cement block, stone, or metal or wood posts. If piers or posts are used in lieu of a continuous foundation, the spaces thus created under the building shall be enclosed with fire-resistant material.

vii. Outer roofs shall be constructed of fabricated metal, tile, non-friable asbestos, concrete, or other fire-resistant material. Where it is possible for a bullet to be fired directly through the roof and into the magazine at such an angle that the bullet would strike the explosives stored within, the magazine shall be protected by one of the following methods: a sand tray lined with a layer of building paper, plastic or other non-porous material, and filled with not less than four inches of coarse, dry sand located at the tops of inner walls covering the entire ceiling area, except that portion necessary for ventilation; or a fabricated metal roof constructed of 3/16 inch plate steel lined with four inches of hardwood. For each additional 1/16 inch of plate steel, the hardwood lining may be decreased one inch.

viii. No sparking material shall be exposed to contact with stored explosive materials. All ferrous nails in the floor and side walls which might be so exposed shall be blind-nailed or counter-sunk on the floor and side walls covered with a lattice work or other non-sparking material.

ix. Igloo, tunnel, and dugout magazines shall be constructed of reinforced concrete, masonry, metal or a combination of these materials. They shall have an earth mound covering of not less than 24 inches on top, sides and rear unless the magazine complies with vii above.

x. Exterior doors shall be constructed of ¼ inch plate steel and lined on the interior with two inches of hardwood.

xi. Hinges and hasps shall be attached to the doors by welding, riveting, or bolting with nuts on the inside of the door. The hinges and hasps shall be installed in such a manner that they cannot be removed when the door is closed and locked.

xii. Each door shall be equipped with one or more of the following: two mortise locks; or two padlocks fastened in separate hasps and staples. Padlocks shall have at least five tumblers and a case-hardened shackle of at least ⅜ inch diameter. Outdoor padlocks shall be protected with:

(1) One-quarter inch steel hoods constructed so as to prevent sawing or lever action on the locks or hasps;

(2) A combination of a mortise lock and padlock;

(3) A mortise lock that requires two keys to open;

(4) A three-point lock; or

(5) A bolt, lock or bar that cannot be actuated from the outside.

6. A Type 2 outdoor magazine shall be a box, trailer, semi-trailer, or other mobile facility. It shall be resistant to fire, theft, bullets and the weather and shall be supported in such a manner as to prevent direct contact with the ground. If less than one cubic yard in size, it shall be securely fastened to a fixed object to prevent theft of the entire magazine. Materials and methods of construction shall be as follows:

i. The exterior and covers of doors shall be constructed of ¼ inch steel and shall be lined with two inches of hardwood. Magazines with top openings shall have lids with water-resistant seals or the lids shall overlap the side by at least one inch when in a closed position.

ii. Hinges and hasps, locks, padlocks, padlock protection, and sparking materials shall comply with the applicable provisions of (d)5 above.

7. A Type 2 indoor magazine shall be a portable or mobile magazine which is resistant to fire and theft. It need not be bullet- or weather-resistant if the building in which it is stored provides protection from the weather and from bullet penetration. Materials and methods of construction shall be as follows:

i. Wood magazines shall have sides, bottoms, and covers or doors constructed of two inches of hardwood and shall be well braced at corners. They shall be covered with sheet metal of not less than No. 20 gauge. Nails exposed to the interior of magazines shall be counter-sunk.

ii. Metal magazines shall have sides, bottoms, and covers or doors constructed of No. 12 gauge metal and shall be lined inside with a non-sparking material. Edges of metal covers shall overlap the sides at least one inch.

iii. Magazines for blasting caps (cap boxes) in quantities of 100 or less shall have sides, bottoms, and covers or doors constructed of No. 12 gauge metal and shall be lined with a non-sparking material.

iv. Hinges, hasps, locks, padlocks, padlock protection, and sparking materials shall comply with the applicable provisions of (d)5 above; except that only one padlock shall be required on a type 2 indoor magazine that is located in a room that is also secured by a lock.

8. A Type 3 magazine shall be a "day-box" or other portable magazine which is resistant to fire, weather and theft. Materials and methods of construction shall be as follows:

i. A Type 3 magazine shall be constructed of not less than No. 12 gauge steel lined with at least ½ inch plywood or ½ inch Masonite-type hardboard.

ii. No sparking material shall be exposed to contact with stored explosive materials.

iii. Doors or covers shall overlap sides of Type 3 magazines by not less than one inch.

iv. Hinges and hasps shall be attached by welding or riveting by bolting with nuts on the inside.

v. One steel padlock which need not be protected by a steel hood, having at least five tumblers and a case-hardened shackle of not less than 3/8 inch diameter shall be provided for locking purposes.

9. A Type 4 outdoor magazine shall be a building, igloo, tunnel, dugout, box, trailer, semi-trailer or other mobile magazine which is resistant to fire, weather, and theft. Materials and methods of construction shall be as follows:

i. A Type 4 outdoor magazine shall be constructed of masonry, metal-covered wood, fabricated metal, or a combination of these materials.

ii. The walls and floors shall be constructed of, or covered with a non-sparking material, or lattice work.

iii. Foundations shall be constructed of brick, concrete, cement, block, stone or metal or wood posts. If piers or posts are used in lieu of a continuous foundation, the spaces thus created under the building shall be enclosed with fire-resistive material.

iv. The doors or covers shall be metal or solid wood covered with metal.

v. Hinges and hasps, locks, padlocks, padlock protection and sparking materials shall comply with the applicable provisions of (d)5 above.

10. A Type 4 indoor magazine shall be fire and theft resistant. It need not be bullet or weather-resistant if the building in which it is stored provides protection from the weather and from bullet penetration. Materials and methods of construction shall be as follows:

i. Wood magazines shall have sides, bottom, and covers or doors constructed of not less than one inch of hardwood and shall be well braced at corners. They shall be covered with sheet metal of not less than No. 26 gauge. Ferrous nails exposed to the interior of magazines shall be counter-sunk.

ii. Metal magazines shall have sides, bottoms, and covers or doors constructed of not less than No. 16 gauge metal and shall be lined inside with a non-sparking material.

iii. Hinges and hasps, locks, padlocks, padlock protection, and sparking materials shall comply with the applicable provisions of (d)4 above, except that only one padlock shall be required on a type 4 indoor magazine that is located in a room that is also secured by a lock.

11. A Type UG magazine shall be used for the storage of not more than 5000 pounds of explosives underground in underground mining operations and shall not be permitted unless the mining has progressed to a point where the magazine is at least 300 feet from any shaft, is at least 15 feet from any haulage way or travel way, has a travel way to the nearest means of egress with at least two sharp turns, could not impede evacuation of all persons in the event of detonation of the explosives in the magazine, and is at least 50 feet from any magazine containing blasting caps. A Type UG magazine shall be constructed in accordance with the following:

i. In solid rock with the front opening constructed in accordance with the applicable provisions of (d)4 above for Type 1 magazines, unless otherwise specified in this paragraph.

ii. Doors shall have at least 16 gauge metal outer covering or equivalent fire resistance protection and be lined with at least two inches of hardwood.

iii. Doors shall be provided with one padlock having at least five tumblers and a case-hardened shackle of at least ⅜ inch diameter. Outdoor padlocks shall be protected with ¼ inch steel hoods constructed so as to prevent sawing or level action on the locks or hasps.

iv. Floors shall be wood lined or covered with wooden slats.

v. Provisions shall be made so that water will drain away.

vi. Adequate ventilation shall be provided.

vii. A conspicuous marking, reading "EXPLOSIVES" shall be provided.

12. Magazines shall not be provided with artificial heat and light, except that if artificial lighting is necessary, approved electric safety battery lamps or approved electric lights, wiring and equipment of a type designed for the hazardous location may be used.

13. Magazines shall be maintained in good repair. Before repairing the interior of magazines, all explosive material shall be removed and their interior shall be cleaned. Before repairing the exterior of magazines, all explosive materials shall be removed if there exists any possibility that repairs may produce sparks or flame. Any explosive material removed from magazines under repair shall be:

i. Placed in other magazines appropriate for the storage of those materials in accordance with this section; or

ii. Placed a safe distance from the magazine under repair, where they shall be properly guarded and protected until the repairs have been completed.

14. Smoking, matches, open flames, spark producing devices and firearms shall be prohibited inside or within 100 feet of magazines. Combustible materials shall not be stored within 100 feet of magazines.

i. The land surrounding magazines shall be kept clear of brush, dried grass, leaves, trash and debris for a distance of at least 50 feet.

ii. Magazines shall be kept locked except when being inspected or when explosives are being placed therein or being removed therefrom.

iii. Magazines shall be kept clean, dry and free of grit, paper, empty packages and rubbish.

iv. Detonators shall not be stored in the same magazine with other explosives, except as follows: detonators that will not mass detonate may be stored with electric squibs, safety fuses, igniters and igniter cords in a Type 1 or Type 2 magazine; and detonators may be stored with delay devices, electric squibs, safety fuses, igniter cords and igniters in a Type 1 or Type 2 magazine. Detonators are defined as any device containing a detonating charge that is used for initiating detonation in an explosive. The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating-cord delay connectors, and non-electric instantaneous or delay blasting caps.

v. Except with respect to fiberboard or other nonmetal containers, containers of explosive materials shall not be unpacked or repacked inside a magazine or within 50 feet of a magazine. Containers of explosive materials shall be securely closed while being stored.

vi. Magazines shall not be used for the storage of any metal tools or of any commodity except explosives, but this restriction shall not apply to the storage of blasting agents, blasting supplies and oxidizers used in compound blasting agents.

15. When an explosive has deteriorated to an extent that it is in an unstable or dangerous condition, or if nitroglycerin leaks from any explosive, then the person in possession of such explosive shall immediately report the fact to the fire official and upon his authorization shall proceed to destroy such explosives and clean floors stained with nitroglycerin in accordance with the instructions of the manufacturer. Only experienced persons shall do the work of destroying explosives.

16. Sign requirements are as follows:

i. On the premises where a Type 1 magazine, a Type 2 outdoor magazine or a Type 4 outdoor magazine is located, the holder of a "permit to store" explosives shall post a conspicuous sign reading "EXPLOSIVES—KEEP OFF" in letters at least three inches in height on a contrasting background, and so located that a bullet passing through the face of the signs will not strike the magazine.

ii. Type 2 and Type 4 indoor magazines shall be labeled "EXPLOSIVES—KEEP FIRE AWAY".

iii. All Type 3 magazines shall bear the word "EXPLOSIVES" in letters at least three inches in height and legible on a contrasting background.

iv. The provisions of (d)16 above shall not apply when it is deemed by the fire official that a warning sign would have counterproductive results.

(e) The following apply to the storage of blasting agents and supplies:

1. Blasting agents or oxidizers, when stored in conjunction with explosives, shall be stored in the manner set forth in (d) above for explosives. The quantity of blasting agents or oxidizers shall be included when computing the total quantity of explosives for determining distance requirements.

2. Buildings used for storage of blasting agents separate from explosives shall be located away from inhabited buildings, passenger railways and public highways in accordance with Table 3.26(d).

3. The interior of buildings used for the storage of blasting agents shall be kept clean and free from debris and empty containers. Spilled materials shall be cleaned up promptly and safely removed. Combustible materials, flammable liquids, corrosive acids, chlorates, nitrates other than ammonium nitrate or similar materials shall not be stored in any building containing blasting agents unless separated therefrom by construction having a fire resistance rating of not less than one hour. The provisions of this paragraph shall not prohibit the storage of blasting agents together with non-explosive blasting supplies.

4. Semi-trailers or full trailers may be used for temporarily storing blasting agents, provided they are located away from inhabited buildings, passenger railways and public highways, in accordance with Table 3.26(d). Trailers shall be provided with substantial means for locking, and the trailer doors shall be kept locked except during the time of placement or removal of blasting agents.

5. Piles of oxidizers and buildings containing oxidizers shall be adequately separated from readily combustible fuels.

6. Caked oxidizer, either in bags or in bulk, shall not be loosened by blasting.

(f) The following apply to the handling of explosives:

1. Buildings or other facilities used for mixing blasting agents shall be located away from inhabitated buildings, passenger railways and public highways in accordance with Table 3.26(d).

2. Not more than one day's production of blasting agents or the limit determined by Table 3.26(d), whichever is less, shall be permitted in or near the building or other facility used for mixed blasting agents. Larger quantities shall be stored in separate buildings or magazines.

3. Compounding and mixing of recognized formulations of blasting agents shall be conducted in accordance with nationally recognized good practice.

4. Smoking or open flames shall not be permitted within 100 feet of any building or facility used for the mixing of blasting agents.

i. Tools used for opening packages of explosives shall be constructed of non-sparking materials.

5. Empty oxidizer bags shall be disposed of daily by burning in a safe manner in the open at a safe distance from buildings or combustible materials.

i. Empty boxes and paper and fiber packing materials which have previously contained high explosives shall not be used again for any purpose, but shall be destroyed by burning at an approved isolated location out of doors, and any person shall not be nearer than 100 feet after the burning has started. Explosives shall not be abandoned.

(g) Blasting requirements are as follows:

1. Blasting operations shall be conducted during daylight hours except when authorized at other times by the fire official.

2. The handling and firing of explosives shall be performed by the person possessing a permit issued by the N.J. Department of Labor pursuant to N.J.A.C. 12:190 to use explosives or by employees under that person's direct supervision who are at least 18 years old.

i. A person shall not handle explosives while under the influence of intoxicants or narcotics.

ii. A person shall not smoke or carry matches while handling explosives or while in the vicinity thereof.

iii. An open flame light shall not be used in the vicinity of explosives.

iv. A permit to blast does not confer any right or privilege to conduct business or perform any operation including storage or handling of explosives which is contrary to or in conflict with provisions of any law of the State of New Jersey or any Federal law.

3. At the site of blasting operations, a distance of at least 150 feet shall be maintained between magazines and the blast area when the quantity of explosives temporarily kept therein is in excess of 25 pounds, and at least 50 feet when the quantity of explosives is 25 pounds or less. When site restrictions are such that the distance specified herein cannot be met, then the magazine shall be moved from the site the required distance when the blasting is actually to be performed.

4. Whenever blasting is being conducted within 50 feet of gas, electric, water, fire, alarm, telephone, telegraph or steam utilities, the blaster shall notify the appropriate representatives of such utilities at least 24 hours in advance of blasting, specifying the location and intended time of such blasting. Verbal notice shall be confirmed with written notice. In an emergency this time limit may be waived by fire official.

5. Before a blast is fired, the person in charge shall make certain that all surplus explosives are in a safe place, all persons and vehicles are at a safe distance or under sufficient cover, and a loud warning signal has been sounded.

6. Due precautions shall be taken to prevent accidental discharge of electric blasting caps from current induced by radio or radar transmitters, lightning, adjacent power lines, dust storms or other sources of extraneous electricity. These precautions shall include:

i. The suspension of all blasting operations and removal of persons from the blasting area during the approach and progress of an electrical storm;

ii. The posting of signs warning against the use of mobile radio transmitters on all roads within 350 feet of the blasting operations; and

iii. The blaster shall comply with the Safety Guide for the Prevention of Radio Frequency Radiation Hazards, IME No. 20-1981 (ANSI C-95-4), incorporated herein by reference.

7. When blasting is done in congested areas or in close proximity to a building, structure, railway, highway or any other installation that may be damaged, the blast shall be covered before firing, with a mat constructed so that it is capable of preventing rock from being thrown into the air.

5:18-3.27 Fireworks

(a) General provisions concerning fireworks are as follows:

1. The display, sale or discharge of fireworks shall comply with the requirements of this section.

2. Application for permits for display or discharge shall be made in writing at least 15 days in advance of the date of the display or discharge of fireworks. The sale, possession, use and distribution of fireworks for such display shall be lawful under the terms and conditions approved with the permit and for that purpose only. A permit granted hereunder shall not be transferable, nor shall any such permit be extended beyond the dates set out therein.

3. For the purpose of this section and as used in this Code, the following words and terms shall have the meaning indicated.

"Dangerous fireworks" means and includes the following:

(1) Toy torpedoes containing more than five grains of explosive composition;

(2) Paper caps containing more than .25 grain of explosive composition;

(3) Firecrackers or salutes exceeding five inches in length or ¾ inch in diameter;

(4) Cannons, canes, pistols, or other devices designed for use otherwise than with paper caps;

(5) Any fireworks containing a compound or mixture of yellow or white phosphorous or mercury;

(6) Any fireworks that contain a detonator or blasting cap;

(7) Fireworks compositions that ignite spontaneously or undergo marked decomposition when subjected for 48 consecutive hours to a temperature of 167 degrees Fahrenheit;

(8) Fireworks that can be exploded en masse by a blasting cap placed in one of the units or by impact of a rifle bullet or otherwise;

(9) Fireworks, such as sparklers or fuses, containing a match tip, or head, or similar igniting point or surface, unless each individual tip, head or igniting point or surface is thoroughly covered and securely protected from accidental contact or friction with any other surface; and

(10) Fireworks containing an ammonium salt and a chlorate.

"Fireworks" include any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation.

"Fireworks factory building" means any building or other structure in which the manufacture of fireworks, other than sparklers, is carried on.

"Fireworks plant" means and includes all lands, with buildings thereon, used in connection with the manufacturing or processing of fireworks, as well as storehouses located thereon for the storage of finished fireworks.

"Highway" means any public street, public alley, public road, or navigable stream.

"Navigable streams" means streams susceptible of being used, in their ordinary condition, as highways of commerce, over which trade or travel are or may be conducted in the customary modes, but shall not include streams that are not capable of navigation by barges, tugboats and other large vessels.

"Railroad" means any steam, electric or other railroad which carries passengers for hire, but shall not include sidings or spur trucks installed primarily for the use of the fireworks plant.

(b) Sale and discharge requirements are as follows:

1. It shall be a violation of this Code for any person to store, to offer for sale, expose for sale, sell at retail, or use or explode any fireworks, except as provided for by the fire official when granting a permit for supervised displays of fireworks by the jurisdiction, fair association, amusement park, or other organization. Every such display shall be handled by a competent operator approved by the fire official. The fireworks shall be arranged, located, discharged or fired in a manner that, in the opinion of the fire official, will not be a hazard to property or endanger any person. In matters not specifically covered by this subsection, the provisions of NFPA 1123 and 1124 listed in Appendix 3-A, incorporated herein by reference, shall be deemed to provide adequate protection.

2. The governing body of any municipality may, upon application in writing accompanied by proof of proper insurance coverage, grant a permit for the public display of fireworks by municipalities, religious, fraternal or civic organizations, fair associations, amusement parks, or other organizations or groups of individuals, approved by the governing body of such municipality to whom the application is made. The governing body is authorized to grant such permission by resolution. After such permission shall have been granted, and a permit shall have been issued by the fire official, pursuant to N.J.A.C. 5:18-2.7(b)5, the possession and use of fireworks for such display shall be lawful for that purpose only.

i. All applications for permits shall set forth the date, the hour, the place of making such display, and the place for storing of fireworks prior to the display. The application shall also contain the names of the person, persons, firm, partnership, corporation, association, or group of individuals making the display, and the name of the person or persons in charge of the igniting, firing, setting-off, exploding or causing to be exploded such fireworks. The location of the storage place shall be subject to the approval of the fire official of the jurisdiction.

ii. The governing body of the municipality shall require insurance in a sum of not less than $500,000 conditioned for the payment of all damages, which may be caused either to a person or persons or to property, by reason of the display so as aforesaid permitted, and arising from any acts of the permit holder, his agents, employees, or subcontractors. Such surety shall run to the municipality in which the permit is granted, and shall be for the use and benefit of any person, persons, or the owner or owners of any property so damaged, who is or are authorized to maintain an action thereon, or his or their heirs, executors, administrators, successors or assigns.

3. Exceptions: Nothing in this section shall be construed to prohibit any resident wholesaler, dealer or jobber to sell at wholesale such fireworks as are not herein prohibited, or the sale of any kind

of fireworks provided the same are to be shipped directly out-of-State, or the use of fireworks by railroads or other transportation agencies for signal purposes or illumination, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletic or sports, or for use by military organizations. Such wholesalers, dealers and jobbers shall store their supplies of fireworks in accordance with N.J.A.C. 5:18-3.26(d).

4. The fire official shall seize, take, remove or cause to be removed at the expense of the owner, all stocks of fireworks offered or exposed for display or sale, stored or held in violation of this section.

5. The use of what are technically known as fireworks showers, or of any composition containing potassium and sulphur, in theaters or public halls shall be subject to prior approval by the fire official and the following conditions shall apply:

i. Fireworks shall be discharged at a height no greater than four feet above the stage floor.

ii. Fireworks shall be discharged and operated in accordance with manufacturers directions and specifications.

iii. The owner/operator shall provide a full demonstration to the fire official prior to final operation.

iv. Fireworks shall be discharged so as not to endanger the public by escape of any hot particles from the stage area.

v. A fire watch, with proper extinguishing equipment as approved by the fire official, shall be maintained during the operation at both sides of the stage area.

6. It shall be unlawful to manufacture, sell, transport or use dangerous fireworks within the State.

(c) Manufacturing requirements are as follows:

1. No factory building shall be situated nearer than 200 feet from any inhabited building or to any highway or to any railroad, nor nearer than 50 feet from any building used for the storage of explosives or fireworks, nor nearer than 25 feet to any other factory building. This subsection shall not apply to factory buildings existing on March 25, 1930, in fireworks plants then in operation.

2. No building in a fireworks plant used for the storage of finished fireworks, other than those containing only sparklers, shall be situated nearer than 300 feet from any building not used in connection with the manufacture of fireworks, nor from any highway, railroad or navigable stream, nor within 300 feet of the property line of the fireworks plant. This subsection shall not apply to such storehouses existing on March 25, 1930.

3. All fireworks plants shall be enclosed on all sides by substantial fences and all openings to such enclosures shall be fitted with suitable gates, which, when not locked, shall be in charge of a competent watchman who shall have charge of the fireworks plant when it is not in operation.

4. Fireworks plants and all buildings situated within fireworks plant enclosures shall be equipped with suitable fire protection, commensurate with the hazard involved, to protect life and property from direct burning and exposure. Such fire protection shall be installed as directed by the fire official.

5. No stoves, exposed flame or electrical heating devices shall be used in any part of any fireworks plant, except in the boiler room or machine shop. No fireworks or chemicals are to be stored in those rooms. All parts of the buildings in fireworks plants shall be kept clean, orderly, and free from accumulations of dust or rubbish.

6. Fireworks in the finished state shall not be stored in buildings where fireworks are in process of manufacture.

7. No fireworks may be manufactured except such as shall be approved for transportation by the regulations of U.S. Department of Transportation.

8. Each outside package of fireworks shall bear upon the outside thereof the words "Fireworks—Handle Carefully—Keep Fire Away" in letters not less than 7/16 inch in height, and in addition shall show the name of the fireworks manufacturer.

9. No employee or other person shall enter or attempt to enter any fireworks plant with matches or other flame-producing devices, nor with liquor or narcotics in his or her possession or control, nor when under the influence of liquor or narcotics, nor partake of intoxicants or narcotics while in the plant.

10. No person shall smoke nor carry matches, a lighted cigar, cigarette, or pipe within any room or enclosed place or upon any part of a fireworks plant.

11. All fireworks plants shall be properly posted with "Warning" and "No Smoking" signs.

12. It shall be the duty of the superintendent, foreman or other person in charge of any fireworks plant to provide safety containers for matches at all main entrances of the plant, where all matches in the possession of all persons shall be deposited before entering the plant enclosure.

13. On receipt of an application to operate a fireworks plant, the fire official shall cause an inspection to be made of the premises described in the application for the purpose of determining whether they conform to the provisions of this chapter, and applicable sections of the Uniform Construction Code and N.J.A.C. 5:18-4.

14. A record of the certificates of registration issued and revoked shall be kept on file in the office of the Commissioner, and a notice sent to the fire official of each community in which a fireworks plant is located.

15. The owner or operator of any fireworks plant, within 60 days after demand therefor in writing by the Commissioner of Community Affairs, shall file and keep on file with the Department of Insurance of the State, an indemnity bond payable to the State of New Jersey in such sums as may be determined by the Commissioner and set forth in such demand, not in excess of $1,000,000 nor less than $500,000, with surety or sureties satisfactory to the Department of Community Affairs conditioned for the payment of all final judgments that may be rendered against such owner or operator for damages caused to persons and property by reason of any explosion at such fireworks plant of the product or component part or parts thereof there manufactured, processed or handled.

5:18-3.28 Flammable and combustible liquids

(a) General provisions concerning flammable and combustible liquids are as follows:

1. This section shall apply to the transportation, storage, handling and processing of flammable and combustible liquids as defined in N.J.A.C. 5:18-3.2. The provisions of NFPA 30 listed in Appendix 3-A, incorporated herein by reference, shall apply where the provisions of this section do not specifically cover conditions and operations.

2. A permit shall be obtained from the fire official in accordance with N.J.A.C. 5:18-2.7 for any of the following:

i. Storage, handling or use of Class I liquids in excess of five gallons in a dwelling or other place of human habitation, or in excess of 10 gallons in any other building or other occupancy, or in excess of 60 gallons outside of any building, except that no permit shall be required for:

(1) The storage or use of flammable liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant; or

(2) For the storage or use of paints, oils, varnishes or similar mixtures when such liquids are stored for painting or maintenance, or similar purposes upon the premises, and which are not stored for a period exceeding 30 days.

ii. Storage, handling or use of Class II combustible liquids or Class III combustible liquids in excess of 25 gallons in a building, or in excess of 60 gallons outside of a building, except for fuel oil used in connection with oil burning equipment in single family residential buildings.

(b) Fire safety requirements are as follows:

1. The layout, arrangement and construction of buildings and structures in which flammable liquids are used or stored shall comply with the applicable requirements of the building code in effect at the time of first occupancy for the appropriate use group classification, and shall be provided with fire protection and fire extinguishing equipment as required by that code. Buildings and structures and their service equipment shall be maintained in a safe condition as required by this Code.

2. Containers, tanks, equipment and apparatus and all piping, fittings and appliances used or intended to be used for the storage, handling, use or movement of flammable or combustible liquids shall

be constructed and tested in accordance with NFPA 30 listed in Appendix 3-A and approved by the fire official.

i. All cans, containers or vessels which contain flammable liquids or flammable liquids compounds or mixtures and are offered for sale shall be provided with a warning label painted or printed on the container, stating said liquid is flammable and should be kept away from heat or open flame. All portable cans, containers or vessels which are empty and offered for sale and which are intended for the conveyance or storage of flammable liquids of flammable liquid compounds or mixtures shall be conspicuously marked with the name of the product which they are intended to contain.

ii. Portable containers intended to hold 10 gallons or less and to be used for gasoline or other flammable liquid shall be red in color. The name of the flammable liquid shall be prominently displayed on the container in bold letters of a contrasting color. The containers shall be of metal or approved plastic with a spring-loaded or screw cap. Containers for kerosene shall be blue.

iii. Wherever flammable liquids or kerosene are dispensed into or offered for sale in containers, there shall be a prominent sign located in a conspicuous location indicating the required color and construction of this container for each product sold. The sign shall not be less than 12 inches in the least dimension.

3. The fire official may prohibit the sale or use of any heating, lighting or cooking appliance using a flammable or combustible liquid when said appliance presents a hazard.

4. It shall be unlawful for any person to sell or offer for sale any Class I flammable liquid for the purposes of domestic cleaning.

5. All flammable or combustible liquids shall be dispensed in accordance with the following requirements:

i. Flammable liquids shall not be dispensed by gravity from tanks, drums, barrels or similar containers. Approved pumps, taking suction from the top of the container, shall be used. An exception may be granted when the viscosity of the liquid makes such a restriction impractical. Combustible liquids may be drawn from tanks, drums or barrels by gravity through an approved self-closing valve or faucet which is affixed directly on the container or a rigid closed piping system attached thereto. The provisions of this subparagraph shall not prohibit the temporary use of movable tanks in conjunction with the dispensing of flammable or combustible liquids into the fuel tanks of motor vehicles or other motorized equipment on premises not normally accessible to the public. Such installations shall only be made with the approval of the fire official.

ii. Flammable or combustible liquids shall not be dispensed by a device that operates through pressure within a storage tank, drum or container, unless the tank, drum or container has been approved as a pressure vessel for the intended use. Air or oxygen shall not be used to pressurize the approved vessel.

iii. Flammable or combustible liquids shall not be dispensed into a portable or stationary tank, drum or container which does not meet the requirements of this code.

iv. Fuel pumps and fuel dispensers shall be installed in accordance with N.J.A.C. 5:18-3.16.

6. A person shall not permit or cause to be permitted the discharge of flammable or combustible liquids, or any waste liquid containing petroleum or its products, into or upon any street, pavement, highway, drainage canal ditch, storm or sanitary drain or flood control channel, lake or waterway, or upon the ground. All waste petroleum products shall be stored in accordance with the requirements of this subchapter.

7. Class I flammable liquid shall not be used within a building for washing parts or removing grease or dirt unless it is used in a closed machine approved for such purpose or in a separately ventilated room constructed in accordance with the building code in effect at the time of first occupancy.

8. In locations where flammable vapors may be present, precautions shall be taken to prevent ignition by eliminating or controlling sources of ignition. Sources of ignition may include open flames, lightening, smoking, cutting or welding, hot surfaces, frictional heat, sparks (static, electrical, and mechanical), spontaneous ignition, chemical and physical-chemical reactions and radiant heat. The fire official may prohibit the use of devices or order the suspension of an operation when proper precautionary measures are not taken.

9. Flammable and combustible liquid spills and leaks shall be promptly reported to the fire official.

(c) Bulk processing or industrial plants, refineries or other plants and distilleries and all buildings, tanks and equipment used for the storage, processing, distillation, refining or blending of flammable or combustible liquids shall be located, constructed and used in accordance with the building code in effect at the time of first occupancy and NFPA 30 listed in Appendix 3-A and any other applicable law or ordinance of the jurisdiction.

(d) Aboveground tank storage requirements are as follows:

1. Aboveground storage tanks for the storage of combustible or flammable liquid shall be maintained in a safe operating condition as required by this Code.

2. Existing aboveground tank installations that have been previously approved may be continued, provided the installation does not constitute a hazard. The fire official shall periodically inspect the installation for safety, and if he or she determines the installation or operation is no longer conducted or maintained in a safe manner, he or she shall have authority to require unsafe tanks to be removed from service.

i. Existing fuel oil tanks for supplying oil burning heating equipment may be located above ground, inside or outside of the building, providing the capacity of such tank does not exceed 660 gallons for each building served, and the installation does not constitute a hazard.

(e) Underground tank storage requirements are as follows:

1. Periodic tests of underground storage systems may be required by the fire official to determine that leakage has not occurred.

(f) The following apply to containers and portable tanks:

1. This subsection shall apply to the storage and dispensing of flammable or combustible liquids into or from containers or portable tanks not exceeding 660 gallons individual capacity.

2. Exceptions: The requirements of this subsection shall not apply to the following:

i. Flammable liquids in the fuel tanks of a motor vehicle, aircraft, motorboat, mobile power plant, or mobile heating plant; and

ii. Flammable or combustible paints, oils, varnishes, or similar mixtures when such liquids are stored from painting or maintenance or similar purposes, upon the premises and which are not stored for a period exceeding 30 days.

3. Containers and portable tanks for flammable and combustible liquids shall conform to (b)2 and (b)2i above and Table 3.28(f) below.

TABLE 3.28(f)
MAXIMUM ALLOWABLE SIZE OF CONTAINERS AND PORTABLE TANKS

	Flammable Liquids			Combustible Liquids	
Container Type	Class 1A	Class 1B	Class 1C	Class II	Class III
Glass	1 pt.	1 qt.	1 gal.	1 gal.	1 gal.
Metal (other than DOT drums) or	1 gal.	5 gal.	5 gal.	5 gal.	5 gal.
approved plastic Safety cans	2 gal.	5 gal.	5 gal.	5 gal.	5 gal.
Metal drums (DOT spec.)	60 gal.	60 gal.	60 gal.	60 gal.	60 gal.
Approved portable tanks	660 gal.	660 gal.	660 gal.	660 gal.	660 gal.

i. Exceptions: The requirements of (f)3 above shall not apply to the following: medicines, beverages, foodstuffs, cosmetics and other common consumer items, when packaged according to commonly accepted practices. Class 1A and 1B flammable liquids may be stored in glass containers of not more than one gallon capacity if the required liquid purity (such as ACS analytical reagent grade or higher) would be affected by storage in metal containers or if the liquid would cause excessive corrosion of the metal container.

3. Inside storage and handling rooms shall be enclosed with assemblies having a fire resistance rating of not less than two hours when quantities of more than 100 gallons are involved or such storage shall be in a separate exterior storage building constructed in accordance with the building code in effect at the time of first occupancy.

4. The inside storage of flammable or combustible liquids in approved and properly sized containers or tanks shall comply with Table 3.28(f)4 below.

i. Flammable or combustible liquids, including stock for sale, shall not be stored so as to limit use of the means of egress of the building.

5. Flammable or combustible liquid containers conforming to (b)2 and (b)2i and Table 3.28(f) above shall be stored as specified in NFPA 30 listed in Appendix 3-A.

Table 3.28(f)4
MAXIMUM INSIDE PILE STORAGE

Class liquid	Storage Level (Note b)	Protected* Maximum Gals. (Note a)	Storage per Pile Height (Note c)	Unprotected Maximum Gals. (Note a)	Storage per Pile Height (Note c)
1A	Ground and upper floors	2,750 (50)	3 ft. (1)	660 (12)	3 ft. (1)
	Basement	Not permitted		Not permitted	
1B	Ground and upper floors	5,500 (100)	6 ft. (2)	1,375 (25)	3 ft. (1)
	Basement	Not permitted		Not permitted	
1C	Ground and upper floors	16,500 (300)	6 ft. (2)	4,125 (75)	3 ft. (1)
	Basement	Not permitted		Not permitted	
II	Ground and upper floors	16,500 (300)	9 ft. (3)	4,125 (75)	9 ft. (3)
	Basement	5,500 (100)	9 ft. (3)	Not permitted	
III	Ground and upper floors	55,000 (1,000)	15 ft. (5)	13,750 (250)	12 ft. (4)
	Basement	8,250 (150)	9 ft. (3)	Not permitted	

*A water sprinkler or equivalent fire suppression system installed in accordance with the Uniform Construction Code and approved by the fire official.

Note a: When two or more classes of materials are stored in a single pile, the maximum gallonage permitted in that pile shall be the smallest of separate maximum gallonage. Number below gallon quantity is the number of 55 gallon capacity containers.

Note b: Aisles shall be provided so that no portable tank is more than 12 feet from an aisle. Main aisles shall be at least eight feet wide and side aisles at least four feet wide.

Note c: Each pile shall be separated from each other pole by at least four feet. When stored on suitably protected racks or when the storage is suitably protected, portable tanks may be piled up to the height limits indicated in (g)6iv below, where approved by the fire official.

(g) Quantity requirements are as follows:

1. The storage of flammable or combustible liquids in containers or portable tanks shall comply with the following applicable paragraphs, except that the fire official may impose a quantity limitation or require greater protection where unusual hazard to life or property is involved. Increase of these amounts may be authorized where the type of construction, fire protection provided, or other factors substantially reduce the hazard.

1. Storage in excess of five gallons of flammable liquids or 60 gallons of combustible liquids shall be prohibited in buildings of Use Group R-3 and accompanying attached detached garages, with the exception of owner occupied one-and-two-family dwellings.

2. Storage in excess of 10 gallons of flammable liquids or 60 gallons of combustible liquids shall be prohibited in buildings of Use Groups A, R-1 and R-2.

3. In buildings of Use Groups B, E and I, storage shall be limited to that required for operation of office equipment, maintenance, demonstration, treatment and laboratory work. All liquids in laboratories and at other points of use shall meet the following storage provisions:

i. A container for flammable liquids shall not exceed a capacity of one gallon, except that safety cans can be of two gallons capacity.

ii. Not more than 10 gallons of flammable liquids shall be stored outside of an approved storage cabinet or interior storage room, except in safety cans.

iii. Not more than 25 gallons of flammable liquids shall be stored in safety cans outside of an interior storage room or storage cabinet.

iv. Not more than 60 gallons of combustible liquids shall be stored outside of an interior storage room or storage cabinet.

v. Quantities of flammable and combustible liquids in excess of those set forth in this paragraph shall be stored in an approved interior storage room or storage cabinet.

4. Storage in buildings of Use Group M shall comply with the following provisions:

i. In rooms or areas accessible to the public, storage of Class I, Class II and Class IIIA liquids shall be limited to quantities needed for display and normal merchandising purposes but shall not exceed two gallons per square foot of gross floor area. The gross floor area used for computing the maximum quantity permitted shall be considered as that portion of the store actually being used for merchandising flammable and combustible liquids.

ii. Where the aggregate quantity of additional stock exceeds 60 gallons of Class IA, 120 gallons of Class IB, 180 gallons of Class IC, 240 gallons of Class II, or 660 gallons of Class IIIA liquids or any combination of flammable liquids exceeding 240 gallons, the excess shall be stored in a room or portion of the building that complies with the construction provisions for an inside storage room. For water-miscible liquids, these quantities may be doubled.

iii. Containers in a display area shall not be stacked more than three feet or two containers high, whichever is the greater, unless on fixed metal shelving or otherwise being satisfactorily secured.

iv. Shelving shall be made of stable metal construction, of sufficient depth and arrangement such that containers displayed thereon shall not be easily displaced.

v. Leaking containers shall be removed to an approved interior storage room or to a location outside the building safe from ignition sources, and the contents transferred to an undamaged container.

5. Storage in general purpose or industrial plant warehouses shall be in accordance with Tables 3.28(f) and 3.28(f)4 above and in buildings or in portions of such buildings separated by fire walls. Material creating fire exposure hazard to the flammable or combustible liquids may not be stored in the same area.

6. Flammable and combustible liquid warehouses or storage buildings shall comply with the following requirements:

i. The total quantity of liquids within a building shall not be restricted, but the arrangement of storage shall comply with Table 3.28(f)4 above provided said storage is in approved containers of sizes complying with Table 3.28(f) above.

ii. Containers in piles shall be separated by pallets or dunnage where necesary to provide stability and to prevent excessive stress on container walls.

iii. Portable tanks stored over one tier high shall be designed to nest securely, without dunnage, and adequate materials handling equipment shall be available to handle tanks safely at the upper tier level.

iv. No pile shall be closer than three feet to the nearest beam, chord, girder or other obstruction and shall be three feet below sprinkler deflectors or discharge orifices of water spray, or other overhead fire protection systems.

v. Aisles at least three feet wide shall be provided where necessary for access to doors, windows or standpipe connections.

(h) Fire control requirements are as follows:

1. Suitable fire extinguishing equipment, such as small hose or portable fire extinguishers, shall be available at locations where flammable or combustible liquids are stored.

i. At least one portable fire extinguisher having a rating of not less than 20-B:C shall be located outside of, but not more than 10 feet from, the door opening into any interior storage room.

ii. At least one portable fire extinguisher having a rating of not less than 20-B:C shall be located not less than 10 feet, nor more than 25 feet, from any flammable liquid storage area located outside of an interior storage room but inside the building.

2. Open flames and smoking shall not be permitted in flammable or combustible liquid storage areas.

3. Materials which will react with water shall not be stored in the same room with flammable or combustible liquids.

4. Containers and portable tanks used for flammable liquids shall be electrically bonded or grounded during transfer of liquids in accordance with NFPA 77 listed in Appendix 3-A, incorporated herein by reference.

(i) The following apply to tank vehicles:

1. The provisions of this subsection apply to tank vehicles which are to be used for the transportation of asphalt or flammable or combustible liquids. The intent of the provisions is to provide minimum requirements for the design and construction of cargo tanks and their appurtenances and to set forth certain matters pertaining to tank vehicles.

2. All tank vehicles, and appurtenances shall be designed and constructed in compliance with NFPA 385 listed in Appendix 3-A, incorporated herein by reference.

3. Tank vehicles shall be used and operated as specified in NFPA 385 listed in Appendix 3-A and as follows:

i. Tank vehicle shall not be parked or left unattended on any street, highway, avenue or alley, provided that this shall not prevent a driver from necessary absence from the vehicle in connection with the delivery of the load, except that during actual discharge of the liquid some responsible person shall be present at the vehicle, nor shall it prevent stops for meals during the day or night if the street is well lighted at point of parking. Tank vehicles shall not be parked out of doors at any one point for longer than one hour, except at flammable liquid bulk terminals, bulk plants and other locations approved by the fire official.

ii. Tank vehicles shall not be parked or garaged in any building or structure other than those specifically approved for such use by the fire official.

iii. Each tank vehicle shall be provided with at least one portable fire extinguisher having a rating of not less than 2-A:20-B:C.

4. The driver, operator or attendant of any tank vehicle shall not leave the vehicle while it is being filled or discharged. Delivery hose, when attached to a tank vehicle, shall be considered to be a part of the tank vehicle. When making or breaking hose connections, the motors of tank trucks or tractors shall be shut down. If loading or unloading is done without the use of a power pump, the tank truck or tractor motor shall be shut down throughout such operations.

i. Delivery of flammable liquids to underground tanks of more than 1,000 gallons capacity shall be made by means of vapor-tight connections between the hose and the fill pipe. In all cases where underground tanks are equipped with any type of vapor recovery system, all connections required to be made for the safe and proper functioning of the particular vapor recovery process shall be made. Such connections shall be made liquid and vapor-tight and shall remain connected throughout the unloading process. Vapors shall not be discharged into the atmosphere at grade level during delivery.

ii. Upon arrival at a point of delivery and prior to discharging any flammable or combustible liquids into underground tanks, the driver, operator or attendant of the tank vehicle shall ensure that all liquid delivery and vapor recovery (if required) hoses will be protected from physical damage by motor vehicles. Such protection shall be provided by positioning the tank vehicle so as to prevent motor vehicles from passing through the area(s) occupied by hoses or shall consist of portable traffic warning devices, such as traffic cones.

5:18-3.29 Hazardous materials and chemicals

(a) The provisions of this section shall apply to hazardous materials which are not otherwise covered in this Code which are highly flammable, or which may react to cause fires or explosions, or which by their presence create or augment a fire or explosion hazard, or which because of their toxicity, flammability, or liability to explosion render fire fighting abnormally dangerous or difficult; also to flammable liquids which are chemically unstable and which may spontaneously form explosive compounds, or undergo spontaneous reactions of explosive violence or with sufficient evolution of heat to be a fire hazard. Hazardous chemicals shall include such materials as flammable solids, corrosive liquids, radioactive materials, oxidizing materials, potentially explosive chemicals, highly toxic materials, and poisonous gases, as defined in (b) below.

(b) For the purpose of this section and as used in this Code, the following words and terms shall have the meaning shown.

"Sealed source" means a quantity of radiation so enclosed as to prevent the escape of any radioactive material but at the same time permitting radiation to come out for use.

"Storage, isolated" means storage away from incompatible materials in a different storage room or in a separate and detached building located at a safe distance from hazardous occupancies and important exposures.

"Storage, separated" means storage in the same fire area but physically separated by as much space as practicable, using sills or curbs as safeguards, or by intervening storage of nonhazardous, compatible commodities.

(c) General requirements for hazardous materials and chemicals are as follows:

1. The manufacture, storage, handling and use of hazardous materials and chemicals shall be safeguarded with such protective facilities as public safety requires.

2. The fire official may require the separation or isolation of any chemical that in combination with other substances may bring about a fire or explosion or may liberate a flammable or poisonous gas. The fire official may require separation from other storage facilities, dwellings, places of assembly, educational uses, railroads and public highways when the quantity stored constitutes a material hazard. Limitations on storable quantities shall be considered with regard to proximity of these exposures and congested commercial and industrial districts.

3. Defective containers which permit leakage or spillage shall be disposed of or repaired in accordance with recognized safe practices. Spilled materials shall not be allowed to accumulate on floors or shelves.

4. Where kept for retail sale in containers or packages usual to the retail trade, storage shall be neat and orderly and shelves shall be of substantial construction.

5. Where specific requirements are not otherwise established, storage, handling and use of hazardous materials and chemicals shall be in accordance with nationally recognized good practice.

6. All containers of materials and chemicals shall be individually labeled or shall have a sign or placard posted on the container.

7. All labels, signs and placards shall be prominently affixed to the container and shall provide the chemical name and hazard warning information related to the substance being contained. Fixed containers shall also be provided with placards in accordance with NFPA 704 listed in Appendix 3-A, incorporated herein by reference.

8. The owner shall have available for review and inspection a material safety data sheet for each hazardous material or substance on the premises. The material safety data sheet shall include the following information.

i. The manufacturer's name, address and emergency telephone number;

ii. The chemical name and synonyms; trade names and synonyms; and hazardous ingredients;

iii. The physical date and reactvity date;

iv. Fire and explosion data;

v. Health hazard data; and

vi. Special protection information and special precautions.

(d) The layout, arrangement and construction of buildings and structures in which hazardous chemicals are handled shall comply with the applicable requirements of the building code in effect at the time of first occupancy for the appropriate use group classification, and shall be provided with fire protection and fire extinuishing equipment as required by that Code. Buildings and structures and their service equipment shall be maintained in safe condition as required by this Code.

(e) Packaged oxidizing materials shall be stored in dry locations and separated from stored organic and other combustible materials. Bulk oxidizing materials shall not be stored on or against wooden surfaces.

(f) The following apply to radioactive materials:

1. Durable, clearly visible signs warning of radiation dangers shall be placed at all entrances to areas or rooms where radioactive materials are used or stored. In addition, on each container in which radioactive materials are used, stored or transported shall be the three-bladed radiation symbol in magenta or purple on a yellow background in accordance with nationally recognized good practice. The use, storage and handling of radioactive materials shall comply with NFPA 801 listed in Appendix 3-A, incorporated herein by reference, where provisions of this section do not specifically cover conditions and operations.

i. Exception: Signs are not required for storage of manufactured articles other than liquids, such as instruments or clock dials or electronic tubes or apparatus of which radioactive materials are a component part, and luminous compounds, when securely packed in strong containers, provided the gamma radiation at any surface of the package is less than 10 milliroentgens in 24 hours.

2. When not in use, radioactive materials shall be kept in adequately shielded fire resistant containers of such design that the gamma radiation will not exceed 200 milliroentgens per hour or equivalent at any point of readily accessible surface.

(g) The following apply to unstable (reactive) chemicals:

1. Unstable chemicals shall be stored away from all incompatible chemicals and contaminating and sensitizing materials. Unstable reactive chemicals shall not be stored in the same building with or in close proximity to explosives and blasting agents, except in accordance with N.J.A.C. 5:18-3.26(e).

2. Such chemicals shall be kept away from all heat-producing appliances and electrical devices and shall be protected from external heat, fire and explosion. All electric bulbs shall be equipped with guards to prevent breakage. Open lights or flames and smoking shall be prohibited in or near storage areas. Internal combustion motor vehicles or lift trucks shall not be parked or stored in the room or compartment where such chemicals are located.

3. Good housekeeping shall be maintained. Uncontaminated contents of broken or cracked bags, packages or other containers shall be transferred to new and clean containers before storing. Other spilled materials and discarded containers shall be promptly gathered up and destroyed in an approved manner.

4. A detached, well isolated, ventilated and unheated storage building constructed with walls having a fire resistance rating of not less than two hours, a noncombustible floor and a lightweight insulated roof shall be provided for the storage of 50 pounds or more of organic peroxides. If not adequately protected by a fast-acting deluge type automatic sprinkler system, the storage building shall be located the minimum distances from flammable liquid storage combustible materials in the open and from any other building or highway, as indicated in the following Table 3.29(g)4 below.

i. Stock supplies stored inside production buildings shall be limited to 50 pounds at any one time.

TABLE 3.29(g)4
ORGANIC PEROXIDE STORAGE

Weight of organic peroxide (pounds)	Distance (feet)
50 to 100	75
100 to 500	100
500 to 1,000	125
1,000 to 3,000	200
3,000 to 5,000	300

ii. The organic peroxides shall be stored in the original shipping containers (U.S. Department of Transportation containers). Care shall be taken to avoid rough handling or contamination of these chemicals. Readily legible warning signs and placards shall be prominently placed in the storage and processing areas.

5. A suitably isolated outdoor storage area shall be provided for nitromethane. Hazardous processing shall not be permitted in the vicinity of this storage area. Nitromethane shall be stored in the drums in which it is received or in an underground tank with suitable corrosion protection and a minimum of two feet of earth over the tank or in barricaded tanks above ground. If the drum storage is not adequately protected by a fast-acting deluge type automatic sprinkler system, the storage of 2,000 pounds or more shall be

located the minimum distances from inhabited buildings as shown in Table 3.29(g)5 below. Care shall be taken to avoid rough handling or contamination of this chemical. Readily legible warning signs and placards shall be prominently placed in the storage and processing areas.

TABLE 3.29(g)5
NITROMETHANE STORAGE

Weight of nitromethane (pounds over)	(pounds not over)	Approximate number of drums	Distance (feet)
Beginning at	2,000	4	100
2,000 to	10,000	20	200
10,000 to	20,000	40	300
20,000 to	40,000	80	400
40,000 to	80,000	160	500

6. All flooring in storage and handling areas shall be of noncombustible material and shall be without drains, traps, pits or pockets into which any molten ammonium nitrate could flow and be confined in case of fire.

i. Each storage pile of bags or other authorized packages and containers of such materials shall not exceed 20 feet in width and 50 feet in length. The length is not limited if the building is of fire resistive or noncombustible construction or sprinkler protected. For pile heights exceeding 15 feet, a hydraulically engineered sprinkler system shall be required. Such pile units shall be separated by a clear space of not less than three feet in width from the base to the top of the piles, serving as cross-aisles. At least one service or main aisle in the storage area shall be not less than four feet in width. A clearance of not less than 30 inches shall be maintained from building walls and partitions and of not less than three feet from ceilings or roof structural members with a minimum of 18 inches from sprinklers.

ii. Ammonium nitrate storage areas shall be separated by a space of 30 feet with sills or curbs, or by approved type walls of not less than one hour fire resistance rating, from stocks of organic chemicals, corrosive liquids, flammable compressed gases, flammable and combustible materials, such as coal, sawdust, charcoal, or flour where storage of such materials is permitted with ammonium nitrate.

iii. Quatities of ammonium nitrate or ammonium nitrate fertilizer, not having organic coating, in the form of crystals, flakes, grains or prills including fertilizer grade, dynamite grade, nitrous oxide grade and technical grade ammonium nitrate and ammonium nitrate phosphate (containing 60 percent or more ammonium nitrate by weight) of more than 50 tons total weight shall be stored in a well ventilated building of fire resistive or noncombustible construction, or in buildings of other types of construction equipped with an approved automatic sprinkler system. In populated areas, quantities of 2,500 tons or more shall be stored in well ventilated buildings of fire resistive or noncombustible construction equipped with an approved automatic sprinkler system, and combustible materials or ammonium nitrate sensitizing contaminants shall not be stored in this building.

iv. Storage of ammonium nitrate, coated or mixed with organic anti-caking materials, except compounded blasting agents, shall not be permitted in populated and congested areas. Outside such areas, quantities of 500 tons or less may be stored in well ventilated buildings of fire resistive or noncombustible construction equipped with an approved automatic sprinkler system.

(h) The following apply to highly toxic materials:

1. Highly toxic materials shall be separated from other chemicals and combustible and flammable substances by storage in a room or compartment separated from other areas by walls and floor and ceiling assemblies having a fire resistance rating of not less than one hour. The storage room shall be provided with adequate drainage facilities and natural or mechanical ventilation to the outside atmosphere.

2. Legible warning signs and placards stating the nature and location of the highly toxic materials shall be posted at all entrances to areas where such materials are stored or used.

(i) The following apply to poisonous gases:

1. Storage of poisonous gases shall be in rooms of at least one hour fire resistance rated construction and having natural or mechanical ventilation adequate to remove leaking gas. Such ventilation shall not discharge to a point where the gases may endanger any person.

2. Legible warning signs stating the nature of hazard shall be placed at all entrances to locations where poisonous gases are stored or used.

3. Distributors of poisonous gases as defined in this chapter shall provide and maintain on their premises at least one complete commercial-type repair kit for each size and type poisonous gas cylinder stored or kept on said premises. Such repair kit(s) shall be so located that they will be accessible at all times for immediate use. Said repair kits shall be kept in durable containers and plainly marked as to the size of cylinder the repair kit is designed to service.

(j) Satisfactory provisions shall be made for containing and neutralizing leakage of corrosive liquids which may occur during storage or handling.

(k) The following apply to hazardous materials tank vehicles:

1. The provisions of this subsection apply to vehicles for transportation of hazardous materials as defined in (a) above.

2. Vehicles shall be operated as follows:

i. Vehicles shall not be parked or left unattended on any street, highway, avenue or alley, provided that this shall not prevent a driver from the necessary absence from the vehicle in connection with the delivery of the load, except that during actual discharge of the load some responsible person shall be present at the vehicle, nor shall it prevent stops for meals during the day or night if the street is well lighted at point of parking. Vehicles shall not be parked out of doors at any one point for longer than one hour except at locations approved by the fire official.

ii. Vehicles shall not be parked or garaged in any building or structure other than those specifically approved for such use by the fire official.

3. The driver, operator or attendant of any vehicle shall not leave the vehicle while it is being filled or discharged. Delivery hose, when attached to a tank vehicle, shall be considered to be a part of the tank vehicle. When making or breaking hose connections, the motors of tank trucks or tractors shall be shut down. If loading or unloading is done without the use of power pump, the tank truck or tractor motor shall be shut down throughout such operations.

5:18-3.30 Liquified petroleum gases:

(a) The equipment, processes and operations for storage and handling of liquefied petroleum gas shall comply with the applicable requirements of this Code and the provisions of this section and shall be installed and maintained in accordance with NFPA 58 listed in Appendix 3-A, incorporated herein by reference, where provisions of this section do not specifically cover conditions and operations.

(b) Installers shall maintain a record of all installations for which a permit is not required (but not including installation of gas burning appliances and replacing of portable cylinders) and have it available for inspection by the fire official.

(c) The following apply to tank container systems:

1. All aboveground tank container systems other than cylinder or bottled gas shall be located with respect to the nearest important building, group of buildings, or line of adjoining property which may be built upon as specified in Table 3.30(d) below.

2. Underground tank container systems shall be buried at least six inches below grade. All containers shall be protected against corrosion for the soil condition at the container site by a method in accordance with good engineering practices. The fire separation from the nearest important building, group of buildings, or line of adjoining property that may be built upon shall comply with Table 3.30(d) below.

(d) Container storage requirements are as follows:

1. Where storage containers having an aggregate water capacity more than 4,000 gallons are located in heavily populated or congested areas, the siting provisions of Table 3.30(d) below may be modified as indicated by the fire safety analysis described in Section 3-10.2 of NFPA 58 listed in Appendix 3-A.

2. Multiple container installations with a total storage water capacity of more than 180,000 gallons, or approximately 150,000 gallons LP-Gas capacity, shall be subdivided into groups containing not more than 180,000 gallons in each group. Such groups shall be separated by a distance of not less than 50 feet. Where one of these forms of protection in (d)2i through v below is provided, the separation shall not be less than 25 feet between such container groups.

i. Burial or mounding in an approved manner;

ii. Protection with approved insulation on such areas that may be subjected to impingement of ignited gas from pipelines or other leakage;

iii. Protection by fire walls of approved construction;

iv. Protection by an approved system for application of water; or

v. Protection by other approved means.

TABLE 3.30(d)
SEPARATION FOR TANK CONTAINER SYSTEMS

Water capacity per container (gallons)	Minimum distances between containers and buildings or lot lines: Mounded or underground[d]	Aboveground	Between aboveground containers
Less than 125[a]	10 feet	None[b]	None
125 to 250	10 feet	10 feet	None
251 to 500	10 feet	10 feet	3 feet
501 to 2,000	25 feet[c]	25 feet[c]	3 feet
2,001 to 30,000	50 feet	50 feet	5 feet
30,001 to 70,000	50 feet	75 feet	
70,001 to 90,000	50 feet	100 feet	(1/4 of sum of diameters
90,001 to 120,000	50 feet	125 feet	of adjacent containers)

Note a: At a consumer site, if the aggregate water capacity of a multi-container installation comprised of individual containers having a water capacity of less than 125 gallons is 501 gallons or more, the minimum distance shall comply with the appropriate portion of this table, applying the aggregate capacity rather than the capacity per container. If more than one such installation is made, each installation shall be separated from any other installation by at least 25 feet. Do not apply the minimum distances between aboveground containers to such installations.

Note b: The following shall apply to aboveground containers installed alongside of buildings:

1. DOT specification containers shall be located and installed so that the discharge from the container safety relief device is at least three feet horizontally away from any building opening below the level of such discharge, and shall not be beneath any building unless this space is well ventilated to the outside and is not enclosed for more than 50 percent of its perimeter. The discharge from container safety relief devices shall be located not less than five feet in any direction away from any exterior source of ignition, openings into direct-vent (sealed combustion system) appliances, or mechanical ventilation air intakes.

2. ASME containers of less than 125 gallons water capacity shall be located and installed so that the discharge from safety relief devices shall not terminate in or beneath any building and shall be located at least five feet horizontally away from any building opening below the level of such discharge, and not less than five feet in any direction away from any exterior source of ignition, openings into direct vent (sealed combustion system) appliances, or mechanical ventilation air intakes.

3. The filling connection and the vent from liquid level gauges on either DOT or ASME containers filled at the point of installation shall not be less than 10 feet in any direction away from any exterior source of ignition, openings into direct-vent (sealed combustion system) appliances, or mechanical ventilation air intakes.

Note c: This distance may be reduced to not less than 10 feet for a single container of 1,200 gallons water capacity or less provided such container is at least 25 feet from any other LP-Gas container of more than 125 gallons water capacity.

Note d: Minimum distances for underground containers shall be measured from the relief valve and filling or liquid level gauge vent connection at the container, except that no part of an underground container shall be less than 10 feet from a building or line of adjoining property which may be built upon.

(e) Requirements for use inside buildings are as follows:

1. Containers and first stage regulating equipment shall be located outside of buildings other than buildings especially provided for this purpose, except containers and regulating equipment may be used indoors under the following conditions:

i. If temporarily used for demonstration purposes and the container has a maximum water capacity of 12 pounds (nominal five pounds LP-Gas capacity);

ii. If used with a completely self-contained gas hand torch or similar equipment, and the container has a maximum water capacity of 2½ pounds (nominal one pound LP-Gas capacity);

iii. In industrial and temporary applications when in conformance with N.J.A.C. 5:18-3.20(i)2 and Section 3-4 of NFPA 58 listed in Appendix 3-A;

iv. In use as a motor fuel ((e)2 below); or

v. In storage awaiting use or resale in accordance with Chapter 5 of NFPA 58 listed in Appendix 3-A.

2. The quantity of LP-Gas stored inside buildings for use as a motor fuel shall not exceed 300 pounds.

3. Gas for fuel purposes in either the liquid or vapor phase shall not be piped into any building at pressure in excess of 20 pounds per square inch guage (psig) except as follows:

i. Buildings used exclusively to house equipment for vaporization, pressure reduction, gas mixing, gas manufacturing or distribution;

ii. Buildings, or portions of buildings, separated from other portions by walls, partitions and floor and ceiling assemblies of noncombustible material having a fire resistance rating of not less than two hours, used exclusively to house internal combustion engines or industrial processes or used exclusively for research and experimental laboratories; or

iii. Buildings, structures or equipment under construction or repair.

(f) Fire safety requirements are as follows:

1. The layout, arrangement and construction of buildings and structures in which liquefied petroleum gases are used or stored shall comply with the applicable requirements of the building code in effect at the time of first occupancy for the appropriate use group classification, and shall be provided with fire protection and fire extinguishing equipment as required by that code. Buildings and structures and their service equipment shall be maintained in safe condition as required by this Code.

2. All liquefied petroleum gas equipment, except such equipment installed at utility gas plants, shall be installed as specified in NFPA 58 listed in Appendix 3-A except as otherwise provided in this section. Liquefied petroleum gas equipment at utility gas plants shall be installed as specified in NFPA 59 listed in Appendix 3-A, incorporated herein by reference.

3. Every tank vehicle, or other vehicle used for the transportation of liquefied petroleum gas in excess of 1,000 pounds aggregate gross weight (product and container weight), shall be placarded according to DOT 49 CFR listed in Appendix 3-A.

i. The parking and garaging of tank vehicles used for the transportation of liquefied petroleum gases shall be in accordance with Section 6-6 of NFPA 58 listed in Appendix 3-A.

4. Liquefied petroleum gas installations at marine and pipeline terminals, natural gasoline plants, refineries and tank farms shall be designed and installed so as to be reasonably safe to persons and property.

(g) The following apply to abandonment of equipment:

1. The fire official shall be notified immediately when the use of any liquefied petroleum gas equipment is to be abandoned. Such equipment shall be abandoned in accordance with (g)2 below within 30 days after such notification.

2. Approved procedures for abandoned liquefied petroleum gas containers are as follows:

i. Tanks "temporarily out of service" shall have the fill line, gauge opening, any fuel line entering the building and the pump connection secured against tampering. Relief and regulating devices shall be maintained in accordance with the requirements of this section.

ii. Any tank not used for a period of 10 months shall be properly safeguarded or removed in a manner approved by the fire official.

(1) Exception: Emergency standby LP-Gas fuel systems which are not utilized within an 18 month period shall be purged of all flammable gases with an inert gas or removed. When LP-Gas containers are purged, the container shall be marked on two sides with 12 inch high, red or contrasting letters stating, "Purged—Inert Gas". The fire official shall be notified in writing as to which containers have been rendered out of service.

iii. Any tank which has been abandoned for a period of one year shall be removed from the property in a manner approved by the fire official and the site restored in an approved manner.

iv. Tanks which are to be reinstalled for liquefied petroleum gas shall comply with all of the provisions of this section.

v. Tanks which are to be returned to service shall be tested in a manner approved by the fire official.

(h) Container and site requirements are as follows:

1. Containers of 125 gallons or more water capacity shall be legibly marked with a warning followed by the name of the gas contained. The warning label shall read "Flammable Gas" followed by the name of the gas, such as "Propane" or "Butane".

2. Storage areas having containers exceeding 125 gallons aggregate water capacity shall be posted with adequate "NO SMOKING" and "FLAMMABLE GAS" signs legibly marked. The warning "FLAMMABLE GAS" shall be followed by the name of the gas stored on the site, such as "PROPANE" or "BUTANE".

3. All LP-Gas installations exceeding 250 gallons individual or aggregate water capacity shall be provided with a marker plate or sign indicating who should be called in the event of an emergency involving the LP-Gas installation. The marker or sign shall include the following:

i. The name of the gas supplier, plant installer, owner, or operator who will respond to the emergency; and

ii. The telephone number of that person.

4. The LP-Gas supplier, plant installer, owner or operator indicated on the marker plate or sign required in (h)3 above shall respond when notified to all LP-Gas emergencies occurring at the installation and shall maintain a 24-hour phone service.

5. Whenever there is a fire or explosion or accident involving serious injury or loss of life as a result of an incident involving an LP-Gas installation, the fire official shall be notified within 24 hours of its occurrence.

5:18-3.31 Magnesium

(a) The equipment, processes and operation for the storage, handling or processing of magnesium shall comply with the applicable requirements of this Code and the provisions of this section. Magnesium, as herein referred to, shall include the pure metal and alloys of which the major part is magnesium.

(b) Storage requirements are as follows:

1. Outside storage of magnesium pigs, ingots and billets shall be in piles not exceeding 500 tons each, separated by aisles not less in width than one-half the height of the pile, and separated from combustible materials or buildings on the same or adjoining property by a distance of not less than the height of the nearest pile.

2. Storage of pigs, ingots and billets in buildings shall be on floors of noncombustible construction, in piles not larger than 250 tons each, separated by aisles not less in width than one-half the height of the pile.

3. The size of storage piles of magnesium articles in foundries and processing plants shall not exceed 1,250 cubic feet and shall be separated by aisles not less in width than one-half the height of the pile.

4. Magnesium storage in a quantity greater than 50 cubic feet shall be separated from storage of other materials that are either combustible or in combustible containers, by aisles equal in width to not less than the height of the piles of magnesium.

5. Magnesium storage in a quantity greater than 1,000 cubic feet shall be separated into piles each not larger than 1,000 cubic feet with aisles between equal in width to not less than the height of the piles.

6. Where storage in a quantity greater than 1,000 cubic feet is in a building of combustible construction, or the magnesium is packed in combustible crates or cartons, or there is other combustible storage within 30 feet of the magnesium, the storage area shall be protected by an automatic sprinkler system.

(c) Handling requirements are as follows:

1. At each grinding, buffing or wire-brushing operation on magnesium, not including rough finishing of castings, dust shall be collected by means of suitable hoods or enclosures connected to a liquid precipitation type of separator, such that the dust will be converted to sludge without contact in a dry state with any high speed moving parts.

i. Connecting ducts or suction tubes shall be completely grounded and as short as possible, without unnecessasry bends. Ducts shall be carefully fabricated and assembled, with a smooth interior and with internal lap joints pointing in the direction of air flow, and without unused capped side outlets, pockets or other dead-end spaces which might allow an accumulation of dust.

ii. Each machine shall be equipped with an individual dust separating unit, except that with multi-unit machines not more than two dust-producing units may be served by one separator. Not more than four portable dust-producing units in a single enclosure or stand shall be served one separator unit.

iii. Power supply to dust-producing machines shall be interlocked with the motor driving the exhaust blower and the liquid level controller of the wet collector in such a way that improper functioning of the dust collecting system will shut down the machine it serves. A time delay switch or equivalent device shall be provided in the dust-producing machine to prevent starting of its motor drive until the wet collector is in complete operation and several changes of air have swept out any residual hydrogen.

iv. All electrical wiring, fixtures and equipment in the immediate vicinity of and attached to dust-producing machines, including those used in connection with separator equipment, shall be of types approved for use in Class II, Group E, hazardous locations as specified in NFPA 70 listed in Appendix 3-A, incorporated herein by reference, and shall be installed in accordance with nationally recognized safe practice.

v. All equipment shall be securely grounded by permanent ground wires.

2. Approved means shall be provided for control of magnesium fires in heat treating ovens.

3. Floors under and around melting pots shall be of noncombustible construction.

4. Chips, turnings and other fine magnesium scrap shall be collected from the pans or spaces under the machines and from other places where they collect at least once each working day and placed in a covered, vented steel container and removed to a safe location.

i. Magnesium fines shall be kept separate from other combustible materials. Storage in a quantity greater than 50 cubic feet of fine magnesium scrap shall be separated from other uses in accordance with the Uniform Construction Code or by an open space of at least 50 feet. Storage in a quantity greater than 1,000 cubic feet shall be separated from all buildings other than those used for magnesium scrap recovery operations by a distance of not less than 100 feet.

(d) Fire safety requirements are as follows:

1. The layout, arrangement and construction of buildings and structures where magnesium is stored, processed or handled shall comply with the applicable requirements of the building code in effect at the time of first occupancy for the appropriate use group classification and shall be provided with fire protection and fire extinguishing equipment as required by that code. Buildings and structures and their service equipment shall be maintained in safe condition as required by this code and NFPA 651 listed in Appendix 3-A, incorporated herein by reference, where provisions of this

section do not specifically cover conditions and operations. Smoking shall be in accordance with N.J.A.C. 5:18-3.3(k).

2. A supply of approved extinguishing powder in a substantial container with a hand scoop or shovel for applying powder on magnesium fires or an approved extinguisher unit designed for use with such powder shall be kept within easy reach of every operator performing a machining, grinding or other processing operation on magnesium.

5:18-3.32 Matches

(a) The equipment, processes, and operation for the manufacturing, storage or handling of matches in quantities as indicated herein shall comply with the applicable requirements of this Code and the provisions of this section.

(b) Fire safety requirements are as follows:

1. The layout, arrangement and construction of buildings and structures for use in connection with the manufacturing or storing of matches shall comply with the applicable requirements of the building code in effect at the time of first occupancy for the appropriate use group classification and shall be provided with fire protection and fire extinguishing equipment as required by that code. Buildings and structures and their service equipment shall be maintained in safe condition as required by this Code.

2. At wholesale establishments and wherever more than 25 cases of matches are stored, shipping containers containing matches shall be arranged in piles not exceeding 18 feet in height nor 25,000 cubic feet in volume. Such pile units shall be separated from each other and from other combustible material by a clear space of not less than four feet. Matches shall not be stored within 10 feet of any exit, open stairway elevator shaft opening or other vertical opening.

3. Where matches are sold at retail, original sealed containers may be stored on shelves not closer than 10 feet to heaters, furnaces, compressors or other mechanical equipment.

4. Where shipping containers containing matches are opened, the contents of the opened containers shall be removed and stored in metal or metal-lined bins equipped with self-closing covers.

5:18-3.33 Organic coatings

(a) This section shall apply to processes manufacturing protective and decorative finishes or coatings (paints) for industrial, automotive, marine, transportation, institutional, household or other purposes, and the handling of flammable and combustible liquids, certain combustible solids and potential dust explosion conditions.

i. Exception: This section shall not apply to processes manufacturing nonflammable or water thinned coatings or operations applying coating materials.

(b) Fire safety requirements are as follows:

1. The layout, arrangement and construction of buildings and structures in which organic coatings are manufactured or stored shall comply with the applicable requirements of the building Code in effect at the time of first occupancy for the appropriate use group classification and shall be provided with fire protection and fire extinguishing equipment as required by that Code and this section. Buildings and structures and their service equipment shall be maintained in safe condition as required by this Code and NFPA 35 listed in Appendix 3-A, incorporated herein by reference, where provisions of this section do not specifically cover conditions and operations.

2. Portable fire extinguishers suitable for flammable liquid fires shall be provided as required by the fire official.

3. Open flames and direct-fired heating devices shall be prohibited in areas where flammable vapor-air mixtures may exist.

4. Smoking shall be prohibited except in designated areas approved by the fire official. "No Smoking" signs with lettering of approved size shall be conspicuously posted in such prohibited areas and shall read "By Order of the Fire Official".

6. Adequate aisles shall be maintained for the unobstructed movement of personnel and fire suppression equipment.

7. Power operated equipment and industrial trucks shall be of a type approved for the location.

8. The cleaning of tanks or vessels which have contained flammable or combustible liquids shall only be done under the supervision of persons who understand the fire and explosion potential.

i. When necessary to make repairs involving "hot work," the work shall be authorized by the responsible individual in charge before the work is started.

ii. When necessary to enter a tank, pit, manhole or other confined space, such entry shall be authorized by the responsible individual in charge.

iii. Empty containers previously used for flammable or combustible liquids shall be removed to a detached, outside location, and, if not cleaned on the premises, removed from the plant as soon as practical.

9. Drainage facilities shall be provided to direct flammable and combustible liquid leakage and fire protection water to a safe location away from the building, any other structure, storage area or adjoining property.

i. Emergency drainage systems containing flammable and combustible liquids connected to public sewers or discharging into public waterways shall be equipped with traps or separator tanks.

(c) Static protection requirements are as follows:

1. Emergency drainage systems containing flammable and combustible liquids connected to public sewers or discharging into public waterways shall be equipped with traps or separator tanks.

(c) Static protection requirements are as follows:

1. All equipment such as tanks, machinery and piping, where an ignitable mixture may be present, shall be bonded and connected to a ground. The bond or ground or both shall be physically applied or shall be inherently present by the nature of the installation. This electrically conductive path shall have a resistance of not more than 1,000,000 ohms.

2. Electrically isolated sections of metallic piping or equipment shall be bonded to the other portions of the system or grounded.

3. Tank vehicles loaded or unloaded through open connections shall be grounded and bonded to the receiving system.

4. When a flammable mixture is transferred from one portable container to another, a bond shall be provided between the two containers.

5. Metal framing of buildings shall be grounded with resistance of not more than five ohms.

(d) The following apply to the process building:

1. The process building shall be designed and constructed as required by the building code in effect at the time of first occupancy and without a basement or pit. The first floor shall be at or above grade.

2. An organic coating manufacturing operation shall not be located in the same building with other uses. Operations incidental to, or in connection with, organic coating manufacturing shall not be classed as "other uses" for the purpose of this provision.

3. An organic coating manufacturing operation shall be accessible from at least one side for the purpose of fire control.

4. Where topographical conditions are such that flammable and combustible liquids may flow from the organic coating manufacturing operation so as to constitute a fire hazard to properties of others, drainage facilities shall be provided in accordance with N.J.A.C. 5:18-3.33(b)9 and (b)9i.

5. Structures in which Class I liquids or finely divided flammable solids are processed shall be provided with explosion venting.

6. Enclosed buildings in which Class I liquids are processed or handled shall be ventilated at a rate of not less than one-half cubic foot per minute per square foot of solid floor area. This shall be accomplished by exhaust fans preferably taking suction at floor levels, and discharging to a safe location outside the building. Provision shall be made for introduction of noncontaminated intake air in such a manner that all portions of solid floor areas will be subject to continuous uniformly distributed movement of air.

7. Heating in hazardous areas, if required, shall be provided by indirect means. Ignition sources such as open flames, or electrical heating elements, except as provided in (c) above, shall not be used within the building.

(e) The following apply to process mills, mixers and kettles:

1. Mills operating with close clearances and used for the processing of flammable and heat sensitive materials, such as nitrocellulose, shall be located in a detached building without other uses. The amount of nitrocellulose or other flammable material brought into the area shall be no more than that required for a batch.

2. Mixers shall be of the enclosed type or, if of the open type, shall be provided with properly fitted covers. Where gravity flow is used, a shutoff valve shall be installed as close as practical to the mixer and a control valve shall be provided near the end of the fill pipe.

3. Open kettles shall be located in an outside area, provided with a protective roof or in a separate building of noncombustible construction or separated from other areas by means of a noncombustible wall or partition having a fire resistance rating of at least two hours.

4. The vaporizer section of heat transfer systems heating closed kettles containing solvents shall be remotely located. Contact heated kettles containing solvents shall be equipped with safety devices that in case of fire can turn the process heat off, turn the cooling medium on, and inject gas into the kettle.

5. The kettle and thin-down tank shall be instrumented, controlled and interlocked so that any failure of the controls will result in a safe condition. The kettle shall be provided with a pressure rupture disc in case the normal vent becomes inoperative. The vent piping from the rupture disc shall be of minimum length and shall discharge to a safe location. The thin-down tank shall be adequately vented. Thinning operations shall be provided with an adequate vapor removal system.

(f) The following apply to process piping:

1. All piping, valves and fittings shall be designed for the working pressures and structural stresses to which they may be subjected. They shall be of steel or other material approved for the service intended.

2. Valves shall be of an indicating type. Terminal valves on remote pumping systems shall be of the "dead-man" type which will shut off both the pump and the flow of solvent.

3. Piping systems shall be substantially supported and protected against physical damage. Piping shall be pitched to avoid unintentional trapping of liquids or suitable drains shall be provided.

4. Approved flexible connectors may be used where vibration exists or where frequent movement is necessary. Approved hose shall be used at dispensing stations.

5. Before being placed in service, all piping shall be free of leaks when tested to not less than one and one-half times the working pressure or a minimum of not less than five psig at the highest point in the system. Tests shall continue for a minimum of 30 minutes and shall be at the expense of the owner.

(g) The following apply to raw materials in process areas:

1. The amount of nitrocellulose brought into the operating area shall not exceed that required for a work shift. Any nitrocellulose which may be spilled on the floor or elsewhere shall be promptly swept up, put into a pail of water, and removed at the end of the day or shift and disposed of by use or by burning in the open at a suitable detached location approved by the fire official.

2. Organic peroxides brought into the operating area shall be in the original shipping container and shall not exceed the quantity required for a work shift. When in the operating area, the peroxide shall not be placed in locations exposed to ignition source, heat or mechanical shocks.

(h) The following apply to the transfer of flammable and combustible liquids in process areas:

1. The transfer of large quantities of flammable and combustible liquids shall be through piping by means of pumps. The use of compressed air as a transfer medium shall be prohibited.

i. Pumps shall be selected for the flammable and combustible liquid use, the working pressures and the structural stresses to which they may be subjected.

2. Where solvents are pumped from storage to points of use, approved switches shall be provided in the processing areas and at the pumps to shut down the pumps in case of fire.

3. Empty and filled containers shall be stored outside the filling area.

(i) The following apply to the storage of raw materials and finished products:

1. The storage, handling and use of flammable and combustible liquids shall be in accordance with N.J.A.C. 5:18-3.28.

2. Tank storage for flammable and combustible liquids inside of buildings shall be permitted only in storage areas at or above grade which are separated from the processing area by a two hour fireresistance rated fire separation wall. This is not intended to prevent processing equipment from container flammable and combustible liquids or storage in such quantities as are essential to the continuity of operations.

3. Tank car and tank vehicle loading and unloading stations for Class I liquids shall be separated from the processing area, other plant buildings, nearest line of adjoining property that may be built upon or public thoroughfare by a clear distance of not less than 25 feet.

i. Loading and unloading structures and platforms for flammable and combustible liquids shall be designed and installed in accordance with N.J.A.C. 5:18-3.28.

ii. Tank cars for flammable liquids shall be unloaded so as to be reasonably safe to persons and property. Tank vehicles for flammable and combustible liquids shall be loaded and unloaded in accordance with N.J.A.C. 5:18-3.28(i).

4. The nitrocellulose storage shall be in a separate building or in a room separated with a two hour fireresistance rated fire separation wall. The nitrocellulose storage area shall not be used for any other purpose. Electrical wiring and equipment installed in such rooms or buildings shall conform to (c) above.

i. Nitrocellulose shall be stored only in closed containers. Barrels shall be stored on end and, if tiered, not more than two high. Barrels or other containers of nitrocellulose shall not be opened in the main storage building but at the point of use or other location set aside for the purpose.

ii. Spilled nitrocellulose shall be promptly wetted with water and disposed of by use or by burning in the open at a suitable detached location approved by the fire official.

5. The storage of organic peroxides shall be in accordance with N.J.A.C. 5:18-3.29(g).

i. The size of the package containing the organic peroxide shall be selected so that, as nearly as practical, full packages are utilized at one time. Any peroxide spilled shall be promptly cleaned up and disposed of as recommended by the supplier.

6. Finished products that are flammable or combustible liquids shall be stored outside of buildings, in a separate building, or in a room separated from the processing area by a wall having a fireresistance rating of at least two hours, and openings shall be equipped with approved fire doors. The storage of finished products shall be in tanks or in closed containers in accordance with N.J.A.C. 5:18-3.28.

5:18-3.34 Pesticide storage

(a) This section shall apply to both inside and outside storage of all forms of pesticides in portable containers other than fixed installation on transportation equipment. This section shall not apply to the following:

1. Highly toxic materials as regulated in N.J.A.C. 5:18-3.29; and

2. Storage in dwellings or private garages of pesticides registered by the Environmental Protection Agency for use around the home.

(b) Storage requirements are as follows:

1. Pesticides shall be stored in accordance with the following:

i. Pesticides that are flammable or combustible liquids shall be stored in accordance with the requirements of N.J.A.C. 5:18-3.28.

ii. Pesticides that are oxidizing agents shall be stored in accordance with N.J.A.C. 5:18-3.29.

iii. Pesticides shall not be stored in the same area with ammonium nitrate fertilizer.

iv. Pesticide storage shall be restricted to a first-story room or area which has direct access to the outside. Pesticides shall not be stored in basements. Storage areas shall be designed in a manner so as to prevent unauthorized entry.

v. Pesticides in containers which could be damaged by moisture or water shall be stored off the floor.

vi. Damaged or leaking containers of pesticides or materials contaminated by pesticides shall be immediately separated, disposed of or decontaminated in accordance with Department of Environmental Protection and Energy regulations.

vii. Pesticide storage shall be constructed in such a manner so that run-off from fire streams will not contaminate streams, ponds, ground water, crop lands or buildings.

2. Material safety data sheets for each toxic pesticide shall be available at each storage location.

3. Pesticide storage buildings, storage rooms and areas shall be identified by approved prominent and legible signs.

4. Drums and packages shall be stacked in a stable manner.

5. Compressed gas pesticides shall be stored away from heat such as steam pipes and direct sunlight.

i. All compressed gas cylinders in service or storage shall be protected to insure against being knocked over.

ii. Compressed gas pesticide containers shall be separated from other compressed gases in accordance with N.J.A.C. 5:18-3.24(c)9.

iii. Containers shall be tightly closed and provided with a safety cap when not in use, whether empty or full.

APPENDIX 3-A

The following is a list of the standards referenced in this Code, the effective date of the standard, the promulgating agency of the standard and the section(s) of this Code that refer to the standard.

ANSI American National Standards Institute, Inc.
1430 Broadway
New York, New York 10018

Standard reference number	Title	*Referenced in Code Section number
K61.1-81	Anhydrous Ammonia-Safety Regulations for the Storage and Handling of	3.24(c)2 3.24(c)7
C-95-4	Safety Guide for the Prevention of Radio Frequency Radiation Hazards, IME No. 20-1981	3.26(g)6iii

ASME American Society of Mechanical Engineers
345 East 47th Street
New York, New York 10017

Standard reference number	Title	Referenced in Code Section number
A17.1-1987	Safety Code For Elevators and Escalators	4.17(e)

ASTM American Society for Testing & Materials
1913 Race Street
Philadelphia, PA 19103

Standard reference number	Title	Referenced in Code Section number
D56-87	Flash Point by Tag Closed Tester-Test method for	3.2(a) 3.9(2)i
D86-82	Distillation of Petroleum Products—Test method for	3.2(a)
D93-85	Flash Point by Pensky—Martens Closed Tester—Test method for	3.2(a)
D323-82	Vapor Pressure of Petroleum Products (Reid Method)—Test method for	3.2(a)
E84-87	Surface Burning Characteristics of Building Materials—Test method for	3.2(a)
E136-82	Behavior of Materials in a Vertical Tube Furnace at 75°C.—Test method for	3.2(a)

BOCA Building Officials & Code Administrators, International
4051 West Flossmoor Road
Country Club Hills, Illinois 60477

Standard reference number	Title	Referenced in Code Section number
BOCA 84	Basic/National Mechanical Code	3.7(c)7 3.7(d)3

DOT Department of Transportation
400 7th Street, S.W.
Washington, D.C. 20234

Standard reference number	Title	Referenced in Code Section number
49-CFR	Explosive and Other Dangerous Articles, Shipping Containers-Specifications for Transportation of, Parts 100/199	3:20(e)12 3.24(c)2 3.24(c)3 3.25(e)1 3.25(e)2 3.26(a)1 3.26(a)3vii 3.26(a)3viii 3.26(a)3ix 3.30(f)3

NFPA National Fire Protection Association
Batterymarch Park
Quincy, Massachusetts 02269

Standard reference number	Title	Referenced in Code Section number
10-88	Extinguishers, Portable Fire—Standard for The Installation Maintenance and Use of	3.4(f)1 3.4(f)2v 3.7(d)8 3.16(e)6
11-88	Standard for Low Expansion Foam and Combined Agent Systems	34.(c)10
11A-88	Foam Systems, Medium and High Expansion—Standard for	3.4(c)10
12-89	Carbon Dioxide Extinguishing System—Standard for	3.4(c)11
12A-87	Halogenated Extinguishing Agent Systems—Halon 1301	3.4(c)12
12B-85	Halogenated Extinguishing Agent Systems—Halon 1211	3.4(c)12
13-89	Sprinkler Systems—Standards for the Installation of	3.4(a)1
13A-87	Sprinkler Systems—Inspection, Testing and Maintenance	3.4(a)1
14-86	Standpipe and Hose Systems—Standard for the Installation of	3.4(a)1
15-85	Water Spray Fixed Systems for Fire Protection—Standard for	3.4(a)1 3.4(c)15
16-86	Deluge Foam-Water Sprinkler Systems and Foam-Water Spray Systems—Standard for the Installation of	3.4(c)10
17-85	Dry Chemical Extinguishing Systems—Standard for	3.4(c)13
17A-86	Wet Chemical Extinguishing Systems	3.4(c)14

20-87	Pumps, Centrifugal Fire—Standard for the Installation of	3.4(a)1 3.4(c)5
22-87	Water Tanks for Private Fire Protection—Standard for	3.4(a)1
24-87	Installation and Private Fire Service Mains and Their Appurtenances—Standard for	3.4(a)1
30-87	Liquid, Flammable and Combustible—Code for	3.28(a)1 3.28(b)2 3.28(c) 3.28(f)5
30A-87	Automotive and Marine Service Station Code	3.16(a)1 3.16(f)
32-85	Dry Cleaning Plants—Standard for	3.9(a)1
33-85	Spray Application Using Flammable and Combustible Materials—Standard for	3.7(b)1
34-87	Dipping and Coating Processes Using Flammable or Combustible Liquids—Standard for	3.7(b)1
35-87	Coatings, Organic—Standard for the Manufacture of	3.33(b)1
40-88	Film Motion Picture, Cellulose Nitrate—Standard for the Storage and Handling of	3.21(a)
40E-86	Pyroxylin Plastics—Code for Storage of	3.22(a)
46-85	Forest Products—Recommended Safe Practice for Storage of	3.13(b)1
50-85	Oxygen Bulk Systems, at Consumer Sites—Standard for	3.24(a) 3.24(c)2 3.24(c)6 3.25(a) 3.25(c)2
50A-89	Hydrogen Systems, Gaseous, at Consumer Sites—Standard for	3.24(c)2 3.24(c)7 3.25(a)
50B-89	Hydrogen Systems, Liquefied, at Consumer Sites—Standard for	3.25(a) 3.25(c)2
51-87	Gas Systems, Oxygen-Fuel for Welding, Cutting—Standard for the Installation and Operation of	3.20(a)
54-88	National Fuel Gas Code	3.3(i)1 3.16(g)3
58-89	Gases, Liquefied Petroleum—Standard for the Storage and Handling of	3.16(g)2 3.30(a) 3.30(d)1 3.30(e)1iii 3.30(e)1v 3.30(f)2 3.30(f)3i
59-89	Gases, Liquefied Petroleum at Utility Plants—Standard for the Storage and Handling of	3.30(f)2
59A-85	Gas, Liquefied Natural—Standard for the Production, Storage and Handling of	3.25(c)2
61A-85	Manufacturing and Handling Starch	3.10(a)1
61B-89	Dust Explosions in Grain Elevators and Bulk Grain Handling Facilities—Prevention of Fire	3.10(a)1
61C-89	Dust Explosions in Feed Mills—Prevention of Fire	3.10(a)1
65-87	Aluminum—Standard for the Processing and Finishing of	3.10(a)1
68-88	Venting of Deflagrations—Guide for	3.10(a)1
69-86	Explosion Prevention Systems—Standards On	3.10(a)1
70-87	Electrical Code, National	3.7(b)3 3.7(c)5ii 3.7(d)6i 3.7(d)6ii 3.10(c)2 3.11(b)3 3.12(b)2i 3.20(e)2i 3.31(c)1iv
71-87	Signaling Systems, Central Station—Standard for	3.4(a)1
72A-87	Signaling Systems, Local Protective—Standard for	3.4(a)1
72B-86	Signaling Systems, Auxiliary Protective, for Fire Alarm Service	3.4(a)1
72C-86	Signaling Systems, Remote Station Protective—Standard for	3.4(a)1
72D-86	Signaling Systems, Proprietary Protective—Standard for	3.4(a)1
77-88	Static Electricity—Recommended Practice for	3.9(e)2 3.9(f)2 3.9(g)2 3.9(h)2 3.28(h)4
80-86	Fire Doors and Windows—Standard for	3.5(f)1
85F-88	Fuel Systems, Pulverized—Standard for the Installation and Operation of	3.10(a)1
86-85	Industrial Furnace Design, Location and Equipment—Standard for	3.14(a)1
91-83	Blower and Exhaust Systems for Dust, Stock and Vapor Removal or Conveying—Standard for the Installation of	3.10(a)1 3.13(c)3 3.18(b)4
99-87	Health Care Facilities—Standards for	3.24(a) 3.24(c)2 3.24(c)5
99C-87	Gas and Vacuum Systems	3.24(c)2
102-88	Tents, Grandstands and Air Supported Structures, Used For Places of Assembly—Standard for	3.17(b)1
211-88	Chimneys, Fireplaces and Venting Systems—Standard for	3.3(i)1
231-87	General Storage, Indoors—Standard for	3.4(a)1
231C-86	Rack Storage—Standard for	3.4(a)1
231D-86	Storage of Rubber Tires—Standard for	3.4(a)1
303-86	Marinas and Boatyards, Fire Protection—Standard for	3.16(f)
385-85	Liquids, Flammable and Combustible—Tank Vehicles—Recommended Regulatory Standard for	3.28(i)2 3.28(i)3
407-85	Aircraft Fuel Servicing—Standard for	3.6(b)1 3.6(e)5
490-86	Ammonium Nitrate—Code for the Storage of	3.10(a)1
495-85	Explosives and Blasting Agents—Code for the Manufacture Transportation, Storage and Use of	3.26(a)1
651-87	Aluminum or Magnesium Powder—Standard for the Manufacture of	3.10(a)1 3.31(d)1

654-88	Dust Explosions in the Plastics Industry—Prevention of	3.10(a)1
655-88	Prevention of Sulfur Fires and Explosions	3.10(a)1
664-87	Dust Explosions in Woodworking and Wood Flour Manufacturing Plants—Prevention of	3.13(c)3
701-77	Fire Tests for Flame Resistant Textiles and Films—Standard Method for	3.15(c)1 3.15(c)2 3.17(b)2
704-85	Identification of the Fire Hazards of Materials	3.29(c)7
801-86	Radioactive Materials, Facilities Handling Recommended Fire Protection Practice for	3.29(f)1
1123-90	Fireworks, Public Display of—Standard for	3.27(b)1
1124-88	Fireworks, Manufacture, Transportation and Storage of—Code for	3.27(b)1

*All code references refer to, and should be preceded by, N.J.A.C. 5:18-

APPENDIX 3-B

Cross References:

Old Citation	New Citation
F-200.0	3.2(a)
F-201.0	3.2(a)
F-300.0	3.3(a)
F-301.0	3.3(b)
F-302.0	3.3(c)
F-303.0	3.3(d)
F-304.0	3.3(e)
F-305.0	3.3(f)
F-306.0	3.3(g)
F-307.0	3.3(h)
F-308.0	3.3(i)
F-309.0	3.3(j)
F-310.0	3.3(k)
F-311.0	3.3(l)
F-312.0	3.3(m)
F-313.0	3.3(n)
F-314.0	3.3(o)
F-315.0	3.3(p)
F-316.0	3.3(q)
F-317.0	3.3(r)
F-318.0	3.3(s)
F-319.0	3.3(t)
new section	3.3(u)
new section	3.3(v)
F-400.0	3.4(a)
F-400.1	3.2(a)
F-403.0	3.4(b)
F-404.0	3.4(c)
F-405.0	3.4(d)
F-408.0	3.4(e)
F-409.0	3.4(f)
F-410.0	3.4(g)
F-501.0	3.5(b)
F-503.0	3.5(d)
F-504.0	3.5(e)
F-505.0	3.5(f)
F-600.0	3.6(a)
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F-603.0	3.6(d)
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F-700.0	3.7(a)
F-701.0	3.7(b)
F-702.0	3.7(c)
F-703.0	3.7(d)
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F-902.0	3.9(c)
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F-904.0	3.9(e)
F-905.0	3.9(f)
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F-1500.0	3.15(a)
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F-2700.0	3.27(a)
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F-2805.0	3.28(f) and (g)
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F-2901.0	3.29(c)
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F-2904.0	3.29(f)
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F-3001.0	3.30(c)
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F-3003.0	3.30(e)
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F-3005.0	3.30(g)
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F-3102.0	3.31(c)
F-3103.0	3.31(d)
F-3200.0	3.32(a)
F-3201.0	3.32(b)
F-3300.0	3.33(a) and 3.2(a)
F-3301.0	3.33(b)
F-3302.0	3.33(c)
F-3303.0	3.33(d)
F-3304.0	3.33(e)
F-3305.0	3.33(f)
F-3306.0	3.33(g)
F-3307.0	3.33(h)
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new section	3.33(b)
Appendix A	Appendix 3-A
new section	Appendix 3-B

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code
Low Volume Water Closets
Products Violating the Code

Proposed Amendments: N.J.A.C. 5:23-3.8A and 3.15

Authorized By: Melvin R. Primas, Jr., Commissioner, Department of Community Affairs.
Authority: N.J.S.A. 52:27D-124.
Proposal Number: PRN 1991-597.

Submit written comments by January 1, 1992 to:
Michael L. Ticktin, Esq.
Chief, Legislative Analysis
Department of Community Affairs
CN 802
Trenton, NJ 08625
FAX (609) 633-6729

The agency proposal follows:

Summary

Water closets (toilets) requiring in excess of 1.6 gallons per flush, that were either manufactured or acquired by a distributor on or after July 1, 1991, are forbidden to be offered for sale in New Jersey. July 1, 1991, was the effective date of amendments to the plumbing subcode, now codified at N.J.A.C. 5:23-3.15(b)18i, that require the use of water closets that can be adequately flushed with an average of 1.6 gallons or less of water per flushing cycle.

In response to numerous comments from wholesale plumbing distributors citing the effect of the rule on their ability to dispose of unsold inventories of 3.5 gallon water closets, the Department agreed to consider modifying the rule if presented with data adequately documenting the existence of a significant hardship to the industry.

The Department has received sufficient documentation to indicate that a serious hardship will indeed exist if plumbing distributors are unable to dispose of inventories of 3.5 gallon toilets that existed on the effective date of the rule amendment. In order to alleviate this hardship, the Department is prohibiting the sale of nonconforming toilets only if they were either manufactured, or purchased by the distributor, on or after July 1, 1991, and is modifying the recently adopted rule prohibiting the installation of such toilets to exempt those bearing a date stamp indicating manufacture before that date. The Department has determined that this limited and, by its nature, temporary exception is not inconsistent with the rule adopted by the Delaware River Basin Commission requiring use of 1.6 gallon toilets in areas within its jurisdiction as of January 1, 1992.

Social Impact

Adoption of these amendments will facilitate enforcement of the requirement that low-volume toilets be used in this State. The purpose of this requirement is to reduce the aggregate demand for water.

Economic Impact

Wholesale plumbing distributors will now have the opportunity that they sought to clear the inventory of 3.5 gallon toilets that they had on the effective date of the provision requiring use of 1.6 gallon toilets. The sale of that inventory, but not of any inventory of larger than 1.6 gallon toilets acquired after the July 1, 1991 effective date of the rule amendment, will be legal.

Regulatory Flexibility Statement

These proposed amendments would benefit wholesale plumbing distributors who had an inventory of 3.5 gallon toilets on July 1, 1991 that they have not yet been able to dispose of. It is the Department's understanding that most wholesale plumbing distributors are "small businesses" as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. These amendments are intended to provide regulatory flexibility by alleviating the hardship that a prior rule amendment was found to have created.

Distributors will have to retain records indicating that any toilets in their inventory requiring more than 1.6 gallons per flush were purchased prior to July 1, 1991. This is necessary in order to avoid creation of a continuing market in New Jersey for pre-July 1, 1991 3.5 gallon toilets. Such recordkeeping should normally be done in the course of business. Dates of manufacture are date-stamped on the toilets themselves, so no recordkeeping is necessary to establish date of manufacture.

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

5:23-3.8A Products violating the Code

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

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

1.-3. (No change.)

4. Miscellaneous materials and supplies:

i. (No change.)

ii. Urea formaldehyde foam insulation, unless offered for sale for use elsewhere than in buildings[.]**; and**

iii. Water closets requiring in excess of an average of 1.6 gallons per flush, that either have a manufacturer's date stamp of July 1, 1991 or later or were not purchased by the distributor prior to July 1, 1991.

5:23-3.15 Plumbing subcode

(a) (No change.)

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

1.-17. (No change.)

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

i. Item D.2 is amended to read: Water closets, either flush tank, flushometer tank or flushometer valve operated, shall be designed, manufactured and installed to be operable and adequately flushed with an average of 1.6 gallons or less of water per flushing cycle, when tested at any one test pressure in accordance with listed standards. Only pressurized (not gravity flow) water closets are acceptable for commercial uses. Commercial uses are A, E, B, and M uses with an occupancy requiring more than one fixture for persons of either sex.

(1) Exception: Installation of water closets bearing a manufacturer's date stamp indicating a date of manufacture prior to July 1, 1991 and requiring an amount in excess of 1.6 gallons per flush shall be permitted.

ii.-iv. (No change.)

19. (No change.)

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Alternative Claim Procedures for Fire Retardant Treated (FRT) Plywood Failures

New Home Warranties and Builders' Registration

Proposed New Rules: N.J.A.C. 5:25A

Proposed Amendment: N.J.A.C. 5:25-1.3

Authorized: October 23, 1991 by Melvin R. Primas, Jr., Commissioner, Department of Community Affairs.

Authority: Sections 3 and 9 of P.L. 1991, c.202; N.J.S.A. 46:3B-10.

Proposal Number: PRN 1991-591.

A **public hearing** on this proposal will be held on Tuesday, December 17, 1991 at 10:00 A.M. at the William Ashby Department of Community Affairs Building, 101 South Broad Street, Trenton, New Jersey.

Submit written comments by January 1, 1992 to:

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

The agency proposal follows:

Summary

On July 11, 1991, Governor Florio signed P.L. 1991, c.202, N.J.S.A. 46:3B-13 et seq. (the Act), which established a procedure for funding correction of defective fire retardant treated (FRT) plywood roof sheathing. This Act becomes effective on October 10, 1991. Applications conforming to this proposed new rule will be accepted by the Department on or after that date, subject to the right of the Department to require any additional information that may be necessary under the rule as adopted.

The rules establish procedures for the review and processing of claims. Eligible claimants may receive compensation from the New Home Warranty Fund on the condition that they assign all rights to recover from responsible parties, including any litigated claims, to the Fund. Payment will be made by the Fund only in cases where there is severe deterioration or failure of the FRT plywood sheathing, and standards are established for determining when these conditions exist. A procedure for payment of claims and a standard of adequacy for roof reserves are established.

This chapter does not include the "approved testing procedure or alternate procedure for the detection of defective FRT plywood" that is referred to in section 6 of the Act. Research to develop such a procedure is currently underway and the Department anticipates that it may be available within 18 months. This chapter only provides standards for determining whether a readily apparent condition is deemed to be a "major structural defect," a term that is defined, both for purposes of N.J.A.C. 5:25 and 5:25A, as synonymous with the term "major construction defect" as used in both the New Home Warranty and Builders' Registration Act and P.L. 1991, c.202, N.J.S.A. 46:3B-13 et seq.

Social Impact

It is estimated that there are more than 139,000 units in planned real estate developments constructed between 1980 and 1990 that were built with fire retardant treated plywood roof sheathing. If this sheathing fails or becomes severely deteriorated within ten years of initial occupancy, the condition is deemed to be a "major structural defect" and the cost of repair is covered under the Act. Current and future residents of the affected units will benefit from correction of this defect in accordance with the Act and this implementing rule.

Economic Impact

It is estimated that approximately 31,000 units will be eligible for repairs paid for by the New Home Warranty Fund, at an average cost per unit of $4,000. It is further estimated that expenditures will amount to about $3,000,000 in administrative costs and paid claims during the first year of the program. It is estimated that, over the ten year warranty coverage period, 60 percent of the FRT sheathing will fail. Because many of the 31,070 units in the claim base are within the last several years of warranty coverage, it is anticipated that, within the first year of implementation, 40 percent of the potential claims will be filed. It is also anticipated that all or most of the money expended by the Fund will be recovered from those responsible for the existence of the problem.

If the amount of money in the Fund is insufficient to meet estimated claims, the Department is authorized by statute to levy a surcharge of $100 on each sale of a new home in New Jersey. At a modest level of 20,000 new homes per year, this surcharge would increase the Fund's reserves by $200,000.

Regulatory Flexibility Analysis

P.L. 1991, c.202 and these implementing rules provide an expedited procedure for securing the replacement of severely deteriorated or failed FRT plywood roof sheathing. This procedure is available to builders and associations that may be defined as "small businesses" in accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., as well as to individuals and to other business entities. Since the procedure is simplified for everyone, no special dispensation has been provided for "small businesses."

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

5:25-1.3 Definitions

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

...

"Major structural defect" means any actual damage to the load-bearing portion of the home, including consequential damages, damage due to subsidence, expansion or lateral movement of the soil (excluding movement caused by flood or earthquake) [which] **that** affects its load-bearing function and [which] **that** vitally affects or is imminently likely to vitally affect use of the home for residential purposes. **"Major structural defect" shall have the same meaning as "major construction defect," as used in the Act.**

CHAPTER 25A
ALTERNATIVE CLAIM PROCEDURES FOR FIRE RETARDANT TREATED (FRT) PLYWOOD FAILURES

SUBCHAPTER 1. GENERAL PROVISIONS

5:25A-1.1 Title

This chapter shall be known as and may be cited as "Rules Governing Alternative Claim Procedures for Fire Retardant Treated (FRT) Plywood Failures".

5:25A-1.2 Scope

This chapter shall: govern procedures for the review and processing of claims pursuant to the alternative funding mechanism authorized by the Act; prescribe the form and documentation necessary for a claim to be considered for assignment; establish guidelines for permissible and appropriate methods of remediation; define a standard of adequacy for roof reserves; and adopt standards, procedures, and technical criteria for making an examination and determination of whether the damage claimed is ascribable to the FRT plywood or the FRT treatment applied to it, resulting or materially contributing to the creation of a major structural defect.

5:25A-1.3 Definitions

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

"Act" means P.L. 1991, c.202 (N.J.S.A. 46:3B-13 et seq.)

"Advance Funding" means moneys advanced by the Commissioner from the New Home Warranty Security Fund for the remediation of structural damages due to FRT plywood occurring in structures covered by an approved private alternate new home warranty security plan, subject to the provisions and requirements of the Act.

"Attorney General" means the Attorney General of the State of New Jersey.

"Bureau" means the Bureau of Homeowner Protection of the Division of Housing and Development in the New Jersey Department of Community Affairs.

"Commissioner" means the Commissioner of the New Jersey Department of Community Affairs.

"Major structural defect" means any actual damage to the load bearing portion of a building that affects its load-bearing function, or is imminently likely to vitally affect use of the building for residential purposes. "Major structural defect" also means and includes inevitable premature failure of FRT plywood if it can be determined that a major structural defect will occur within the ten year coverage period of the claimant's new home warranty. "Major structural defect" shall have the same meaning as "major construction defect," as used in the Act.

5:25A-1.4 Administration

(a) The Division of Housing and Development in the Department of Community Affairs shall administer this chapter, in cooperation with the Attorney General. All the powers, duties, and responsibilities vested in the Commissioner by P.L. 1991, c.202 are hereby delegated to and vested in the Director of the Division of Housing and Development except the power to adopt, amend, or repeal regulations.

(b) Within the Division of Housing and Development, responsibility for the administration and enforcement of these rules shall be vested in the Bureau of Homeowner Protection. All powers and responsibilities delegated to the Director, Division of Housing and Development by this chapter shall be executed by the Chief, Bureau of Homeowner Protection except the power to make final determinations resulting from any of the hearings required or permitted to be held pursuant to the Act, this chapter or the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) which power shall be vested in the Commissioner.

5:25A-1.5 Separability

If any provisions of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this chapter that can be given effect, and to this end the provisions of this chapter are severable.

SUBCHAPTER 2. CLAIM ELIGIBILITY AND PROCESSING

5:25A-2.1 Claim eligibility

(a) The following are eligible to file a claim for advance funding provided that the new home is covered at the time the claim is filed under a new home warranty issued by an approved alternate new home warranty security plan:

1. An individual fee simple owner of the new home;

2. An association of individual fee simple owners formed for the purpose of pursuing a unified claim for homes owned by the individuals forming the association;

3. An association of individual owners or lessees that is responsible for the maintenance or replacement of the roof structure;

4. An owner and builder jointly if the builder is the warrantor of the home;

5. A builder who is the warrantor of the new home and undertakes to remediate the cited damages and has entered into a written agreement or made a written acknowledgement to remediate the cited damages;

6. A warranty guarantor who underakes to reimburse the owner or builder for the costs of remediation.

(b) Nothing in this chapter shall be construed so as to extend warranty coverage beyond the ten year period prescribed by the New Home Warranty and Builders' Registration Act.

1. The commencement date of the warranty on common elements is the date the element was first put to use. Therefore, the warranty on roof sheathing in a development in which roofs are common elements is the commencement date of the first warranty issued in the structure.

2. Holders of new home warranties with extended structural defect coverage are eligible to file a claim up to the end of the tenth year.

5:25A-2.2 Assignment of claimant's rights against responsible parties

Prior to the investigation by the Department of any claim and the making of any payment for remediating the damage, the claimant must agree to assign to the State of New Jersey, in a form as prescribed by the Attorney General, the claimant's rights and any rights the claimant has acquired in any claim upon any responsible party, or in any other recovery of funds, that may arise out of the damage cited in the claim.

5:25A-2.3 Acceptance of assignment of claimant's rights to recover from others

(a) A claimant who is an owner who has not instituted suit, prior to the effective date of the Act, to recover damages on grounds of failure of FRT plywood will have his or her claim accepted upon submission of the following agreements, documentation, and certifications:

1. Proof of ownership and documentation relating to whether the roof is a common element: If the roof is a common element, the claim must be submitted by the community association that is responsible for the administration of common elements;

2. Proof of warranty coverage: If the roof is a common element, proof of warranty coverage must be submitted for all the units in the affected structure:

3. Either of the following:

i. Certification that no claim for damages related to FRT plywood has been filed with an approved alternate new home warranty security plan (private plan); or

ii. Evidence, if a written denial was received, of a final disposition from the private plan which denied the claim;

4. Certification that a claim for damages related to FRT plywood has not been approved, and is not pending, under any plan of insurance other than a new home warranty;

5. Assignment of claimants right to recover damages from any responsible party to the State of New Jersey;

6. Agreement to fully cooperate with the State of New Jersey in any litigation involving claimant or claimant's association that seeks to recover damages for FRT plywood failures in which funding has been provided to the claimant;

7. A statement of the amount of money held in reserve for the replacement of roofs and/or roofing materials;

8. Certification that no litigation involving claimant or claimant's association is pending and that no litigation has been settled or dismissed;

9. Certification that neither the seller, developer, builder, any subcontractor, any supplier of building materials, any manufacturer of building materials including treaters of FRT plywood, any private alternate new home warranty security plan, any warranty guarantor, nor any other party has made any payment to the claimant as compensation for damages caused by the FRT plywood and that no releases have been given to any person and no assignments have been made to any third party. For the purposes of this certification, "compensation" means any form of valuable consideration and includes, but is not limited to, cash payments, services in lieu of cash payments, discounts on goods provided, reduction in the selling price of the home, and any other form of remuneration as compensation for the defect or potential defect in the FRT plywood of the roof of the home;

10. Certification that no remediation of the damaged plywood sheathing has been undertaken;

11. Documentation, including any expert reports, photographs, and descriptions of the roof conditions at the time the claim is submitted;

12. A certification, with exceptions noted, that the present owner(s) and, to the present owner's knowledge, any prior owners, have not made alterations to the roof or otherwise made changes in the home which would have an impact on attic conditions: such alterations would include, but not be limited to, the installation of mechanical or passive ventilation of living spaces, clothes dryers, or plumbing systems which terminate in the attic; modifications to trusses or rafters; replacement of all or part of the roof sheathing; and adding attic insulation;

13. Agreement to use the proceeds of any funding only for the purposes approved by the Department;

14. Certification that no releases have been given to anyone and that claimants have not assigned their rights to any third party; and

15. Any additional information that the Department, upon review of the claim, determines to be necessary to effectuate the purposes of the Act.

(b) A claimant that is an association of unit owners formed for the purpose of filing a unified claim that has not instituted suit, released or assigned its rights, or obtained a settlement from a potentially responsible party prior to the effective date of the Act to recover damages on grounds of failure of FRT plywood shall have its claim accepted upon submission of the certifications, agreements, and documents cited in N.J.A.C. 5:25A-2.3(a) for each unit for which funding for remediation is sought.

(c) A claimant that is a community association that has not instituted suit, released or assigned its rights, or obtained a settlement from a potentially responsible party prior to the effective date of the Act to recover damages on grounds of failure of FRT plywood shall have its claim accepted upon submission of the following certifications, agreements, and documents:

1. Documentation that the roof is a common element;

2. Proof of warranty coverage for all of the units in any structure in which there is at least one unit for which a claim is being filed;

3. Either of the following:

i. Certification that no claim for damages related to FRT plywood has been filed with an approved alternate new home warranty security plan (private plan); or

ii. Evidence, if a written denial was received, of a final disposition from the private plan which denied the claim;

4. Certification that a claim for damages related to FRT plywood has not been approved, and is not pending, under any plan of insurance other than a new home warranty;

5. Assignment of claimant's right to recover damages from any responsible part to the State of New Jersey;

6. Agreement to fully cooperate with the State of New Jersey in any litigation involving claimant or claimant's association which seeks to recover damages for FRT plywood failures in which funding has been provided to the claimant;

7. A statement of the amount of money held in reserve for the replacement of roofs and/or roofing materials;

8. Certification that no litigation is pending and that no litigation has been settled;

9. Certification that no party including the builder, any subcontractor, the supplier, manufacturer, private plan, warranty guarantor, or any other person has made any payment to the claimant as compensation for damages caused by the FRT plywood;

10. Certification that no remediation of the damaged plywood sheathing has been undertaken;

11. Documentation, including any expert reports, photographs, and descriptions of the roof conditions at the time the claim is submitted;

12. A certification, with exceptions noted, that the present owner(s) and, to the present owner's knowledge, any prior owners have not made alterations to the roof or otherwise made changes in the home that would have an impact on attic conditions: Such alterations would include, but not be limited to, the installation of mechanical or passive ventilation of living spaces, clothes dryers, or plumbing systems that terminate in the attic; modifications to trusses or rafters; replacement of all or part of the roof sheathing; and adding attic insulation;

13. Agreement to use the proceeds of any funding only for the purposes approved by the Department;

14. Certification that no releases have been given to anyone and that no rights have been assigned to any third party; and

15. Any additional information that the Department, upon review of the claim, determines to be necessary to effectuate the purposes of the Act.

(d) A builder that has not instituted suit prior to the effective date of the Act to recover damages on grounds of failure of FRT plywood will have its claim accepted upon submission of the agreements, documentation, and certifications listed in N.J.A.C. 5:25A-2.3(a) for each unit on which a claim is submitted. In addition, the builder must make the following certifications and provide the following documentation:

1. Certification that a claim for damages related to FRT plywood has not been approved, and is not pending, under any plan of insurance other than a new home warranty;

2. Assignment of claimant's right to recover damages from any responsible party to the State of New Jersey;

3. Agreement to fully cooperate with the State of New Jersey in any litigation which seeks to recover damages for FRT plywood failures in which funding has been provided to the claimant;

4. Certification that no litigation is pending and that no litigation has been settled;

5. Certification that no remediation of the damaged plywood sheathing has been undertaken;

6. Agreement to use the proceeds of any funding only for the purposes approved by the Department;

7. Documentation that the claimant is the warrantor of the new home(s);

8. A copy of the agreement between the builder and the owner(s) of the new home(s) to remediate the damages; and

9. Any additional information that the Department, in its review of the claim, determines would be necessary to effectuate the purposes of the Act.

(e) A claim submittted by a warranty guarantor that has not instituted suit prior to the effective date of the Act to recover damages on grounds of failure of FRT plywood will be accepted upon submission of the certifications, documentation, and agreements required of owners in N.J.A.C. 5:25A-2.3(a); or of community associations (if the roof is a common element) in N.J.A.C. 5:25A-2.3(c); and, of a builder in N.J.A.C. 5:25A-2.3(d), except for N.J.A.C 5:25A-2.3(d)8.

1. The warranty guarantor must also provide any reports used in making the determination that the FRT plywood has met the criteria for a major structural defect, color photographs of the roof conditions, a roof inspection survey documenting the condition of the attic with respect to ventilation, and mechanical and plumbing exhausts, together with any additional information that the Department, in its review of the claim, determines to be necessary.

5:25A-2.4 Assignment of litigated claims

(a) Any person who, prior to the effective date of the Act, had instituted a civil action to recover damages arising out of the failure of FRT plywood may submit a claim under the provisions of the Act and these regulations.

(b) The claim shall include the following information and documentation:

1. The caption and docket number of the civil action;

2. The name, address and telephone number of the claimant's attorney;

3. The status of the civil action;

4. The status of discovery;

5. A copy of all pleadings and orders filed in the civil action including the complaint, answers, counter-claims, cross claims, and any amendments thereto;

6. A copy of any expert reports exchanged among the parties;

7. All other documents and information that the Commissioner or the Attorney General may require of the claimant or the claimant's counsel to effectuate the purposes of the Act; and

8. A certification that the submission is truthful and complete.

(c) The claim shall be referred to the Attorney General for a determination of whether the claimant's rights against responsible parties should be accepted for assignment to the State.

(d) If the Attorney General makes an initial recommendation to accept the assignment of the claimant's rights against responsible parties, the Commissioner shall process the claim in accordance with N.J.A.C. 5:25A-2.3 and 2.5, and the claimant shall be required to submit the required documents, certifications, and agreements applicable to N.J.A.C. 5:25A-2.3 at that time.

(e) Prior to the Department's making any payment for remediation, the Attorney General will make a final review of the claim and claimant or claimant's counsel shall at that time file and supply to the Attorney General any supplemental or updated information requested by the Attorney General. If, and only if, the Attorney General, after conducting such final review, continues to recommend the assignment of the claimant's rights against responsible parties, the claimant will be required to file a motion for voluntary dismissal without prejudice of the civil action pending before the court or take other such action as the Attorney General may direct. The Attorney General may refuse the assignment even if the court refuses to grant the requested relief.

(f) No person who has instituted a civil action may file a claim pursuant to this section at any time after the 120th day following the effective date of rules that set forth an approved testing procedure or an alternative procedure for the detection of defective FRT plywood that is predictive in nature. The examination standards set forth in N.J.A.C. 5:25A-2.5 shall not be deemed to be such a procedure.

5:25A-2.5 Claim examinations

(a) Upon acceptance of a claim for assignment, the Bureau shall examine the premises. This examination shall be done in accordance with the standard practices of the Bureau using the following classification system:

1. Standard characteristics not to be confused with deterioration:

i. Darker color than regular plywood sheathing;

ii. Rough exposed surface on attic side (usually "D" face);

iii. Grain checking of surface veneer.

2. Levels of deterioration:

i. None to slight:

(1) Efflorescence-surface bloom;

(2) Roofing nails secure;

(3) Firm to pressure—no veneer separation;

(4) Slight to moderate veneer checking along the grain.

ii. Moderate:

(1) Roofing nails secure;

(2) Slight veneer checking perpendicular to and along the grain;

(3) Slight sag and give to pressure.

iii. Severe:

(1) Excessive darkening (charring) and efflorescence (surface bloom);

(2) Face veneer separation, buckling and cracking;

(3) Noticeable give to pressure;

(4) Roofing nails show sign of corrosion and are no longer snug enough to adequately secure the roofing material.

iv. Failure:

(1) Veneer delamination, peeling and falling away; and

(2) Easy give to pressure, soft and flexible.

(b) To be eligible for funding, the condition of the FRT plywood sheathing must qualify as a major structural defect, as defined in

N.J.A.C. 5:25A-1.3. In accordance with the classification system described in N.J.A.C. 5:25A-2.5(a), if the roof sheathing is characterized as "severe" or "failure" by the Bureau, the defect shall be classified as a major structural defect.

(c) If a claim is accepted for assignment and is found eligible for funding based on the examination, the owner or association, as the case may be, shall be instructed to propose an acceptable method of remediation and to obtain a minimum of two independent estimates from contractors of the cost of implementing the method of remediation.

(d) Nothing in this chapter shall be construed to prohibit the Bureau from making a determination, in the interest of economy and efficiency, to secure the replacement of sections of roofs adjacent to sections that have a major structural defect.

5:25A-2.6 Methods of remediation

A proposed plan of remediation of structural failures in FRT plywood roof sheathing must conform to the New Jersey Uniform Construction Code (N.J.A.C. 5:23). The Bureau will accept a true copy of a building permit as proof of compliance with this provision.

5:25A-2.7 Claim payments

(a) The cost of remediation shall not exceed the lesser of the estimates accepted by the Bureau. The Bureau shall not approve a plan for remediation that exceeds the authorized scope of work. The authorized scope of work shall not include the replacement of roof shingles over undamaged plywood sheathing for the sole purpose of not having mismatched roof shingles. Proposals that call for an upgrade in the quality of roof shingles compared to that which exists shall not be approved. The Bureau reserves the right to engage a contractor of its choice to perform the remediation.

(b) Payment shall be made only upon presentation of verified invoices for work and material actually provided and installed in accordance with the approved plan of remediation.

(c) Unless the contractor has been selected by the Bureau, payment shall be made by check payable jointly to the owner and contractor selected by the owner to perform the remediation. No payment will be made in advance of the commencement of work.

5:25A-2.8 Hearings

(a) Decisions of the Bureau shall be final, except that a person aggrieved by any ruling, action, order or notice of the commissioner denying an FRT claim, in whole or in part, shall be entitled to an administrative hearing in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, on the issue of whether the examination of the roof sheathing was conducted in accordance with N.J.A.C. 5:25A-2.5 or whether the proposed method of remediation was consistent with N.J.A.C. 5:25A-2.6. The burden of proof in either case lies with the claimant.

(b) Any request for an administrative hearing must be filed with the Hearing Coordinator of the Division of Housing and Development, CN 802, Trenton, NJ 08625 within 15 days after receipt by the person of the notice of the ruling, action, order, or notice complained of.

(c) Decisions by the Attorney General not to recommend assignment shall not be reviewable in an administrative hearing.

5:25A-2.9 Roof reserve standard of adequacy

The Department shall base its determination of the amount of money due from the claimant's roof reserves to the New Home Warranty Security Fund on the extension of the useful life of the roof achieved through the remediation, and the portion of the roof or roofs replaced. The useful life of roofing materials shall be deemed to be thirty years unless the materials have manufacturer's warranties or guarantees specifying shorter periods of time.

ENVIRONMENTAL PROTECTION AND ENERGY

(a)

ENVIRONMENTAL REGULATION—HAZARDOUS WASTE REGULATION ELEMENT

Hazardous Waste Manifest Discrepancies

Proposed Amendments: N.J.A.C. 7:26-5.4, 7.4, 7.6, 9.4 and 12.4

Authorized By: Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.
Authority: N.J.S.A. 13:1E-1 et seq., particularly 13:1E-6.
DEPE Docket Number: 043-91-10.
Proposal Number: PRN 1991-602.

Submit comments, identified by the Docket Number given above, by January 31, 1992 to:

Samuel A. Wolfe, Esq.
Administrative Practice Officer
Office of Legal Affairs
New Jersey Department of Environmental Protection and Energy
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Department of Environmental Protection and Energy (Department) is proposing to amend its hazardous waste management rules concerning the reporting of hazardous waste manifest discrepancies and the variation in bulk weight which triggers a manifest discrepancy inquiry.

Currently, the rules at N.J.A.C. 7:26-7.6(a)3 and 4 and 12.4(a)17 require the receiving facility to submit a discrepancy report to the Department within one week whenever the weight of an incoming bulk waste shipment varies by more than one percent from the waste quantity stated on the manifest. Any variance of greater than one percent requires the submission of a manifest discrepancy report whether or not the discrepancy has been reconciled with the generator or transporter. This results in the filing of manifest discrepancy reports in cases where the matter is reconciled or the discrepancy is insignificant.

The amendment at N.J.A.C. 7:26-7.6(a)4 will specify that a manifest discrepancy report must be submitted to the Department only if the discrepancy cannot be reconciled within one week of acceptance of the waste by the facility. Resolved and unresolved discrepancies must be recorded in the facility's operating record and be included as part of the facility's annual report. This will reduce the number of manifest discrepancy reports and ensure that any reports submitted to the Department will focus on unresolved discrepancies while still preserving a record of unreported discrepancies.

The amendments at N.J.A.C. 7:26-7.6(a)4 will also revise the limit on the variation in weight of bulk waste triggering a manifest discrepancy inquiry from one percent to 10 percent. The Department believes that a 10 percent variation is reasonable, considering the limits on the sensitivity and calibration of weighing scales and possible variations in weight, volume and density measurements. This portion of the rule will be equivalent to the Federal standard of 10 percent allowable variance at 40 C.F.R. 264.72 and 265.72. The amendment will also clarify that a greater than 10 percent variance in bulk waste is considered a "significant discrepancy" which triggers an investigation. This amendment also recodifies provisions currently appearing at N.J.A.C. 7:26-12.4(a)17, which provides the standards for determining the existence of a discrepancy in the case of batch waste shipments as well as waste type.

The amendment at N.J.A.C. 7:26-7.6(f)2iv will require a facility, as part of its annual report, to describe any and all significant discrepancies encountered during the reporting period. This requirement is intended to cover discrepancies resolved by the facility and those which have been reported to the Department as unresolved. Since the rule amendments will decrease the overall need for reporting manifest discrepancies to the Department, requiring information on unreported discrepancies to be included instead in the annual report should not increase the burden on facilities.

The amendment at N.J.A.C. 7:26-7.4(k) will require generators utilizing out-of-State designated facilities to immediately report to the Department manifest discrepancies considered significant discrepancies according to the standards at N.J.A.C. 7:26-7.6(a). The submittal must include a copy of the manifest and a letter report describing the nature of the discrepancy and the arrangements made for the disposition of the waste. This is the same information as would be required of a designated facility.

The amendment at N.J.A.C. 7:26-9.4(i)10 will specify the information regarding manifest discrepancies a facility operator must maintain as part of the facility's operating record.

The amendments at N.J.A.C. 7:26-5.4 will reflect the proposed changes to N.J.A.C. 7:26-7.6 and 9.4. In the case of N.J.A.C. 7:26-7.6(a)3, the Department will delete this penalty designation since this provision will now cross-reference the requirement to resolve the discrepancy or report it to the Department. Penalties may still be issued for noncompliance with the reporting requirements at N.J.A.C. 7:26-7.6(a)4iii and iv or failure to record information concerning discrepancies in the facility's operating record as required by N.J.A.C. 7:26-9.4(i)10.

The amendment at N.J.A.C. 7:26-12.4(a)12 reiterates the permittee's requirement to report unresolved manifest discrepancies.

The amendent at N.J.A.C. 7:26-12.4(a)17 deletes this paragraph since it will be recodified at N.J.A.C. 7:26-7.6(a)4 with the changes indicated above.

Social Impact

The proposed amendments will have a positive social impact. The amendments will eliminate unnecessary reporting of manifest discrepancies which have been resolved between the hazardous waste facility operator and the waste generator or transporter. The Department believes these amendments will ease the regulatory burden on generators, transporters, and facilities while maintaining a sufficient degree of departmental oversight through the recordkeeping requirements. By reducing paperwork for both the Department and the regulated community, resources once directed to complying with the current regulations can be redirected to more useful activities.

Economic Impact

There will be a positive economic impact from these amendments on the regulated community due to the decreased administrative costs associated with reporting of fewer manifest discrepancies. Although recordkeeping for all discrepancies and reporting of unresolved discrepancies will be required, the amended rules are anticipated to place less of an administrative burden on the regulated community in comparison to the current rules.

Environmental Impact

The proposed amendments are not anticipated to have a negative environmental impact. The amendments will prevent the filing of unnecessary significant discrepancy reports and will focus on unresolved manifest discrepancies. Significant discrepancies will be recorded in the facility's operating record. Because of weighing scale variability and variability in weight, volume and density measurements, the bulk weight variance allowance of one percent is too stringent and requires unnecessary reporting without providing environmental protection. Therefore, amending the standard to allow a 10 percent bulk weight variance for manifest discrepancies is not anticipated to have a negative environmental impact since it allows for a variance but still requires inquiry and investigation into significant discrepancies.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has determined that the amendments will not impose additional reporting, recordkeeping or other compliance requirements on small businesses since the amendments will, in effect, reduce the number of manifest discrepancy reports which must be submitted to the Department. Furthermore, these amendments ease the burden on the regulated community in complying with the State's hazardous waste management system but still maintain sufficient control and Departmental oversight of hazardous waste shipments in this State.

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

7:26-5.4 Civil administrative penalties for violations of rules adopted Pursuant to the Act

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

(g) The rule summary in this subsection, which summarizes certain provisions in N.J.A.C. 7:26-7 through N.J.A.C. 7:26-12, is provided for informational purposes only. In the event that there is a conflict between the rule summary in N.J.A.C. 7:26-5.4(g) and a provision in N.J.A.C. 7:26-7 through N.J.A.C. 7:26-12, then the provision in N.J.A.C. 7:26-7 through N.J.A.C. 7:26-12 shall prevail. The number of the following subsections corresponds to the number of the corresponding subchapter in N.J.A.C. 7:26.

1.-6. (Reserved.)

7. The violations of N.J.A.C. 7:26-7, Labeling, Records and Transportation Requirements, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

Rule	Rule Summary	Base Penalty
* * *		
[7:26-7.6(a)3	Failure of facility operator when accepting waste other than that described in manifest to notify Department of discrepancy within one week.	$1,000]
7:26-7.6(a)4	Failure of facility operator [when, after acceptance waste is other than described,] to reconcile **a significant manifest** discrepancy with the generator or [hauler] **transporter within one week of receipt** or to [notify] **report the unresolved discrepancy to the** Department within [one week] **10 days of receipt.**	$1,000
* * *		

8. (No change.)

9. The violations of N.J.A.C. 7:26-9, Requirements for Hazardous Waste Facilities, and the civil administrative penalty amounts for each violation are as set forth in the following table.

Rule	Rule Summary	Base Penalty
* * *		
7:26-9.4(i)	Failure of facility owner or operator to keep written operating records meeting each requirement of N.J.A.C. 7:26-9.4(i)1 through [9.]**10.**	$2,000
* * *		

10.-12. (No change.)

7:26-7.4 Hazardous waste generator responsibilities

(a)-(j) (No change.)

(k) If the generator utilizes an out-of-State designated facility and a manifest discrepancy considered a significant discrepancy according to the standards at N.J.A.C. 7:26-7.6(a)4 is known to the generator, the generator shall immediately submit to the Department a copy of the manifest and a letter report describing the nature of the discrepancy and the arrangements made for the disposition of the waste.

7:26-7.6 Hazardous waste facility operator responsibilities

(a) General requirements are as follows:

1.-2. (No change.)

3. The facility operator may accept a hazardous waste which appears to be other than the quantity or waste type described in the manifest, provided the facility is authorized to accept such waste **and thereafter complies with (a)4 below.** [The facility shall notify the Department in writing of such a manifest discrepancy within one week describing the nature of the discrepancy and the arrangements made for the disposition of the waste.]

4. If **at the time of acceptance or** after acceptance of the hazardous waste delivery, the facility operator determines that [the waste is not as described in the manifest] **there is a "significant discrepancy", as described below, between the waste accepted and the waste described in the manifest,** the operator shall[:] **comply with this paragraph.**

[i. Attempt to reconcile the discrepancy with the waste generator or transporter;

ii. Notify the Department in writing within one week of the determination of the discrepancy, describing the nature of the discrepancy and the arrangements made for the disposition of the waste; and

iii. Comply with the requirements of N.J.A.C. 7:26-12.4(a)17.]

i. Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a facility actually receives.

(1) Significant discrepancies in quantity are:

(A) For bulk waste, variations greater than 10 percent in weight; and

(B) For batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload.

(2) Significant discrepancies in type are differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping order.

ii. When a significant discrepancy is discovered, the facility operator shall attempt to reconcile the discrepancy with the waste generator or transporter; and

iii. If the significant discrepancy is resolved within one week of receipt of the waste shipment, enter a description of the significant discrepancy and its resolution into the facility's operating record according to N.J.A.C. 7:26-9.4(i)10; or

iv. If the significant discrepancy is not resolved within one week of receipt of the waste shipment, submit to the Department, within 10 days of receipt of the shipment, a copy of the manifest and a letter report describing the nature of the significant discrepancy and the arrangements made for disposition of the waste.

(1) The operator shall also enter a description of the unresolved significant discrepancy, in accordance with N.J.A.C. 7:26-9.4(i)10, and all follow-up information into the facility operating record;

5.-6. (No change.)

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

(f) Reporting and recordkeeping requirements are as follows:

1. (No change.)

2. The owner or operator shall prepare and submit two copies of an annual report to the Department by March 1 of each year, except for owners and operators of industrial waste management facilities which are subject to N.J.A.C. 7:14A-4.6. The report shall include:

i.-iii. (No change.)

iv. A summary of all manifest numbers for all hazardous waste received, identifying those shipments which were rejected in whole or in part, and identifying those shipments where a **significant** discrepancy occurred. **In the case of significant discrepancies, the report shall include a description of the nature of the discrepancy and its ultimate resolution, including references to the facility operating record and manifest discrepancy reports submitted to the Department in accordance with (a)4iv above; this requirement applies to both resolved and unresolved significant discrepancies;**

v.-ix. (No change.)

3. (No change.)

(g) (No change.)

7:26-9.4 General facility standards

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

(i) The owner or operator shall keep a written operating record at the facility in which the following information shall be recorded, as it becomes available, and maintained until closure of the facility:

1.-9. (No change.)

10. Descriptions of resolved and unresolved significant manifest discrepancies pursuant to N.J.A.C. 7:26-7.6(a)4iii and iv. Each description shall include the following information:

i. The exact nature of the discrepancy;

ii. The reason(s) why the discrepancy occurred;

iii. How the discrepancy was resolved or why it remains unresolved; and

iv. Steps taken to prevent future similar discrepancies.

(j)-(o) (No change.)

7:26-12.4 Standards applicable to all permits

(a) The conditions in this section shall apply to all permits issued pursuant to this chapter. All conditions applicable to all permits shall be incorporated into the permit either expressly or by reference. If incorporated by reference, a specific citation to this subchapter shall be given in the permit.

1.-11. (No change.)

12. The permittee shall comply with the reporting requirements in (a)12 of this section.

i.-viii. (No change.)

ix. The permittee shall submit significant manifest discrepancy reports in accordance with N.J.A.C. 7:26-7.6(a)4iv.

13.-16. (No change.)

17. The following reports required by N.J.A.C. 7:26-9 and 10 shall be submitted in addition to those required by (a)12 above:

[i. If a discrepancy in a manifest is discovered, the permittee shall attempt to reconcile the discrepancy. Within one week, the permittee shall submit a letter report, including a copy of the manifest, to the Department. Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a facility actually receives.

(1) Discrepancies in quantity are:

(A) For bulk waste, variations greater than one percent in weight; and

(B) For batch waste, any variation in piece count, such as a discrepancy of one drum in truckload.

(2) Discrepancies in type are differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents, not reported on the manifest or shipping paper.] **(Reserved)**

ii.-iv. (No change.)

18. (No change.)

(b)-(h) (No change.)

HEALTH

(a)

HEALTH FACILITIES RATE SETTING

Residential Alcoholism Treatment Facilities (RATF) Manual

Cost Accounting and Rate Evaluation

Proposed Readoption with Amendments: N.J.A.C. 8:31C

Authorized By: Frances J. Dunston, M.D., M.P.H., Commissioner, Department of Health (with approval of the Health Care Administration Board).

Authority: N.J.S.A. 26:2H-1 et seq.

Proposal Number: PRN 1991-603.

Submit comments by January 2, 1992 to:
Charles O'Donnell, Director
Health Facilities Rate Setting, Room 601
New Jersey State Department of Health
CN 360
Trenton, New Jersey 08625-0360

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 8:31C expires on January 20, 1992. The Department of Health has reviewed the rules and, has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated, as required by the Executive Order.

This rule was promulgated on January 20, 1987 for the purpose of fulfilling the Department of Health's responsibility under the Health Care Facilities Planning Act of 1971 to establish reasonable reimbursement rates for Hospital Service Corporations (for example, Blue Cross) for Residential Alcoholism Treatment Facilities.

This rule contains one subchapter which addresses the following procedural guidelines:

N.J.A.C. 8:31C-1.1 sets forth the scope and purpose of these rules.

N.J.A.C. 8:31C-1.2 sets forth the definitions of commonly used terms.

N.J.A.C. 8:31C-1.3 sets forth the reporting period guidelines.

N.J.A.C. 8:31C-1.4 sets forth the various components that contributes to the rate calculation.

N.J.A.C. 8:31C-1.5 sets forth the components that comprise the maintenance per diem.

N.J.A.C. 8:31C-1.6 sets forth the criteria for utilization of target occupancy.

N.J.A.C. 8:31C-1.7 sets forth the components that comprise the property operating per diems.

N.J.A.C. 8:31C-1.8 sets forth the components that comprise the administrative per diems.

N.J.A.C. 8:31C-1.9 sets forth the components that comprise the raw food per diems.

N.J.A.C. 8:31C-1.10 sets forth the criteria that allocates the general fringe benefits.

N.J.A.C. 8:31C-1.11 sets forth the methodology that calculates equalized compensation and equalized cost.

N.J.A.C. 8:31C-1.12 sets forth the components that comprise the routine patient care expenses.

N.J.A.C. 8:31C-1.13 sets forth the components that comprise the general service expenses.

N.J.A.C. 8:31C-1.14 sets forth the components that comprise the special patient care expenses.

N.J.A.C. 8:31C-1.15 sets forth the methodology that is utilized to calculate the economic factor.

N.J.A.C. 8:31C-1.16 sets forth the guidelines for resolving rate appeals.

N.J.A.C. 8:31C-1.17 sets forth the guidelines for special rate provisions for rates effective July 1, 1988.

N.J.A.C. 8:31C-1.18 sets forth the methodology for the calculation of final payment rates.

N.J.A.C. 8:31C-1.19 sets forth the methodology for the calculation of reimbursement for unpredictable and uncontrollable costs.

N.J.A.C. 8:31C-1.20 sets forth the methodology for the calculation of reimbursement rates for new facilities.

N.J.A.C. 8:31C-1.21 sets forth the methodology used to calculate an administrative add-on fee.

The proposed amendments to N.J.A.C. 8:31C-1.2 will eliminate ambiguity in the RATF appeal process, specifically the procedural differences between Level I and Level II appeals. The descriptions are further enhanced by amendments to sections 8:31C-1.3 and 8:31C-1.16.

Additional proposed amendments to N.J.A.C. 8:31C-1.12 and 8:31C-1.16 require separate screens for facilities that provide detoxification services which may result in additional costs. The screens will ensure a more equitable reimbursement rate.

Social Impact

This chapter was designed to assure the consumers that there will be reimbursement equity for the consumer, provider, and the payers. This chapter has continued to serve this purpose.

The proposed amendments will insure that the RATF rate-setting systems will continue to provide reasonable reimbursement rates. This will be accomplished by insuring that all costs are evaluated for reasonableness while enabling the Residential Alcohol Treatment Facilities and the Department of Health to eliminate ambiguity in the Guidelines.

Economic Impact

The 1971 Health Care Facilities Planning Act authorizes the Commissioner of Health to establish reasonable reimbursement rates for government agencies (such as Medicaid) and hospital service corporations (such as Blue Cross). The rule proposed for readoption has assisted in cost containment and reasonable reimbursement rates for the alcohol treatment providers.

The implementation of the proposed amendments will have minimal economic impact on the provider, payer, and the consumer.

The providers may have been underreimbursed for detoxification services, however, providers will not receive reimbursement for more than their actual costs of operation.

The payer may incur a slight cost increase because of the changes in detoxification services.

The consumer may realize a slight increase in the insurance premium, if this additional cost is passed through to the consumer.

Regulatory Flexibility Statement

The facilities regulated by N.J.A.C. 8:31C are not small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., since these facilities employ more than 100 people. Therefore, no regulatory flexibility analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 8:31C.

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

8:31C-1.2 Definitions

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

"Administrative Payment Rate" means the payment rate developed following a review **(Level I Appeal)** with the rate analyst of the Screened Rate.

...

"Final Administrative Rate" means the payment rate developed as a result of the rate established following a[n] **Level II Appeal** [appeal] to the Administrative Law Judge.

...

"Level I Appeal" means the appeal held with a Department of Health Analyst. **The resolution of the Level I Appeal results in the Administrative Payment Rate. (See above).**

"Level II Appeal" means an appeal held before an Administrative Law Judge. **The resolution of the Level II Appeal results in the Final Administrative Rate. (See above).**

...

"Residential [a]**A**lcoholism [t]**T**reatment [f]**F**acility (RATF)" means a facility or a designated unit of a facility which is licensed by the New Jersey Department of Health to provide services specified in the Manual of Standards for Licensure of Alcoholism Treatment Facilities, N.J.A.C. 8:42A.

...

8:31C-1.3 Reporting period: cost data

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

(c) Once the Department has determined that the actual cost study submission is suitable for entry into the data base, it shall be so entered, no further substitutions or rearrangement of costs will be accepted unless it is deemed necessary by those performing the detailed, on site review pursuant to N.J.A.C. 8:31C-1.1.

1. For any facility proceeding under the screened methodology which has requested an Administrative Payment Rate **(Level I Appeal)**, a date for the detailed review with the analyst shall be set within 60 working days of the issuance of the Screened Rate. At least 10 working days prior to the date so established, the facility shall submit written documentation of all items to be discussed. This documentation will specify each item, the costs associated with the item, and the facility's rationale for the request. Should the facility fail to submit the documentation in the allotted time or fail to appear on the established date, it shall have forfeited its right to an appeal and the Screened Rate will become the Final Administrative Rate. **(The rate is equivalent to that received after Level II Appeal).**

(d)-(e) (No change.)

8:31C-1.12 Routine patient care expenses

(a) (No change.)

(b) Reasonableness limits for nursing services will be established as follows:

1. (No change.)

2. Total nursing costs for each RATF in the base period (per (b)1 above) will be accumulated and then be divided by the base period patient days. These per diem costs will then be ranked in descending order on a [Statewide basis] **facility basis (Detoxification and Other).**

3. (No change.)

(c) (No change.)

8:31C-1.14 Special patient care

(a) (No change.)

(b) The reasonableness limit for medical director/physician services will be established as follows:

1. (No change.)

2. Total medical director/physician costs for each RATF in the base period (per (b)1 above) will then be divided by the base period patient days. These per diem costs will then be ranked in descending order on a [statewide basis] **facility basis (Detoxification and Other).**

3. (No change.)

(c) (No change.)

(d) The reasonableness limit for laboratory services will be established as follows:

1. (No change.)

2. Total laboratory costs for each RATF in the base period (per (d)1 above) will then be divided by the base period patient days. These per diem costs will then be ranked in descending order on a [statewide basis] **facility basis (Detoxification and Other).**

3. (No change.)

(e) The reasonableness limit for pharmacy will be established as follows:

1. (No change.)

2. Total pharmacy costs for each RATF in the base period (per (e)1 above) will then be divided by the base period patient days. These per diem costs will then be ranked in descending order on a [statewide basis] **facility basis (Detoxification and Other).**

3. (No change.)

8:31C-1.16 Appeal process

(a) When a RATF believes that, owing to an unusual situation, the application of these rules results in an inequity, two levels of appeals are available: a Level I Appeal heard by representatives from the Department of Health: and a Level II Appeal heard before an Administrative Law Judge.

1. Level I Appeal: A request for a Level I Appeal must be submitted in writing to the Department of Health, Health Facilities Rate Setting, Room 600, John Fitch Plaza, CN 360, Trenton, New Jersey 08625 within 30 days of receipt of the notification of rates.

i.-iv. (No change.)

v. Rates resulting from the Level I Appeal will be known as the "Administrative Payment Rate".

2. Level II Appeals (Administrative Law Appeal): If a RATF is not satisfied with the results of the Level I Appeal, it may request a hearing before an Administrative Law Judge.

i.-iii. (No change.)

iv. The RATF may not submit documentation other than that provided to the Analyst at the Level I Appeal hearing.

Recodify existing iv. as **v.** (No change in text.)

(a)

DIVISION OF HEALTH FACILITIES EVALUATION

Long Term Care Licensing Standards

Advance Directives for Health Care Act; Patient Self Determination Act

Proposed Amendments: N.J.A.C. 8:39-4.1, 9.1, 11.2, 13.4, 35.2

Proposed New Rule: N.J.A.C. 8:39-9.5

Authorized By: Frances J. Dunston, M.D., M.P.H., Commissioner, Department of Health (with approval of the Health Care Administration Board).

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5.

Proposal Number: PRN 1991-599.

Submit comments by January 1, 1992 to:

Robert J. Fogg
Acting Director of Licensing, Certification, and Standards
Health Facilities Evaluation
New Jersey State Department of Health
CN 367
Trenton, New Jersey 08625-0367

The agency proposal follows:

Summary

The Department proposes to amend N.J.A.C. 8:39, Licensing Standards for Long-Term Care Facilities, in accordance with the provisions of recently adopted law, The New Jersey Advance Directives for Health Care Act, (P.L.1991, c.201) and the Federal Patient Self Determination Act (P.L.101-508). The intent of these laws is to recognize the personal right of individuals to make voluntary, informed choices about the course of their health care, and to assure that this right is guaranteed through execution of an "advance directive." The scope of the Act extends to all health care institutions and agencies licensed or certified by the State of New Jersey, including hospitals, nursing homes, residential health care facilities, home health agencies and mental health institutions.

The primary role of health care institutions, as defined by the Act, is to inform patients of their right to execute an advance directive and to facilitate execution of such a document by patients with expressed interest. In fulfilling this role, the health care facility is required to provide all informational materials concerning advance directives to all interested patients, families and health care representatives and to ensure that patients interested in discussing and/or executing an advance directive are referred for appropriate assistance. The Act ensures that patients are aware of their right to execute an advance directive, by requiring that the health care facility ask each adult patient, upon admission, about the existence of an advance directive.

The incorporation of the requirements of the Act necessitates amending N.J.A.C. 8:39-4, Mandatory Patient Rights, N.J.A.C. 8:39-9, Mandatory Administration, N.J.A.C. 8:39-13, Mandatory Communication, and N.J.A.C. 8:39-35, Medical Records. N.J.A.C. 8:39-4.1 has been amended to include compliance with patient choice or the New Jersey Advance Directives for Health Care Act as reasons for transfer or discharge of patients. The most pronounced impact on the licensure rules is the requirement to establish procedures for resolving disputes concerning the patient's decision making capacity or the interpretation and application of the advance directive, as well as numerous policies and procedures specific to the various provisions of the Act. The requirements for establishment of dispute resolution procedure are specified at amendments added as N.J.A.C. 8:39-9.1(e), (f) and (g). Periodic communication programs providing information to consumers regarding advance directives must be offered. A definition of "advance directive" as well as required policies and procedures are identified at N.J.A.C. 8:39-9.5. Mandatory policies and procedures for advance directives are codified as N.J.A.C. 8:39-9.5(b) through (h). The practices for which procedures need to be established include the following: a routine inquiry of each adult patient, upon admission, about the existence and location of an advance directive; documentation of the advance directive into the patient's medical record accordingly; and referral of patients requesting information or assistance in executing an advance directive to appropriate resource persons.

The Act also references the New Jersey Declaration of Death Act, (P.L.1991, c.90), and requires the health care facility to establish policies and procedures for the declaration of death of patients, if appropriate; this requirement is codified as N.J.A.C. 8:39-9.5(i).

The Act recognizes that, in some instances, a private religiously affiliated health care facility may decline to participate in the implementation of advance directives. Proposed N.J.A.C. 8:39-9.5(d) addresses such a circumstance. The Act also recognizes the interests of health care professionals who, as a matter of professional conscience, may prefer not to participate in the execution of an advance directive. While the interests of staff are respected, proposed N.J.A.C. 8:39-9.5(e) requires the facility to establish policies to ensure that a patient with an advance directive is under the care of a health professional who will comply with the wishes of the patient. N.J.A.C. 8:39-4(c)4 is being added to ensure that facility staff are informed of their rights and responsibilities under both this Act and the Federal Patient Self Determination Act. Two additions are being proposed to N.J.A.C. 8:39-35, Mandatory Medical Records, to address medical record documentation. A requirement to include documentation of the existence or nonexistence of an advance directive for each patient will be added to N.J.A.C. 8:39-35.2(d)3. An amendment at N.J.A.C. 8:39-35.2(d)14 will require that a copy of the patient's advance directive is transferred with the patient for the purpose of assuring its implementation.

The Department proposes to amend N.J.A.C. 8:39-11.2, Mandatory policies and procedures for patient assessment and care plans, in order to make consistent the patient assessment of all individuals occupying

long-term care facility beds. The Department further proposes to amend the time frame for the establishment and implementation of each patient's care plan from 14 days to 21 days to be consistent with Federal requirements.

Social Impact

The proposed amendments to N.J.A.C. 8:39-4, 9, 13, and 35 represent the obligatory responsibilities of health care institutions as required and defined in the New Jersey Advance Directives for Health Care Act, N.J.S.A. 26:2H-53 et seq, P.L.1991, c.201 ("the Act").

The Act itself has a significant social impact. It guarantees the right of over 46,500 individuals who reside in the 350 licensed long-term care facilities in New Jersey to retain ultimate decision-making authority regarding the course of their medical treatment while receiving care in a health care institution.

Adoption of the proposed amendment to N.J.A.C. 8:39-11.2, requiring all patients occupying long-term care health facility beds to be assessed utilizing the same, or equivalent, instrument and protocols. This will assure a consistent level of assessment and improve the continuity of care when individuals are transferred between facilities in New Jersey or nation-wide.

These changes have been reviewed and recommended by the Department's Nursing Home Advisory Group which is composed of representatives from the long-term care industry, representatives of other State agencies knowledgeable in long-term care and patient's rights, and consumers.

Economic Impact

Adoption of the proposed amendments regarding advance directives will have no economic impact on patients who reside in New Jersey's 350 long-term care facilities.

There will be some costs incurred by the facilities. However, it is anticipated that costs associated with implementation of the proposed requirements for advance directives will be minimal. The Department recognizes, for example, that compliance with the Act will initially require the facility to provide in-service education programs and to establish internal mechanisms to assure compliance with the various provisions of the Act.

There may be additional small costs to the Department, associated with the survey process. Surveyors will need to spend additional time verifying documentation of the existence or nonexistence of advance directives in residents' records and reviewing training records. Since the survey process is already established, these additional procedures should result in only minimum additional survey costs.

The Department anticipates no significant economic impact to long-term care providers as a result of amendments to N.J.A.C. 8:39-11.2. There may be a minimal cost to acquire new forms on which to record the assessment information.

Regulatory Flexibility Analysis

Approximately half of New Jersey's 350 long-term care facilities may be considered small businesses, as the term is defined in The Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments will result in small increases in the recordkeeping and reporting requirements already placed upon long-term care facilities by the current rules. For example, documentation of the existence or nonexistence of an advance directive will need to be included in each patient's medical record. Copies of advance directives, if available, will need to be added to the medical record. Records of the required annual education training program will need to be kept.

However, the Department considers that the requirements imposed by the amended rules are necessary in order that the New Jersey Advance Directives for Health Care Act be properly implemented and regulated. The Department further considers that compliance with the proposed amendments is necessary for all facilities which provide long-term care services, in order to protect each patient's rights to retain decision-making authority regarding health care, and is of the further opinion that these requirements are not so burdensome as to warrant a distinction between large and small businesses.

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

8:39-4.1 Patient rights

(a) Each patient shall be entitled to the following rights:

1.-29. (No change.)

30. To be transferred or discharged only for one or more of the following reasons and the reason for the transfer or discharge must be recorded in the patient's medical record:

i.-ii. (No change.)

iii. To comply with clearly expressed and documented patient choice, or in conformance with the New Jersey Advance Directives for Health Care Act, as specified in N.J.A.C. 8:39-9.5(d).

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

31.-34. (No change.)

(b) (No change.)

8:39-9.1 Mandatory structural organization

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

(e) The facility shall establish procedures for considering disputes among the patient, health care representative and the attending physician concerning the patient's decision-making capacity or the appropriate interpretation and application of the terms of an advance directive to the patient's course of treatment. The procedures may include consultation with an institutional ethics committee, a regional ethics committee or another type of affiliated ethics committee, or with one or more staff members who are qualified by their background and/or experience to make clinical and ethical judgements.

(f) The facility shall establish policies and procedures for providing a forum for patients, families, and staff to discuss and reach decisions on bioethical concerns relating to patients.

(g) The facility shall provide periodic community education programs, individually or in coordination with other area facilities or organizations, that provide information to consumers regarding advance directives and their rights under New Jersey law to execute advance directives.

8:39-9.5 Mandatory policies and procedures for advance directives

(a) For purposes of this Chapter, "advance directive" means a written statement of a patient's instructions and directions for health care in the event of future decision making incapacity, in accordance with the New Jersey Advance Directives for Health Care Act, N.J.S.A. 26:2H-53 et seq., P.L.1991, c.201.

(b) The facility shall develop and implement procedures to ensure that there is a routine inquiry made of each adult patient, upon admission to the facility and at other appropriate times, concerning the existence and location of an advance directive. If the patient is incapable of responding to this inquiry, the facility shall have procedures to request the information from the patient's family or in the absence of a family member, another individual with personal knowledge of the patient. The procedures must assure that the patient or family's response to this inquiry is documented in the medical record. Such procedures shall also define the role of facility admissions, nursing, social service and other staff as well as the responsibilities of the attending physician.

(c) The facility shall develop and implement procedures to promptly request and take reasonable steps to obtain a copy of currently executed advance directives from all patients. These shall be entered when received into the medical record of the patient.

(d) A patient shall be transferred to another health care facility only for a valid medical reason, in order to comply with other applicable laws or Department regulations, to comply with clearly expressed and documented patient choice, or in conformance with the New Jersey Advance Directives for Health Care Act in the instance of private, religiously affiliated health care institutions who establish policies defining circumstances in which it will decline to participate in the implementation of advance directives. Such institutions must provide notice to patients or their families or health care representatives prior to admission of their policies. A timely and respectful transfer of the individual to another institution which will implement the patient's advance directive must be effected. The facility's inability to care for the patient shall be considered a valid medical reason. The sending facility shall receive approval from a physician and the receiving health care facility before transferring the patient.

(e) The facility shall develop and implement policies for transfer of the responsibility for care of patients with advance directives in

those instances where a health care professional declines as a matter of professional conscience to participate in withholding or withdrawing life-sustaining treatment. Such transfer shall assure that the patient's advance directive is implemented in accordance with their wishes within the facility, except in cases governed by 9.5(d) above.

(f) The facility shall have procedures to provide each adult patient upon admission and where the patient is unable to respond, to the family or other representative of the patient, with a written statement of their rights under New Jersey law to make decisions concerning the right to refuse medical care and the right to formulate an advance directive. Such statement shall be approved by the Commissioner. Appropriate written information and materials on advance directives and the institution's written policies and procedures concerning implementation of such rights shall also be provided. Such written information shall also be made available in any language which is spoken by more than 10% of the population served by the facility.

(g) The facility shall develop and implement procedures for referral of patients requesting assistance in executing an advance directive or additional information to either staff or community resource persons that can promptly advise and/or assist the patient.

(h) The facility shall develop and implement policies to address application of the facility's procedures for advance directives to patients who experience an urgent life-threatening situation.

(i) The facility shall develop and implement policies and procedures for the declaration of death of patients, in instances where applicable, in accordance with N.J.S.A. 26:6 and the New Jersey Declaration of Death Act N.J.S.A. 26:6A-1 et seq. (P.L.1991, c.90). Such policies shall also be in conformance with rules promulgated by the New Jersey Board of Medical Examiners which address declaration of death based on neurological criteria, including the qualifications of physicians authorized to declare death based on neurological criteria and the acceptable medical criteria, tests, and procedures which may be used. The policies and procedures shall also accommodate a patient's religious beliefs with respect to declaration of death.

8:39-11.2 Mandatory policies and procedures for patient assessment and care plans

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

(e) **A comprehensive assessment must be completed for each patient within 14 days of admission utilizing the Standardized Resident Assessment Instrument (Minimum Data Set) as specified by the Department, or on an equivalent assessment instrument which has been developed by the facility.** The complete assessment and care plan shall be based on oral or written communication and assessments provided by nursing, dietary, patient activities, and social work staff; and when ordered by the physician, assessments shall also be provided by other health professionals. The care plan shall include specific, measurable goals, based on the patient's care needs and means of achieving each goal.

(f) The complete care plan shall be established and implementation shall begin within [14] **21** days, and shall include, at least, rehabilitative/restorative measures, preventive intervention, and training and teaching of self-care.

(g)-(k) (No change.)

8:39-13.4 Mandatory staff education and training for communication

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

(d) At least one education training program each year shall be held for all administrative and patient care staff regarding the rights and responsibilities of staff under the New Jersey Advance Directives for Health Care Act (P.L.1991, c.201) and the Federal Patient Self Determination Act (P.L. 101-508), and internal facility policies and procedures to implement these laws.

Recodify existing (d) as **(e)** (No change in text.)

8:39-35.2 Mandatory policies and procedures for medical records

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

(d) A medical record shall be initiated for each patient upon admission and include at least the following information when such information becomes available:

1.-2. (No change.)

3. Complete transfer information from the sending facility, including results of diagnostic, laboratory, and other medical and surgical procedures, **and a copy of the patient's advance directive, if available, or notice that the patient has informed the sending facility of the existence of an advance directive**;

4.-13. (No change.)

14. Documentation of the existence, or nonexistence, of an advance directive and the facility's inquiry of the patient concerning this.

Recodify existing 14.-15. as **15. and 16.** (No change in text.)

(e)-(g) (No change.)

(a)

DIVISION OF HEALTH FACILITIES EVALUATION

Long Term Care Licensing Standards
Mandatory Policies and Procedures for Administration

Proposed Amendment: N.J.A.C. 8:39-9.2

Authorized By: Frances J. Dunston, M.D., M.P.H., Commissioner, Department of Health (with approval of the Health Care Administration Board).

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5.

Proposal Number: PRN 1991-598.

Submit comments by January 1, 1992:

Robert J. Fogg
Director, Licensing, Certification and Standards
Health Facilities Evaluation
New Jersey State Department of Health
CN 367
Trenton, New Jersey 08625-0367

The agency proposal follows:

Summary

The Department proposes to amend N.J.A.C. 8:39-9.2, Mandatory policies and procedures for administration for long term care facilities. The proposed amendment would require the facility to notify the Department of Health and the Division of Medical Assistance and Health Services, Department of Human Services, if it becomes financially insolvent or files a petition for bankruptcy under Title 11 U.S.C. A definition of insolvency is included in the proposed amendment, based on the statutory definition found in the Federal bankruptcy code. The amendment incorporates three other objective indicators of insolvency: default on the principal facility debt or mortgage; reaching a current ratio of 1.0 or below; or exceeding an average payment period ratio on current liabilities of 150 days. Exceptions are permitted for facilities that are in the first 12 months of operation.

In order to protect the ability of an insolvent or bankrupt provider to maintain staffing and supplies, the information provided to the State agencies would be kept confidential from the public and any other organization unless authorization of the facility is received.

The proposed amendment is intended to provide adequate notice that a licensed facility is in severe financial difficulty to the two State agencies principally responsible for the financing and quality of long term care services in New Jersey. This notice will permit the Division of Medical Assistance and Health Services to initiate discussions with the provider regarding its financial status, and to take steps necessary to protect the State's financial interests. Notification to the Department of Health, which serves as the regulator of quality of care for nursing homes, is needed to assure that residents' health and safety needs are being met. Experience has shown that a financial crisis in a health care facility often leads to a diminution in the quality of care, and notice will permit timely monitoring of service delivery to occur as needed.

Social Impact

The proposed amendment affects the operators of the 364 licensed long term care facilities in New Jersey providing care to 46,687 individuals. Adoption of the proposed amendment to N.J.A.C. 8:39-9.2 will only impact individuals to the extent it allows the Departments of Health or Human Services to intervene in a manner improving the quality of care in an insolvent facility or by allowing it to continue operation. In this manner, the proposed amendment would have a beneficial social impact for long term care residents.

Economic Impact

There is no significant economic impact to long-term care facilities by virtue of a notification requirement to State agencies. It is anticipated that dialogue with the facility operator or ownership interests will result subsequent to notification which may lead to a plan to assure maintenance of services to residents while protecting the financial interests of the State and Federal governments.

It is not intended or anticipated that the amendment will give the Department of Human Services any additional rights as a creditor under a bankruptcy proceeding initiated under Title 11 of the United States Code. Notification may serve to enhance the ability of the State and the provider to develop a workout plan that would avert the necessity of a Chapter 11 or 7 filing to occur.

There is no economic impact to public funding sources or to the administrative agencies involved in licensing and inspection of long-term care facilities anticipated under the proposed rule, other than improving the ability of the State to avert financial loss.

Regulatory Flexibility Analysis

Approximately half of New Jersey's 364 long-term care facilities may be considered small businesses, as the term is defined in The Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment to N.J.A.C. 8:39-9.2 will result in a minor increase in the recordkeeping and reporting requirements already placed upon small businesses by the current rules. The impact will be limited to facilities who become financially insovlent and would require only written notification by letter to two State agencies of that condition.

Changes in the rules have been designed to minimize the adverse economic impact on small businesses, while ensuring the provision of quality care to patients. The Department of Health has determined that compliance with the proposed amendments is necessary for all facilities which provide long-term care services, in the interest of public health and safety, and that there should be no differentiation based on business size.

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

8:39-9.2 Mandatory policies and procedures for administration

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

(i) A facility shall notify the Department of Health, Division of Health Facilities Evaluation and the Division of Medical Assistance and Health Services, Department of Human Services, if it is a participating Medicaid provider, immediately in writing at such time as it becomes financially insolvent and upon the filing of a voluntary or involuntary petition for bankruptcy under Title 11 of the United States Code. Insolvency means that the sum of the facility's debts is greater than the value of all of its assets, or that the facility defaults on the primary debt on the property, or that in any month the current ratio falls below 1.0, or that the average payment period ratio for current liabilities exceeds 150 days. Facilities which are in the first 12 months of operation from the date of initial licensure are exempt from reporting a condition of insolvency to the Department. All notification of insolvency or a bankruptcy filing, when received by the Department of Health or the Department of Human Services, shall be kept confidential from the public and any other organization, unless express authorization to do so has been provided by the facility.

(a)

DIVISION OF HEALTH FACILITIES EVALUATION

Manual of Standards for Licensure of Rehabilitation Hospitals

Advance Directives for Health Care Act; Patient Self Determination Act

Proposed Amendments: N.J.A.C. 8:43H-3.4, 17.2, 19.3, and 19.5.

Proposed New Rules: N.J.A.C. 8:43H-5.3 and 5.4

Authorized by: Frances J. Dunston, M.D., M.P.H., Commissioner, Department of Health (with approval of the Health Care Administration Board).

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5, and N.J.S.A. 26:2H-53 et seq.

Proposal Number: PRN 1991-601.

Submit comments by January 1, 1992 to:
Robert J. Fogg
Acting Director of Licensing, Certification, and Standards
Health Facilities Evaluation
New Jersey State Department of health
CN 367
Trenton, New Jersey 08625-0367

The agency proposal follows:

Summary

The Department proposes to amend N.J.A.C. 8:43H, Manual of Standards for Licensure of Rehabilitation Hospitals, in accordance with the provisions of a recently adopted law, the New Jersey Advance Directives for Health Care Act, N.J.S.A. 26:2H-53 et seq., P.L. 1991, c.201 ("the Act") and the Federal Patient Self Determination Act, P.L. 101-508. The intent of these laws is to recognize the personal right of individuals to make voluntary, informed choices about the course of their health care, and to assure that this right is guaranteed through execution of an "advance directive." The scope of the New Jersey Act extends to all health care institutions and agencies licensed or certified by the State of New Jersey, including hospitals, nursing homes, residential health care facilities, home health agencies and mental health institutions.

One of the primary roles of health care institutions, as defined by the New Jersey Act, is to inform patients of their right to execute an advance directive and to facilitate execution of such a document by patients with expressed interest. In fulfilling this role, the health care facility is required to provide informational materials concerning advance directives to all interested patients, families and health care representatives and to ensure that patients interested in discussing and/or executing an advance directive are referred for appropriate assistance. The Act ensures that patients are aware of their right to execute an advance directive, by requiring that the health care facility ask each adult patient, upon admission, about the existence of an advance directive.

The incorporation of the requirements of the Act necessitates amending N.J.A.C. 8:43H-3, General requirements, N.J.A.C. 8:43H-5, Administration, and N.J.A.C. 8:43H-17, Patient rights. N.J.A.C. 8:43H-19, Medical records, has been amended to require the documentation of the existence or nonexistence of an advance directive in the patient's record. The most pronounced impact on the licensure rules is the requirement to establish procedures for resolving disputes concerning the patient's decision making capacity or the interpretation and application of the advance directive, as well as numerous policies and procedures specific to the various provisions of the Act. The requirements for establishment of dispute resolution procedure are specified at amendments added as N.J.A.C. 9:43H-5.3(a), (b) and (c). Periodic communication programs providing information to consumers regarding advance directives must be offered. A definition of "advance directive" as well as required policies and procedures are identified at N.J.A.C. 8:43H-5.4. Mandatory policies and procedures for advance directives are codified as N.J.A.C. 8:43H-5.4(b) through (h). The practices for which procedures need to be established include the following: a routine inquiry of each adult patient, upon admission, about the existence and location of an advance directive; documentation of the advance directive into the patient's medical record accordingly; and referral of patients requesting information or assistance in executing an advance directive to appropriate resource persons.

The rules also reference the New Jersey Declaration of Death Act, N.J.S.A. 26:6A-1 et seq. (P.L. 1991, c.90), and requires the health care facility to establish policies and procedures for the declaration of death of patients, if appropriate; this requirement is codified as N.J.A.C. 8:43H-5.4(i).

The New Jersey Advance Directives for Health Care Act recognizes that, in some instances, a private religiously-affiliated health care facility may decline to participate in the implementation of advance directives. Proposed N.J.A.C. 8:43H-5.4(d) addresses such a circumstance. The Act also recognizes the interests of health care professionals who, as a matter of professional conscience, may prefer not to participate in the execution

of an advance directive. While the interests of staff are respected, proposed N.J.A.C. 8:43H-5.4(e) requires the facility to establish policies to ensure that a patient with an advance directive is under the care of a health professional who will comply with the wishes of the patient. N.J.A.C. 8:43H-3.3(d)2 is being added to ensure that facility staff are informed of their rights and responsibilities under both this Act and the Federal Patient Self Determination Act. A requirement to include documentation of the existence or nonexistence of an advance directive for each patient will be added as N.J.A.C. 8:43H-19.3(a)19, and the transfer of information concerning advance directives at N.J.A.C. 8:43H-19.5(a)3.

N.J.A.C. 8:43H-17.2(a)5 is being amended to ensure that the patient has a right to be transferred to another health care facility in order to comply with expressed patient choice or in conformance with the Act.

Social Impact

The proposed amendments to N.J.A.C. 8:43H-3, 5, 17 and 19 represent the obligatory responsibilities of health care institutions as required and defined in the New Jersey Advance Directives for Health Care Act, P.L. 1991, c.201.

The Act itself has a significant social impact. It guarantees the right of the 1,015 individuals receiving treatment in New Jersey's 11 licensed rehabilitation hospitals to retain ultimate decision-making authority regarding the course of their medical treatment while receiving care in a health care institution.

Economic Impact

There will be no economic impact upon the 1,015 residents receiving care in Residential Health Care Facilities.

There will be some costs incurred by the facilities. However, it is anticipated that costs associated with implementation of the proposed requirements for advance directives will be minimal. The Department recognizes, for example, that compliance with the Act will initially require the facility to provide in-service education programs and to establish internal mechanisms to assure compliance with the various provisions of the Act.

There may be additional small costs to the Department, associated with the survey process. Surveyors will need to spend additional time verifying documentation of the existence or nonexistence of advance directives in residents' records and reviewing training records. Since the survey process is already established, these additional procedures should result in only minimum additional survey costs.

Regulatory Flexibility Statement

None of the 11 rehabilitation hospitals currently licensed in New Jersey may be considered small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, no regulatory flexibility analysis is needed.

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

8:43H-3.4 Personnel

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

(d) The facility shall develop and implement a staff orientation and a staff education plan, including plans for each service and designation of person(s) responsible for training.

1. (No change.)

2. At least one education training program each year shall be held for all administrative and patient care staff regarding the rights and responsibilities of staff under the New Jersey Advance Directives for Health Care Act, N.J.S.A. 26:2H-53 et seq. (P.L. 1991, c.201), and the Federal Patient Self Determination Act (P.L. 101-508), and internal facility policies and procedures to implement these laws.

(e) (No change.)

8:43H-5.3 Advance directives; dispute resolution; forum for discussion; community education

(a) The facility shall establish procedures for considering disputes among the patient, the health care representative and the attending physician concerning the patient's decision-making capacity or the appropriate interpretation and application of the terms of an advance directive to the patient's course of treatment. The procedures may include consultation with an institutional ethics committee, a regional ethics committee or another type of affiliated ethics committee, or with one or more staff members who are qualified by their background and/or experience to make clinical and ethical judgments.

(b) The facility shall establish policies and procedures for providing a forum for patients, families, and staff to discuss and reach decisions on bioethical concerns relating to patients.

(c) The facility shall provide periodic community education programs, individually or in coordination with other area facilities or organizations, that provide information to consumers regarding advance directives and their rights under New Jersey law to execute advance directives.

8:43H-5.4 Policies and procedures for advance directives

(a) For purposes of this chapter, "advance directive" means a written statement of a patient's instructions and directions for health care in the event of future decision making incapacity, in accordance with the New Jersey Advance Directives for Health Care Act, N.J.S.A. 26:2H-53 et seq., (P.L. 1991, c.201).

(b) The facility shall develop and implement procedures to ensure that there is a routine inquiry made of each adult patient, upon admission to the facility and at other appropriate times, concerning the existence and location of an advance directive. If the patient is incapable of responding to this inquiry, the facility shall have procedures to request the information from the patient's family or, in the absence of a family member, another individual with personal knowledge of the patient. The procedures must assure that the patient or family's response to this inquiry is documented in the medical record. Such procedures shall also define the role of facility admissions, nursing, social service and other staff as well as the responsibilities of the attending physician.

(c) The facility shall develop and implement procedures to promptly request and take reasonable steps to obtain a copy of currently executed advance directives from all patients. These shall be entered when received into the medical record of the patient.

(d) A patient shall be transferred to another health care facility only for a valid medical reason, in order to comply with other applicable laws or Department rules, to comply with clearly expressed and documented patient choice, or in conformance with the New Jersey Advance Directives for Health Care Act in the instance of private, religiously affiliated health care institutions who establish policies defining circumstances in which it will decline to participate in the implementation of advance directives. Such institutions shall provide notice to patients or their families or health care representatives prior to admission of their policies. A timely and respectful transfer of the individual to another institution which will implement the patient's advance directive shall be effected. The facility's inability to care for the patient shall be considered a valid medical reason. The sending facility shall receive approval from a physician and the receiving health care facility before transferring the patient.

(e) The facility shall develop and implement policies for transfer of the responsibility for care of patients with advance directives in those instances where a health care professional declines as a matter of professional conscience to participate in withholding or withdrawing life-sustaining treatment. Such transfer shall assure that the patient's advance directive is implemented in accordance with their wishes within the facility, except in cases governed by (d) above.

(f) The facility shall have procedures to provide each adult patient upon admission and, where the patient is unable to respond, to the family or other representative of the patient, with a written statement of their rights under New Jersey law to make decisions concerning the right to refuse medical care and the right to formulate an advance directive. Such statement shall be approved by the Commissioner. Appropriate written information and materials on advance directives and the institution's written policies and procedures concerning implementation of such rights shall also be provided. Such written information shall also be made available in any language which is spoken by more than 10 percent of the population served by the facility.

(g) The facility shall develop and implement procedures for referral of patients requesting assistance in executing an advance directive or additional information to either staff or community resource persons that can promptly advise and/or assist the patient.

(h) The facility shall develop and implement policies to address application of the facility's procedures for advance directives to patients who experience an urgent life-threatening situation.

(i) The facility shall develop and implement policies and procedures for the declaration of death of patients, in instances where applicable, in accordance with N.J.S.A. 26:6 and the New Jersey Declaration of Death Act, N.J.S.A. 26:6A-1 et seq. (P.L. 1991, c.90). Such policies shall also be in conformance with rules promulgated by the New Jersey Board of Medical Examiners which address declaration of death based on neurological criteria, including the qualifications of physicians authorized to declare death based on neurological criteria and the acceptable medical criteria, tests, and procedures which may be used. The policies and procedures must also accommodate a patient's religious beliefs with respect to declaration of death.

8:43H-17.2 Rights of each patient

(a) Patient rights policies and procedures shall ensure that, as a minimum, each patient admitted to the facility:

1.-4. (No change.)

5. Is transferred or discharged only for medical reasons, **to comply with clearly expressed and documented patient choice, or in conformance with the New Jersey Advance Directives for Health Care Act, as specified in N.J.A.C. 8:43H-5.4(d),** or for his or her welfare or that of other patients, upon the written order of the patient's physician, and such actions are documented in the patient's medical record, except in an emergency situation, in which the administrator shall notify the physician and the family immediately, and document the reason for the transfer in the patient's medical record. If a transfer or discharge on a nonemergency basis is requested by the facility, including transfer or discharge for nonpayment for the patient's stay (except as prohibited by sources of third party payment), the patient and his or her family shall be given at least 10 days advance notice of such transfer or discharge;

6.-21. (No change.)

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

8:43H-19.3 Contents of medical records

(a) The patient medical record shall include, but not be limited to, the following:

1.-18. (No change.)

19. Documentation of the existence, or nonexistence, of an advance directive and the facility's inquiry of the patient concerning this;

Recodify existing 19.-22. as **20.-23.** (No change in text.)

8:43H-19.5 Medical records policies and procedures

(a) The facility shall establish and implement written policies and procedures regarding medical records including, but not limited to, policies and procedures for the following:

1.-2. (No change.)

3. The transfer of patient information when the patient is transferred to another health care facility, or if the patient becomes an outpatient at the same facility, **including a copy of the patient's advance directive, if available, or notice that the patient has informed the sending facility of the existence of an advance directive;** and

4. (No change.)

(a)

DIVISION OF HEALTH FACILITIES EVALUATION

Manual of Standards for Licensure of Residential Health Care Facilities

Advance Directives for Health Care Act; Patient Self-Determination Act

Proposed Amendments: N.J.A.C. 8:43-4.7 and 7.2

Proposed New Rules: N.J.A.C. 8:43-4.15 and 4.16

Authorized By: Frances J. Dunston, M.D., M.P.H., Commissioner, Department of Health (with approval of the Health Care Administration Board).

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5.

Proposal Number: PRN 1991-600.

Submit comments by January 1, 1992 to:
Robert J. Fogg
Acting Director of Licensing, Certification, and Standards
Health Facilities Evaluation
New Jersey State Department of Health
CN 367
Trenton, New Jersey 08625-0367

The agency proposal follows:

Summary

The Department proposes to amend N.J.A.C. 8:43, Manual of Standards for Licensure of Residential Health Care Facilities, in accordance with the provisions of recently adopted law, The New Jersey Advance Directives for Health Care Act, N.J.S.A. 26:2H-53 et seq., P.L. 1991, c.201 ("the Act"). The intent of this law is to recognize the personal right of individuals to make voluntary, informed choices about the course of their health care, and to assure that this right is guaranteed through execution of an "advance directive." The scope of the Act extends to all health care institutions and agencies licensed or certified by the State of New Jersey, including hospitals, nursing homes, residential health care facilities, home health agencies and mental health institutions.

The primary role of health care institutions, as defined by the Act, is to inform residents of their right to execute an advance directive and to facilitate execution of such a document by residents with expressed interest. In fulfilling this role, the health care facility is required to provide all informational materials concerning advance directives to all interested residents, families and health care representatives and to ensure that residents interested in discussing and/or executing an advance directive are referred for appropriate assistance. The Act ensures that residents are aware of their right to execute an advance directive, by requiring that the health care facility ask each adult resident, upon admission, about the existence of an advance directive.

The incorporation of the requirements of the Act necessitates amending N.J.A.C. 8:43-4, Administration, and N.J.A.C. 8:43-7, Resident rights. N.J.A.C. 8:43-4.7(d)2, regarding record maintenance, has been amended to require the documentation of the existence or nonexistence of an advance directive in the resident's record. The most pronounced impact on the licensure rules is the requirement to establish procedures for considering disputes concerning the resident's decision-making capacity or the interpretation and application of the terms of an advance directive, as well as numerous policies and procedures specific to the various provisions of the Act. The requirements for establishment of dispute resolution procedures are specified at amendments added as N.J.A.C. 9:43-4.15(a) and (b). A definition of "advance directive" as well as required policies and procedures are identified at N.J.A.C. 8:43-4.16. Policies and procedures for advance directives are codified as N.J.A.C. 8:43-4.16(b) through (h). The practices for which procedures need to be established include the following: a routine inquiry of each adult resident, upon admission, about the existence and location of an advance directive; documentation of the advance directive into the resident's medical record accordingly; and referral of residents requesting information or assistance in executing an advance directive to appropriate resource persons.

The Act recognizes that, in some instances, a private religiously affiliated health care facility may decline to participate in the implementation of advance directives. Although the Department recognizes the limited applicability of this section to Residential Health Care Facilities, proposed N.J.A.C. 8:43-16(g) addresses such a circumstance. N.J.A.C. 8:43-16(h) is being added to ensure that facility staff are informed of their rights and responsibilities under this Act. A requirement to include documentation of the existence or nonexistence of an advance directive for each resident will be added to N.J.A.C. 8:43-4.7(d).

N.J.A.C. 8:43-7.2(a)4 is being amended to ensure that the resident has a right to be transferred to another health care facility in order to comply with expressed resident choice or in conformance with the Act.

Social Impact

The proposed amendments to N.J.A.C. 8:43-4 and 7 represent the obligatory responsibilities of health care institutions as required and defined in the New Jersey Advance Directives for Health Care Act, P.L. 1991, c.201, N.J.S.A. 26:2H-53 et seq.

The Act itself has a significant social impact. It guarantees the right of the approximately 11,500 individuals residing in each of New Jersey's 272 residential health care facilities to retain ultimate decision-making authority regarding the course of their medical treatment while receiving care in a health care institution.

Economic Impact

Adoption of the proposed amendments regarding advance directives will have no economic impact on persons who reside in New Jersey's 272 residential health care facilities.

There will be some costs incurred by the facilities. However, it is anticipated that costs associated with implementation of the proposed requirements for advance directives will be minimal. The Department recognizes, for example, that compliance with the Act will initially require the facility to provide in-service education programs and to establish internal mechanisms to assure compliance with the various provisions of the Act.

There may be additional small costs to the Department, associated with the survey process. Surveyors will need to spend additional time verifying documentation of the existence or nonexistence of advance directives in residents' records and reviewing training records. Since the survey process is already established, these additional procedures should result in only minimum additional survey costs.

Regulatory Flexibility Analysis

More than half of New Jersey's 272 residential health care facilities may be considered small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments will result in small increases in the recordkeeping and reporting requirements already placed upon residential health care facilities by the current rules. For example, documentation of the existence or nonexistence of an advance directive will need to be included in each resident record. Copies of advance directives, if available, will need to be added to the resident's record. Records of the required annual education training program will need to be kept.

However, the Department considers that the requirements imposed by the amended rules are necessary in order that the New Jersey Advance Directives for Health Care Act be properly implemented and regulated. The Department further considers that compliance with the proposed amendments is necessary for all facilities which provide residential health care services, in order to protect each resident's rights to retain decision-making authority regarding health care, and is of the further opinion that these requirements are not so burdensome as to warrant a distinction between large and small businesses.

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

8:43-4.7 Record maintenance

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

(d) The following records shall be maintained and shall be kept available on the premises for review at any time by representatives of the Department of Health.

1. (No change.)

2. Resident's records: Each resident's record shall include an admission record, a medical certification, a record of physician's visits, **documentation of the existence or nonexistence of an advance directive and the facility's inquiry of the resident concerning this,** and a death record when applicable:

i.-ii. (No change.)

iii. Advance directives: Advance directives, if available.

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

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

8:43-4.15 Policies and procedures for dispute resolution; forum for discussion of advance directives

(a) The facility shall establish procedures for considering disputes among the resident, health care representative and the attending physician concerning the resident's decision-making capacity or the appropriate interpretation and application of the terms of an advance directive to the resident's course of treatment. The procedures may include consultation with an institutional ethics committee, a regional ethics committee or another type of affiliated ethics committee, or with one or more staff members who are qualified by their background and/or experience to make clinical and ethical judgements.

(b) The facility shall establish policies and procedures for providing a forum for residents, families, and staff to discuss and reach decisions on bioethical concerns relating to residents.

8:43-4.16 Policies and procedures for advance directives

(a) For purposes of this Chapter, "advance directive" means a written statement of a resident's instructions and directions for health care in the event of future decision making incapacity, in accordance with the New Jersey Advance Directives for Health Care Act, N.J.S.A. 26:2H-53 et seq., P.L. 1991, c.201.

(b) The facility shall develop and implement procedures to ensure that there is a routine inquiry made of each adult resident, upon admission to the facility and at other appropriate times, concerning the existence and location of an advance directive. If the resident is incapable of responding to this inquiry, the facility shall have procedures to request the information from the resident's family or, in the absence of a family member, another individual with personal knowledge of the resident. The procedures must assure that the resident or family's response to this inquiry is documented in the resident's record. Such procedures shall also define the role of facility admissions, nursing, social service and other staff as well as the responsibilities of the attending physician.

(c) The facility shall develop and implement procedures to promptly request and take reasonable steps to obtain a copy of currently executed advance directives from all residents. These shall be entered into the resident's record when received.

(d) The facility shall have procedures to provide each adult resident upon admission, and, where the resident is unable to respond, the family or other representative of the resident, with a written statement of his or her rights under New Jersey law to make decisions concerning the right to refuse medical care and the right to formulate an advance directive. Such a statement shall be approved by the Commissioner. Appropriate information and materials on advance directives and the institution's written policies and procedures concerning implementation of such rights shall also be provided. Such written information shall also be made available in any language which is spoken by more than 10 percent of the population served by the facility.

(e) The facility shall develop and implement procedures for referral of residents requesting assistance in executing an advance directive or additional information to either staff or community resource persons that can promptly advise and/or assist the resident.

(f) The facility shall develop and implement policies to address application of the facility's procedures for advance directives to residents who are experiencing an urgent life-threatening situation.

(g) A resident shall be transferred to another health care facility only for a valid medical reason, in order to comply with other applicable laws or Department rules, to comply with clearly expressed and documented resident choice, or in conformance with the New Jersey Advance Directives for Health Care Act, in the instance of private, religiously affiliated health care institutions who establish policies defining circumstances in which it will decline to participate in the implementation of advance directives. Such institutions must provide notice to residents or their families or health care representatives prior to admission of their policies. A timely and respectful transfer of the individual to another institution which will implement the resident's advance directive must be effected. The facility's inability to care for the resident shall be considered a valid medical reason. The sending facility shall receive approval from a physician and the receiving health care facility before transferring the resident.

(h) At least one education training program each year shall be held, for all administrative staff and employees providing resident supervision and/or personal care, on the rights and responsibilities of staff under the New Jersey Advance Directives for Health Care Act, N.J.S.A. 26:2H-53 et seq., P.L. 1991, c.201, and internal facility policies and procedures to implement this law.

N.J.A.C. 8:43-7.2 Policies and procedures

(a) Resident rights policies and procedures shall ensure that, as a minimum, each resident admitted to the facility:

1.-3. (No change.)

4. Is, except in the case of an emergency, transferred or discharged only for medical reasons or for his/her welfare or that of other residents upon the written order of the resident's physician, who shall document the reason for the transfer or discharge in the resident's record, or for nonpayment for the resident's stay, or for repeated violations of the facility's written rules and regulations after being advised of them in writing, [or] if required by the Department, **or to comply with clearly expressed and documented resident choice, or in conformance with the New Jersey Advance Directives for Health Care Act, N.J.S.A. 26:2H-53 et seq., as specified in N.J.A.C. 8:43-4.16;**

i. (No change.)

5.-22. (No change.)

(a)

HEALTH FACILITIES EVALUATION AND LICENSING

Controlled Dangerous Substances

Manner of Issuance of a Prescription and Partial Filling of Prescription for a Schedule II Substance

Proposed Amendments: N.J.A.C. 8:65-7.5 and 7.10

Authorized By: Frances J. Dunston, M.D., M.P.H., Commissioner, Department of Health.

Authority: N.J.S.A. 24:21-9.

Proposal Number: PRN 1991-604.

Submit comments by January 1, 1992 to:
Lucius A. Bowser, R.P., M.P.H.
Chief, Drug Control Program
CN 367
Trenton, NJ 08625-0367
(609-984-1308)

The agency proposal follows:

Summary

The Department of Health proposes to amend certain sections of the Controlled Dangerous Substances rules to change the procedure on issuance of a prescription and the method of allowing for partial filling of a Schedule II substance in a Long Term Care Facility or for a person with a medical diagnosis documenting a terminal illness. The amendments will bring N.J.A.C. 8:65 into conformity with Federal requirements, cited at 21 C.F.R. 1306.05 and 1306.13, which became effective July 3, 1991 as published in the Federal Register at 56 F.R. 25025 through 25027.

The amendments to the requirements for the partial filling of a prescription for patients in Long Term Care Facilities may affect approximately 46,500 people. The amendments expanding the provisions for the partial filling of prescriptions to include those terminally ill, wherever they reside, may affect thousands more, although the specific number cannot be reliably determined. Specific provisions for partial filling of prescriptions are needed, since no prescription may be returned to stock, once dispensed, and because accountability must be maintained.

Social Impact

The proposed amendments to the requirements for the partial filling of a prescription will benefit the patients in long term care facilities in that the specific elements required to be included in the prescription are delineated. The addition of terminally ill patients to the category of persons who may receive partial filling of their prescriptions will benefit those persons, as well as any service provider involved. The reduced waste of prescriptions is anticipated to provide greater control over dangerous drugs used by patients in long term care facilities or who are terminally ill.

Economic Impact

The proposed amendments to include additional data on the prescription form will not have any economic impact, since this data is normally included on prescriptions now. The amendments which include terminally ill patients among those eligible to utilize the provisions for partial filling of prescriptions will benefit those individuals, or those responsible for the payment of their prescriptions, in that a smaller amount of medication will be wasted, should the patient die before the medication is used up. Pharmacists will be required to make follow-up calls to physicians to determine whether a patient continues to need the medication and/or whether a patient continues to be terminally ill. The recordkeeping required would be increased for the pharmacists, since additional entries would be required for each partial filling of a prescription. While the physician is required to document the terminal illness of a patient, this would be part of the patient record in any case.

Regulatory Flexibility Analysis

The proposed amendments will affect approximately 1,700 pharmacies in the State of New Jersey, most of which can be considered small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

The proposed amendments allow pharmacists to partially fill prescriptions for patients who are terminally ill and require pharmacists to maintain records of the partial filling of prescriptions. Pharmacists are also required to contact the physician who ordered the prescription to determine the current status of the patient and whether the prescription is still needed. While these requirements make necessary additional paperwork and telephone calls, the Department has determined that no differentiation based upon business size can be provided in the rules, since public health and safety depends upon the careful documentation of controlled dangerous substances, in accordance with the requirements of New Jersey law and the Code of Federal Regulations.

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

8:65-7.5 Manner of issuance of prescriptions

(a) All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, **the drug name, strength, dosage form, quantity prescribed, directions for use** and the **full** name, address and registration number of the practitioner. All prescriptions for controlled substances, regardless of schedule, shall be presented to the pharmacist for filling within 30 days after the date when issued. A practitioner may sign a prescription in the same manner as he would sign a check or legal document ([e.g.] **for example,** J.H. Smith or John H. Smith). Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter and shall be manually signed by the practitioner. The prescription may be prepared by a secretary or agent of the practitioner for the signature of the practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law or [regulations] **rules**. A corresponding liability rests upon the pharmacist who fills a prescription not prepared in the form prescribed by these [regulations] **rules**.

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

8:65-7.10 Partial filling of prescription; Schedule II

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

(d) Prescriptions for schedule II controlled substances written for patients in a Long Term Care Facilities (LTCF) **or for a patient with a medical diagnosis documenting a terminal illness** may be filled in partial quantities to include individual dosage units. **If there is any question whether a patient may be classified as having a terminal illness, the pharmacist shall contact the practitioner prior to partially filling the prescription. Both the pharmacist and practitioner shall assure that a controlled substance is for a terminally ill patient. The pharmacist shall record on the prescription whether the patient is "terminally ill" or an "LTCF" patient. A prescription that is partially filled and does not contain the notation the patient is "terminally ill" or "LTCF" shall be deemed to have been filled in violation of N.J.S.A. 24:21.** For each partial filling, the dispensing pharmacist shall record on the back of the prescription (or on another appropriate record, uniformly maintained, and readily retrievable) the date of the partial filling, quantity dispensed, **remaining quantity authorized to be dispensed** and the identification of the dispensing pharmacist. **Prior to any subsequent partial filling, the pharmacist shall contact the practitioner to determine that the additional partial filling is necessary.** The total quantity of Schedule II controlled substances dispensed in all partial fillings must not exceed the total quantity prescribed. Schedule II prescriptions, for patients in a LTCF, **or patients with a medical diagnosis documenting a terminal illness,** shall be valid for a period not to exceed 60 days from the issue date unless sooner terminated by the discontinuance of the medication.

(e) Information pertaining to current Schedule II prescriptions for patients in a LTCF **or for patients with a medical diagnosis documenting a terminal illness** may be maintained in a computerized system if this system has the capability to permit:

1. Output (display or printout) of the original **prescription** number, date of issue, identification of prescribing individual practitioner, identification of patient, [identification] **address of the** LTCF **or address of the hospital or residence of the patient,** identification of medication authorized (to include dosage form, strength and quantity), [and] listing of partial fillings that have been dispensed under each prescription and the information required in (d) above;

2.-3. (No change.)

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Transportation Services

Definitions; General Policies for Participation; Services Covered by the New Jersey Medicaid Program; Authorization for Transportation Services; Reimbursement Policy; Combination Medicare/Medicaid Claims; Transportation Certification; Fiscal Agent Billing Supplement

Proposed Amendments: N.J.A.C. 10:50-1

Proposed Repeal: N.J.A.C. 10:50-2

Proposed New Rules: N.J.A.C. 10:50-1.7 and 10:50, Appendix

Proposed Recodification: N.J.A.C. 10:50-3 as 10:50-2

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

Authority: N.J.S.A. 30:4D-6b(15); 30:4D-7, 7a, b and c: 30:4D-12; 42 CFR 440.170(a).

Agency Control Number: 91-P-4.

Proposal Number: PRN 1991-610.

Submit comments by January 1, 1992 to:
Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance and Health Services
CN 712
Trenton, New Jersey 08625-0712

The agency proposal follows:

Summary

The Transportation Services Manual, N.J.A.C. 10:50, was promulgated to set forth the basic policies and procedures of the New Jersey Medicaid Program relating to transportation service. Transportation service for Medicaid recipients is a required component of the Title XIX (Medicaid) program pursuant to 42 CFR 440.170(a).

As used in the notice of proposal, the term "Medicaid District Office" will be identified by the acronym "MDO." The term "fiscal agent" will refer to Unisys when they assume responsibility for Medicaid claims processing.

The N.J.A.C. 10:50 is proposed for amendment as follows:

1. N.J.A.C. 10:50-1, or subchapter 1, contains general provisions and policies for transportation providers who participate in the New Jersey Medicaid Program, including covered services, prior authorization when required, and reimbursement policy. Subchapter amendments are described below.

2. The current text of N.J.A.C. 10:50-2, or subchapter 2, entitled "Billing Procedures" is being repealed because some of the material will not be relevant. The material that is being retained, such as timely claims submittal, appears in N.J.A.C. 10:49.

3. The HCPCS Codes, which currently appeared at N.J.A.C. 10:50-3, are being recodified at N.J.A.C. 10:50-2. There is no change in the fee schedule associated with this proposed recodification.

4. The Fiscal Agent Billing Supplement, which contains instructions for billing Unisys, will be an Appendix to the transportation manual. The current Appendices 1 and 2 are being repealed. The Fiscal Agent Billing Supplement which contains instructions replaces Appendix 1 and Appendix 2. The Fiscal Agent Billing Supplement is filed as a part of the manual but is not reproduced in this proposal. Interested parties may contact the Division's Fiscal Agent or the Office of Administrative Law for copies of this material. Updates/replacement pages to the Fiscal Agent Billing Supplement will be provided to the Office of Administrative Law by the Division's Fiscal Agent when they are issued to providers.

With respect to the substantive portion of the rules, the references to "passenger", "patient", and "Medicaid eligible individual" are deleted, where applicable, and substituted by "Medicaid recipient". This revision standardizes terminology and is consistent with the Medicaid statute which defines a "qualified applicant" as a recipient who becomes eligible for Medicaid under one of the various entitlement programs (see N.J.S.A. 30:4D-3i).

The definition of "physician" is deleted from the transportation manual because a physician's prescription is not required for transportation services. In addition, there is a definition of "physician" in N.J.A.C. 10:49.

Air ambulance service (fixed wings) and ground ambulance service are separately defined, in order to delineate the licensure requirements for each mode of service. The New Jersey State Department of Health has regulatory authority over companies providing ground ambulance service in New Jersey. A ground ambulance company providing service in New Jersey must possess a Certificate of Need, provider, license, and vehicle license(s) issued by the New Jersey State Department of Health. The Federal Aviation Administration has jurisdiction over the licensure of fixed-winged aircraft.

The proposed amendments clarify the prior authorization policies which are currently Medicaid policy. Prior authorization is not required for emergency transportation. Prior authorization is required only for air ambulance and invalid coach services. There is one exception to the prior authorization requirement for invalid coach which occurs when a recipient is being transported to and/or from a nursing facility (NF) and/ or an intermediate care facility for the mentally retarded (ICF/MR). When a recipient is transported to and/or from a NF or ICF/MR, prior authorization is not required. Experience has indicated that recipients in NF's or ICF/MR's usually require invalid coach transport.

The method by which a provider obtains prior authorization is to submit Form MC-12A to the MDO. The MDO staff person reviews the request and either approves or denies the request. The notice of approval or denial is issued by the fiscal agent to both the provider and recipient.

The provider may also make a verbal request to the MDO. The MDO staff person completes the MC-12(A) and approves or denies the request. The fiscal agent will notify the provider and recipient in writing of the disposition.

In certain instances, a prior authorization request for invalid coach service may be approved from one to 12 months if the recipient's condition is chronic and it is anticipated that the recipient's condition will not improve sufficiently to allow a lower mode of transport. Once providers receive prior authorization, they can submit their claims directly to the fiscal agent.

There is also a provision for retroactive authorization. The provider must submit a retroactive authorization to the MDO within 10 working days from the date of service. The provider will be notified as to the status of the request. A request for retroactive authorization would be used in situations when the MDO can not be contacted, such as nights or weekends.

The proposed amendments will enable a Medicaid recipient to continue to obtain necessary medical treatment via the mode of transportation best suited in his or her medical condition(s). A provider enrolled in the Medicaid program will continue to be reimbursed for transportation service rendered to a Medicaid recipient when the purpose of the trip is to obtain a Medicaid covered service.

In summary, the proposed amendments contain non-substantive revisions that are necessary to bring the Transportation Manual up-to-date in preparation for the Division's new Fiscal Agent. The proposed amendments contain no significant revisions in the Medicaid Program's policies in the area of transportation services.

Social Impact

The proposed amendments impact potentially on all Medicaid recipients who require transportation service to obtain a Medicaid-covered service. The purpose of providing transportation is to enable Medicaid recipients who are in need of such services to be transported to and/or from a Medicaid-covered service. The mode of transportation reimbursed by the Medicaid program is dependent upon the Medicaid recipient's medical condition.

The proposed amendments also impact potentially on all providers of transportation service who are enrolled in the Medicaid program, including ground ambulance, air ambulance, invalid coach and livery services.

The social impact, however, on both Medicaid recipients and Medicaid providers is minimal because the proposed amendments contain no significant revisions in the Medicaid program's policies in the area of transportation. The social situation impacting Medicaid recipients and Medicaid providers has not changed. The purpose of providing transportation is to enable Medicaid recipients to be transported to and/or from a Medicaid-covered service. Public reaction to the proposed amendments is expected to be minimal.

Economic Impact

There is no economic effect on a Medicaid recipient as a result of the proposed amendments because there is no cost to a Medicaid recipient for transportation service.

There is no economic effect on a Medicaid provider of transportation service because there are no changes in the reimbursement policy or the fee schedule.

The Division of Medical Assistance and Health Services reimbursed providers of transportation service approximately $16,000,000 (Federal-State share) in State Fiscal Year 1990.

Regulatory Flexibility Analysis

The proposed amendments to N.J.A.C. 10:50 apply to transportation providers, some of which may be considered small businesses under the terms of the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-16. There are approximately 90 transportation providers currently participating in the New Jersey Medicaid Program. Transportation providers, or providers, are required to maintain sufficient records to fully disclose the name of the recipient to whom the service was rendered, date of service, nature of service, and any additional information as may be required by regulation (reference is made to N.J.S.A. 30:4D-12). To fulfill this statutory requirement, the providers maintain documentation, which is subject to post audit review, of the recipients they transport, date(s) the service was rendered, and proof that the transport was medically necessary, that is, was to and/or from a provider of medical services. The type of additional information includes, but is not limited to, licensure and/or credentials required by any other State or Federal governmental agency, such as the FAA, New Jersey Department of Health, or New Jersey Division of Motor Vehicles. The Medicaid Program, or its agents, have the right to inspect provider records pertaining to both service delivery and credentials of staff and/or equipment.

The type of professional services needed by providers to comply with these rules could depend on the type of transport being provided. For example, all drivers of livery, invalid coach and ground ambulance service must be licensed in accordance with New Jersey Motor Vehicles statutes. With respect to air ambulance, pilots must meet FAA criteria. Staff must also meet any criteria established by the New Jersey Department of Health. There should be no need for any additional professional staff to maintain records, complete claim forms, etc. although the provider may choose to hire accountant(s).

There are no capital costs associated with the proposed amendments because there is no requirement that a provider purchase additional equipment or upgrade existing equipment. However, providers are expected to maintain existing equipment in accordance with current standards. If a provider chooses to expand his or her business, or become newly enrolled as a Medicaid provider, then the provider might incur capital costs to meet the requirements contained in N.J.A.C. 10:50.

The rules apply equally to all providers within each of the three categories. There is no differentiation based upon size. However, a transportation provider may choose to provide only one mode of transportation, such as invalid coach. Therefore, an invalid coach provider would have to comply with the standards for type of service, and would not have to comply with standards for ambulance transport. Conversely, an ambulance provider need not be concerned about invalid coach or livery if he chooses to provide only ambulance service. Providers who choose to provide more than one type of transportation service must meet the criteria for each service.

The rules are designed to minimize the adverse economic impact upon transportation providers in two ways. First, the Medicaid program requires staff, vehicles, and equipment to meet existing standards of other government agencies which are necessary for the health, safety and well being of patients being transported.

The Medicaid program uses standards which are applicable to the three provider groups which are used by the industry regardless of who is paying for the ride. Second, the Division has sought to remove prior authorization whenever possible in order to enable the provider to directly submit a claim to the fiscal agent. Direct claim submittal will avoid the time spent by Division staff reviewing prior authorization requests, especially for recipients being transported to and/or from a NF and/or ICF/MR.

In addition, these amendments are really a clearer expression of existing agency policy and does not represent any new compliance requirements.

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

SUBCHAPTER 1. GENERAL PROVISIONS

10:50-1.1 Scope

This manual describes the policies and procedures of the New Jersey Medicaid Program for reimbursement of approved providers of transportation services. Questions about this manual may be directed to any Medicaid District Office (MDO) listed in N.J.A.C. 10:49 [-1] Appendix [A] or to the Division of Medical Assistance and Health Services, CN-712, Trenton, New Jersey 08625**-0712**.

10:50-1.2 Definitions

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

"Air ambulance service" means the provision of emergency or non-emergency medical transportation in an aircraft (fixed wings) certified by and operated in accord with Federal Aviation Administration requirements.

["Ambulance service" means the provision of emergency or non-emergency medical transportation in a vehicle that is licensed, equipped, and staffed in accord with New Jersey Department of Health rules, as specified in N.J.A.C. 8:40.]

...

"Ground ambulance service" means the provision of emergency or non-emergency medical transportation in a vehicle that is licensed, equipped, and staffed in accord with New Jersey State Department of Health rules, as specified in N.J.A.C. 8:40.

"Invalid coach service" means the provision of non-emergency medical transportation in a vehicle that is licensed, equipped, and staffed in accord with New Jersey **State** Department of Health rules, as specified in N.J.A.C. 8:40.

...

"Multiple loading" means that more than one [patient/passenger] **Medicaid recipient** is being transported in the same vehicle at the same time.

["Passenger" means a Medicaid-eligible individual who is transported in a livery service vehicle for the purpose of obtaining a Medicaid-covered service.

"Patient" means a Medicaid recipient who is transported in an ambulance or invalid coach for the purpose of obtaining Medicaid-covered service.

"Physician" means a doctor of medicine or osteopathy licensed to practice medicine and surgery by the New Jersey State Board of Medical Examiners, or similarly licensed by comparable agencies of the state in which he or she practices.]

"Provider means **air ambulance (fixed wings) service, ground** ambulance service, invalid coach service, or livery service.

"Transportation" means the use of an approved vehicle to move a Medicaid [-eligible individual] **recipient** from place to place for the purpose of obtaining a Medicaid-covered service.

10:50-1.3 General policies for participation

(a) The approval process for becoming a transportation service provider is as follows:

1.-2. (No change.)

3. [An] **A ground** ambulance or invalid coach company providing service in New Jersey shall possess a Certificate of Need, provider license, and vehicle license(s) issued by the New Jersey **State** Department of Health.

i. A potential provider seeking approval to provide **ground** ambulance and/or invalid coach service shall forward photocopies of the Certificate of Need approval letter, provider license, and vehicle license(s) to the [fiscal agent] **Fiscal Agent** for the New Jersey Medicaid Program.

4.-9. (No change.)

(b) (No change.)

10:50-1.4 Services covered by the New Jersey Medicaid Program

(a) [Ambulance] **Ground ambulance** service is a covered service under the following conditions:

1.-4. (No change.)

5. An air ambulance [or helicoper] **(fixed wings)**, under extenuating circumstances, may be used as a carrier to transport the sick, injured or disabled Medicaid [-eligible patient] **recipient**.

i. The service is restricted to the emergency condition where transportation by air is medically considered the only acceptable form of travel and the conditions are such that its [implementation] **utilization** is feasible. The [Division of Medical Assistance and Health Services] **New Jersey Medicaid Program** retains the option to utilize this form of transportation in such situations where, at the [Division's] **Program's** discretion, it could represent a significant cost savings when compared to **ground** ambulance or invalid coach service involving trips covering similarly long distances.

6. (No change.)

(b) Invalid coach service is a covered service under the following conditions:

1. When the service is provided to a [patient] **Medicaid recipient** as indicated in N.J.A.C. 10:50-1.6(b); and

i. If the [patient] **recipient** is wheelchair bound; or

ii. If the [patient] **recipient** is ambulatory but unable to take an alternative mode of transportation (such as taxi, bus, livery, or private vehicle) without assistance or supervision.

2. The invalid coach driver and/or crew shall comply with [duties of staff as specified in] New Jersey **State** Department of Health rule**s governing the duties of staff, as specified in** N.J.A.C. 8:40[-4.13]. In addition, the invalid coach driver and/or crew shall:

i. Provide "portal-through-portal" (door-through-door) assistance at the [patient's] **recipient's** place of departure and destination; and

ii. Provide assistance in the placement and removal of the [patient] **recipient** into and out of the vehicle at [the patient's] **his or her** place of departure and destination.

3. (No change.)

4. The invalid coach shall carry no more than four [patients] **recipients** at one time. All wheelchairs shall be restrained and the driver and all vehicle occupants shall wear automotive safety belts[, as specified in] **in accord with** New Jersey **State** Department of Health rules**, as specified in** N.J.A.C. 8:40[-4.13].

5. The use of an extra crew for invalid coach services is covered when two or more persons are used to move [an individual] **a recipient** under the following circumstances:

i. The [patient] **recipient** is wheelchair bound;

ii. The [patient's] **recipient's** place of departure or destination has no elevator service available; and

iii. The [patient] **recipient** is unable to ambulate even with the assistance of another person, such as the invalid coach driver; and

(1) The [patient's] **recipient's** place of departure or destination is accessible only by means of five or more steps; or

(2) The [patient's] **recipient's** place of departure or destination is accessible only by means of two or more steps and [the patient] **he or she** weighs 200 or more pounds.

(c) Livery service is a covered service under the following conditions:

1. When the service is provided to [an individual] **a Medicaid recipient** as indicated in N.J.A.C. 10:50-1.6(b).

2. Livery service shall be limited to the transport of ambulatory [passengers] **recipients.** Only a New Jersey-based company is eligible to participate in the New Jersey Medicaid Program as a provider of livery service.

3.-4. (No change.)

5. All providers shall make available their livery service to Medicaid[eligible individuals] **recipients** from 6 A.M. to 10 P.M., Monday through Saturday.

10:50-1.5 Authorization for transportation services

(a) Prior authorization from the Medicaid District Office (MDO) is required for [all transportation services except for ground ambulance service and livery service] **air ambulance service and invalid coach service.** See (f) below for the policy concerning authorization for [patients] **Medicaid recipients** transported by invalid coach to/from a nursing facility.

(b) Procedures for obtaining prior authorization are as follows:

1. Written request: The provider submits a ["Transportation Claim" (Form MC-12)] **Transportation Prior Authorization Form (MC-12(A))** to the MDO. Upon receipt of this document, **an** MDO [professional] staff person reviews the information to verify **the** medical necessity **for the use of the respective mode of transportation and approves or denies the request.** [If the request is approved, the mode of transportation is checked, an authorization number is assigned, and the professional staff person signs the Form MC-12 in Item 16. If denied, however, the professional staff person indicates in the space provided the reason for the denial. The Medicaid District Office retains the third copy of the Form MC-12 and forwards the Fiscal Agent and Provider copies to the provider.] **The data is then sent electronically by the MDO to the Fiscal Agent. If the request is approved, the provider is notified in writing by the Fiscal Agent of the MDO's decision and the authorized date or time frame. If the request is denied or if the MDO requires additional information, the provider is notified in writing by the Fiscal Agent.**

2. [Verbal] **Oral** request: The provider **may** call[s] the MDO [and] **to** request[s] prior authorization. **An** MDO [professional] staff person completes a ["Transportation Services—Information Sheet" (Form FD-60] **Transportation Prior Authorization Form (MC-12(A)), reviews the information to verify the medical necessity for the use of the respective mode of transportation,** and approves or denies the request. [The provider is apprised by telephone of the MDO's decision. If the request is approved, an authorization number is given to the provider and is also entered on the Form FD-60 which is signed by the MDO professional staff person. If denied, however, the MDO professional staff person indicates in the space provided the reason for the denial. The MDO retains the third copy of the Form FD-60 and forwards the Fiscal Agent and Provider copies to the provider. After rendering the invalid coach service, the provider forwards a claim, accompanied by the form FD-60, to the fiscal agent for the New Jersey Medicaid Program for processing.] **The data is then sent electronically by the MDO to the Fiscal Agent. If the request is approved, the provider is notified in writing by the Fiscal Agent of the MDO's decision and the authorized date or time frame. If the request is denied or if the MDO requires additional information, the provider is notified in writing by the Fiscal Agent.**

(c) Prior authorization for air ambulance [and helicopter] **(fixed wings)** service [must be obtained from the Medicaid District Office] **includes approval of both the service and the rate of reimbursement for the service as indicated in N.J.A.C. 10:50-1.6(d)**

1. [If verbal authorization is given by the Medicaid District Office, the provider may perform the service, but must submit a "Transportation Claim" (Form MC-12) and complete medical documentation to the Medicaid District Office for written authorization as specified in (b)1 above.] **The following documentation shall be submitted to the MDO in support of both written and oral requests for air ambulance authorization:**

i. A detailed explanation of the reason(s) why air ambulance service, as opposed to ground ambulance service or invalid coach

service, is medically considered the only acceptable form of travel, as indicated in N.J.A.C. 10:50-1.4(a)5;

ii. A detailed description of the recipient's health condition at the time of transport;

iii. A log showing actual flight time; and

iv. An itemized bill.

2. As indicated in N.J.A.C. 10:50-1.4(a)5, reimbursement for the use of air ambulance service may be considered only under extenuating circumstances after all alternative, less costly modes of transportation have been considered and ruled out.

(d) A request for invalid coach authorization may be approved for an extended period of time when, in the opinion of an **MDO** [professional] staff person, the Medicaid[-eligible individual's] **recipient's** health condition will not improve to the extent that a lower mode of service would be appropriate during the period under consideration. An extended authorization may range from one month through 12 months in duration.

1. [When a provider of invalid coach service requests authorization for an extended period of time, either in writing or by telephone, the Form MC-12 or Form FD-60 shall be labeled "RECORD SHEET". It is not necessary for the provider to indicate the number of trips or the destination on the "RECORD SHEET", as this information will not be known in advance. Claims for actual trips provided during the extended period of time shall be forwarded by the provider directly to the fiscal agent for the New Jersey Medicaid Program for processing.] **After the provider receives approval from the Fiscal Agent for the extended period of time, claims for reimbursement for actual trips provided during the extended period of time may be forwarded by the provider directly to the Fiscal Agent for processing.**

(e) Retroactive request for authorization: When communication between the provider and the [Medicaid District Office] **MDO** can not be established because the [Medicaid District Office] **MDO** is closed and the provision of the service can not be delayed, the provider may perform the service. In such instances, the provider [must] **shall** request retroactive authorization from the [Medicaid District Office] **MDO** within [ten] **10** working days from the date of service. The request for retroactive authorization may be written or [verbal] **oral**, following the procedures specified in (b)1 or (b)2 above. [The Medicaid District Office will inform the provider] **The provider will be notified** in writing [or by telephone] **by the Fiscal Agent** that the request has been approved, [or] denied, [as specified in (b)1 or (b)2 above] **or that additional information is required.**

(f) Authorization from the [Medicaid District Office] **MDO** is not required for invalid coach service when a [patient's] **recipient's** place of origin or destination is a nursing facility or intermediate care facility for the mentally retarded. A nursing facility (formerly called a long-term care facility) is defined in **the Long-Term Care Services Manual,** N.J.A.C. 10:63[-1.2] In these instances only, providers may render the invalid coach service and submit a Transportation Claim (Form MC-12) and Transportation Certification directly to the [fiscal agent] **Fiscal Agent** for the New Jersey Medicaid Program, without obtaining authorization from [a Medicaid District Office] **the MDO**. A post-payment review will be conducted on an ongoing basis to ensure the accuracy and validity of claims submitted for reimbursement.

1. The HCFA Common Procedure Coding System (HCPCS) [number(s)] **procedure codes** used when billing the base allowance for invalid coach service in these instances must be followed by the modifier "XA", as indicated in N.J.A.C. 10:50-[3.2]**2. HCFA Common Procedure Coding System (HCPCS)**.

10:50-1.6 Reimbursement policy

(a) The following definitions shall apply for the purpose of reimbursement:

1. "Loaded mile" means mileage accrued when a vehicle is actually carrying a [patient/passenger] **Medicaid recipient**. Mileage for ground ambulance, invalid coach, and livery service is measured by odometer from the point at which the [patient/passenger] **recipient** enters the vehicle to the point at which he or she exits the vehicle.

i. In a multiple-load situation for **ground** ambulance service and invalid coach service, the charge for loaded mileage and waiting time is applicable to one [patient] **recipient** only. Reimbursement is limited to the distance traveled by the [patient] **recipient** whose place of departure and destination represent the greatest distance. No mileage charge is permitted for additional [patients] **recipients** whose distance traveled lies between these two points.

ii. For livery service, the amount reimbursable for vehicle mileage accrued is on a per-[passenger] **person** basis. However, when two or more [passengers] **recipients** are transported in the same vehicle at the same time from the same departure point to the same destination point, mileage may only be charged for one [passenger] **recipient**.

iii. For trips by **ground** ambulance and invalid coach in excess of 15 miles one way, loaded mileage is reimbursable beginning with the first mile, at a higher rate as indicated in N.J.A.C. 10:50-[3.2] **2, HCFA Common Procedure Coding System (HCPCS)**. The higher rate of reimbursement is applicable to both the one way trip and to the return trip.

(1) When billing for trips in excess of 15 miles one way, the HCFA Common Procedure Coding System (HCPCS) [number] **procedure codes** used to identify mileage charges must be followed by the modifier "22", as indicated in N.J.A.C. 10:50-[3.2]**2, HCFA Common Procedure Coding System (HCPCS)**.

2. "Transportation reimbursement allowance" means that claims are paid on a fee-for-service basis, as indicated in N.J.A.C. 10:50-[3] **2**, HCFA Common Procedure Coding System (HCPCS). For HCPCS **procedure** codes [numbers] and maximum fee schedule, see N.J.A.C. 10:50-[3.2] **2. The least expensive mode of transportation suitable to the recipient's needs is to be used.**

3. "Waiting time" means that period of actual time, in increments of 15 minutes, [and beyond] **beginning** 30 minutes following delivery of the [patient] **recipient** to his or her destination, for **ground** ambulance and invalid coach service [only]. There is no reimbursement for waiting time on round trips, and it is limited to a maximum of one hour on one-way trips. Waiting time is applicable to one [patient] **recipient** only in a multiple-load situation [for invalid coach service]. An explanation of the need for waiting time shall be attached to the claim (Form MC-12).

(b) Transportation service provided to a Medicaid recipient is reimbursable by the New Jersey Medicaid Program under the following conditions only:

1. The medical care provider/facility to which and/or from which the [individual] **recipient** is being transported either participates as a provider in the Medicaid program or meets the requirements for participation as a provider in the Medicaid program; and

2. The medical service rendered to the [Medicaid] recipient by the provider/facility is a covered Medicaid service (as listed in N.J.A.C. 10:49b1.4]) at the time the transportation is provided.

(c) Reimbursement is not permitted when a Medicaid recipient is transported **under the following conditions**:

1.-3. (No change.)

(d) Air ambulance [or helicopter] **(fixed wings)** reimbursement shall be based on a rate authorized by the Medicaid District Office, not to exceed the charge made to non-Medicaid recipients for the same service.

(e) Hospital-based transportation service provided to a Medicaid recipient who is transported to other than the base hospital is reimbursable on a fee-for-service basis in the same manner as a non-hospital based transportation provider. In such instances, the hospital shall be enrolled as a transportation provider as defined in N.J.A.C. 10:50-1.2. A Transportation Claim (Form MC-12) and Transportation Certification shall be used when submitting a claim for transportation services, as described in [N.J.A.C. 10:50-2.5 and 2.7] **the Fiscal Agent Billing Supplement, incorporated herein by reference as an Appendix to this chapter.**

(f) When a transportation provider renders a round trip service to [an individual] **a Medicaid recipient** in a general hospital whose status remains "inpatient,"[,] the transportation provider bills the hospital for the service.

(g)-(h) (No change.)

(i) The appropriate modifier shall be entered on the Transportation Claim (Form MC-12) when billing for the following services:

1. Mileage, **ground** ambulance and invalid coach service, in excess of 15 miles one way (see N.J.A.C. 10:50-1.6(a) and [3.2(d)] **10:50-2, HCFA Common Procedure Coding System (HCPCS)**); and

2. Base allowance, invalid coach service, when a [patient] **Medicaid recipient** is transported to or from a nursing facility (see N.J.A.C. 10:50-1.5(f) and [3.2(b)] **10:50-2, HCFA Common Procedure Coding System (HCPCS)**).

(j) If a transportation service is operated by an organization which has established a policy of providing service without cost for a specific class of individuals, or individuals living within a given area, then it shall be understood that such service is also available without cost to [patients] **individuals** falling within such category who are covered under the New Jersey Medicaid Program.

(k) Services not directly reimbursable by the New Jersey Medicaid Program include transportation by taxi, train, bus, **plane** and other public conveyances. Reimbursement for arranging/providing these "lower mode" services shall be made by the appropriate county welfare agency/board of social services on behalf of the New Jersey Medicaid Program.

(l) (No change.)

10:50-1.7 [(Reserved)] **Transportation certification**

A transportation certification form shall be used in conjunction with the "Transportation Claim" (Form MC-12) when billing for ambulance, invalid coach, and livery service. The Fiscal Agent Billing Supplement contains a sample transportation certification form and instructions for the form's proper completion. At a minimum, the elements appearing on the sample transportation certification form shall appear on the certification form furnished and prepared by the transportation provider.

[SUBCHAPTER 2. BILLING PROCEDURES

10:50-2.1 General billing procedures

(a) A claim is a bill which indicates a request for payment for a Medicaid-reimbursable service provided to a Medicaid-eligible individual. The claim may be submitted hard copy or by means of an approved method of automated data exchange.

(b) This subchapter contains basic information for the submission of a claim. Included is a sample claim form approved for use in submitting bills for covered services, and appropriate instructions for the proper completion of the form.

10:50-2.2 Timeliness of claim submission and claim inquiry

For timeliness of claim submission and claim inquiry, see N.J.A.C. 10:49-1.12.

10:50-2.3 (Reserved)

10:50-2.4 (Reserved)

10:50-2.5 Transportation Claim (Form MC-12)

A "Transportation Claim" (Form MC-12) shall be used when submitting a claim for transportation services. See Appendix I at the end of this Chapter for a copy of the "Transportation Claim" (Form MC-12) and the instructions for the proper completion of the form.

10:50-2.6 Combination Medicare/Medicaid claims

(a) Ambulance services reimbursable under Medicare and provided to a Medicare/Medicaid-eligible individual shall be billed on the Request for Medicare Payment-Ambulance (Form HCFA-1491C). Claims must be sent directly to the Medicare Carrier. The provider shall include on the claim form all the information required by the New Jersey Medicaid Program, such as:

1. Health Insurance Claim Number (Item 2);
2. HSP (Medicaid) Case Number (Item 5); and
3. Medicaid Provider Number (Item 23).

10:50-2.7 Transportation Certification

A transportation certification form must be used in conjunction with the "Transportation Claim" (Form MC-12) when billing for ambulance, invalid coach, and livery service. Appendix II at the end of this Chapter (N.J.A.C. 10:50) contains a sample transportation certification form and instructions for the form's proper completion. At a minimum, the elements appearing on the sample transportation certification form shall appear on the certification form furnished and prepared by the transportation provider.

10:50-2.8 Automated Data Exchange

(a) Any approved provider may request approval to submit claims for reimbursement via an approved method of Automated Data Exchange (ADE). All costs of rental and/or purchase of a terminal, installation, maintenance, and usage of telephone lines are the responsibility of the provider.

(b) Any provider approved for an Automated Data Exchange (ADE) claim submission system must comply with all regulations and restrictions set forth by The New Jersey Medicaid Program as indicated in the ADE documentation.

(c) Requests for approval shall be submitted to the fiscal agent for the New Jersey Medicaid Program.

10:50-2.9 Patient certification

Patient certification (see (N.J.A.C. 10:49-1.26).]

Recodify existing N.J.A.C. 10:50-3 as **10:50-2** (No change in text.)

[APPENDIX I

Instructions for the completion of the "Transportation Claim" (Form MC-12).

Items 1 through 4: Name, address, HSP (Medicaid) Case Number, and Patient Person Number. Copy the patient's name, HSP (Medicaid) Case Number and Patient Person Number exactly as they appear on the Medicaid eligibility validation form.

Items 5 and 6: Self-explanatory; must be completed.

Item 7: Other insurance or liability coverage. Check appropriate block to indicate whether the patient has other health insurance, liability coverage or no fault auto coverage. If yes, you must attach a copy of the decline notice or a copy of the explanation of payment from carrier. (When the patient is covered by both Medicare and Medicaid, see Section 2.6.)

Item 8: Employment related. Check as appropriate. If patient's illness or injury is work related, enter name and address of employer.

Item 9: Provider name, address, telephone number and provider number.

Item 10: Indicate whether or not injury resulted from an automobile accident by checking appropriate block.

Item 11: Individual ordering transportation.

Item 12: Report of services. Insert information under the following subsections:

Item 12A: Date of service.

Item 12B: Insert appropriate HCPCS (procedure) codes and modifiers as specified in Subchapter 3 of this manual. The HCPCS (procedure) code and modifiers must accurately reflect the service provided.

Item 12C: Place of origin. From the list provided in Item 12, select the applicable place of origin and insert the corresponding number under C.

Item 12D: Indicate the street address and city of both the origin and destination points. Include the name of the provider's office, medical clinic, hospital, or nursing facility to which or from which the individual is transported. Indicate the total number of miles being billed. Indicate waiting time, if any, in accordance with Subchapter 3 of this manual and attach an explanation of the need for waiting time to the Form MC-12 claim form. (Waiting time for livery service is not reimbursable.)

Item 12E: Fee requested. Indicate here your usual and customary charge.

Item 13: Required information.

Item 13A: Indicate the primary diagnosis. Must be completed as part of the written request for prior authorization. (Not applicable for livery service.)

Item 13B: Reason for transportation must indicate the nature and degree of the limitation(s) which necessitates such mode of transportation and the specific purpose of the trip(s). Must be completed as part of the written request for authorization.

Item 13C: Self-explanatory. (For the definition of emergency conditions, see N.J.A.C. 10:50-1.2) (Not applicable for invalid coach service or livery service.)

Item 13D: Self-explanatory.

Item 14: Authorization request information. (Not applicable for ambulance service, livery service, or invalid coach service when a patient's place of origin or destination is a nursing facility. When requesting authorization for less than one month, indicate the number of trips and the month and year in which the service is expected to be provided. When telephone authorization is given, indicate the MDO-assigned authorization number in the space provided in Item 14.

Occupancy: Indicate the number of patients in the vehicle.

Item 15: Provider certification and penalties for fraud. Please read the provider certification carefully. Note that the provider certifies that mileage is being charged only for one patient in a multiple-load situation and a "Medicaid Patient-Certification Form", signed by the patient, is on file for each service billed. (Not applicable for livery service.) The provider must sign and date the claim.

NOTE: Payments for services rendered to Medicaid-eligible individuals will be from both Federal and State funds and any false claims, statements or documents, or concealment of a material fact, is punishable under Federal and State laws. Under Federal law, whoever furnishes items or services to an individual for which payment is or may be made in whole or in part out of Federal funds under a State Medicaid plan approved under Title XIX of the Social Security Act, and who solicits, offers or receives any kickback or bribe in connection with the furnishing of such items or services or the making or receipt of such payment, or rebate or any fee or charge for referring any such individual to another person for the furnishing of such items or services, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned not more than one year, or both.

Item 16: For Division use only. Authorization or denial: Make certain that you have obtained the approval of the Medicaid District Office Medical Consultant for those claims requiring prior authorization before submitting the claim for payment.

APPENDIX II

Instructions for the completion of the "Transportation Certification".

Section I, Items 1 and 2: Copy passenger's (recipient's) name, HSP (Medicaid) Case Number and Patient Person Number exactly as they appear on the Medicaid eligibility validation form.

Section I, Item 3: Indicate date of service and check appropriate box to indicate one way, round trip, or other.

Section I, Item 4: Enter address from which the passenger is transported.

Section I, Item 5: Enter address to which the passenger is transported.

Section I, Item 6: Enter address to which the passenger is returned, if different from Item 4.

Section I, Item 7: Check appropriate box.

Section I, Item 8: Check appropriate box.

Section I, Item 9: Check appropriate box. Not applicable for livery service.

Section II, Item A: Passenger's (recipient's) signature.

Section II, Item B: Driver's signature, printed name. In addition, the vehicle's fleet number is required for livery service. The Vehicle Recognition Number, as indicated on the Vehicle License issued by the New Jersey Department of Health, is required for ambulance and invalid coach service.

Section II, Item C: Office/facility representative's signature, printed name and title. (Not applicable for livery service.)]

APPENDIX

FISCAL AGENT BILLING SUPPLEMENT

AGENCY NOTE: The Fiscal Agent Billing Supplement is appended as a part of this chapter/manual but is not reproduced in the New Jersey Administrative Code. When revisions are made to the Fiscal Agent Billing Supplement, replacement pages will be distributed to providers and copies will be filed with the Office of Administrative Law. For a copy of the Fiscal Agent Billing Supplement, write to:

Unisys Corporation
CN-4801
Trenton, New Jersey 08650

or contact:

Office of Administrative Law
Quakerbridge Plaza, Bldg. 9
CN-049
Trenton, New Jersey 08625.

CORRECTIONS

(a)

THE COMMISSIONER

Community Release Programs
Residential Community Release Agreement Programs

Proposed New Rules: N.J.A.C. 10A:20-4

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

Authority: N.J.S.A. 30:1B-6, 30:1B-10 and 30:4-91.2.

Proposal Number: PRN 1991-430.

Submit comments by January 1, 1992 to:

Elaine W. Ballai, Esq.
Regulatory Officer
Department of Corrections
CN 863
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed new rules establish policies and procedures for the selection and placement of certain adult inmates in Residential Community Release Agreement Programs that have a contract with the Department of Corrections to provide pre-release services to inmates. The proposed new rules specify the correctional facility staff person who is designated to process inmate applications to these Residential Community Release Agreement Programs, and the Bureau of Contract Administration as the Central Office unit that is responsible for the administration of these programs. Also included in the proposed new rules are criteria for the eligibility and exclusion from these programs; the inmate application process; the placement process; the services provided by contract agencies; the maintenance fees paid by inmates; the granting of passes and furloughs; the circumstances under which an inmate is considered an escapee; and the circumstances under which an inmate may be returned to the correctional facility.

Social Impact

The proposed new rules establish the process which permits the New Jersey Department of Corrections to assign adult inmates, who meet the criteria within these rules, to contract agencies in preparation for the inmates' release to the community. The assignment of inmates to contract agencies permits these inmates to participate in a process of reintegration into the community and this participation permits beds to become available for the admission of offenders to correctional facilities within the New Jersey Department of Corrections.

Economic Impact

Inmates who are employed while assigned to Residential Community Release Agreement Programs are required to pay a fee to defray maintenance costs. After the first $50.00 which is earned, 15 percent of the inmate's wages are withheld, up to a maximum of $142.50. The Department of Corrections deducts these sums from the reimbursements paid by the Department of Corrections to the contract agencies. This reduces the Department of Corrections' costs by approximately six percent.

Residential Community Release Agreement Programs give an economic benefit to the inmates and their communities as well. The inmate is required to pay off court imposed fines and penalties, and must make child support payments. The inmate is also able to save a portion of the salary earned for use when released from incarceration.

Regulatory Flexibility Analysis

The proposed new rules will regulate small non-profit agencies which maintain residences for sentenced inmates who have qualified for and received work release status and will enable the inmates to reside and work or receive substance abuse treatment in the local community. These agencies are considered "small businesses" as defined by the Regulatory Flexibilty Act, N.J.S.A. 52:14B-16 et seq.

These rules establish policies and procedures for supervision of contract agencies, and impose recordkeeping, audit, reporting and compliance with applicable Department of Corrections' rules such as discipline (N.J.A.C. 10A:4), urine monitoring (N.J.A.C. 10A:3-5.9) and confidentiality of records (N.J.A.C. 10A:22).

The Department of Corrections believes that these rules are not overly burdensome and, in fact, are designed to assist the contract agencies in maintaining health, safety and welfare of inmates and staff as well as promoting the inmates' successful interaction with and integration into the local community. The audit and inspection requirement will insure both fiscal integrity and enforcement of State, federal and local laws. No differing standards of compliance are offered because of the above noted reasons and because the regulated agencies are all small businesses.

Full text of the proposed new rules follows:

CHAPTER 20
COMMUNITY RELEASE PROGRAMS

SUBCHAPTERS 1.-3. (RESERVED)

SUBCHAPTER 4. RESIDENTIAL COMMUNITY RELEASE AGREEMENT PROGRAMS

10A:20-4.1 Definitions

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

"Contract agency" means an agency in the community which has a contract with the New Jersey Department of Corrections to provide halfway house or substance abuse treatment services.

"Furlough plan" means a written plan which specifies a home or destination approved by a District Parole Office for an inmate to visit while the inmate is on furlough.

"Halfway house" means a Residential Community Release Agreement Program with specific emphasis on employment and/or educational activities.

"Regional institution" means the correctional facility designated to provide support services to a contract agency; such as medical, security, administration, disciplinary returns, psychological evaluations and parole hearing scheduling.

"Residential Community Release Agreement Program" means the provision of halfway house or substance abuse treatment services to inmates, under the jurisdiction of the New Jersey Department of Corrections, by a contract agency in the community in accordance with a contractual agreement between the agency and the New Jersey Department of Corrections.

"Substance Abuse Treatment Program" means a Residential Community Release Agreement Program with specific emphasis on substance abuse treatment.

10A:20-4.2 Authority

Pursuant to N.J.S.A. 30:4-91.2, the Commissioner, New Jersey Department of Corrections, or his or her designee may designate as a place of confinement any available, suitable and appropriate institution or facility whether owned by the State or otherwise, and may at any time transfer an inmate from one place of confinement to another.

10A:20-4.3 Contract between the New Jersey Department of Corrections and community agencies

All agencies outside of the New Jersey Department of Corrections shall enter into a formal contract with the Department of Corrections prior to receiving inmates for placement into Residential Community Release Agreement Programs.

10A:20-4.4 Administration of Residential Community Release Agreement Programs

The Bureau of Contract Administration, Division of Adult Institutions, shall be responsible for the administration of Residential Community Release Agreement Programs under contract with the New Jersey Department of Corrections.

10A:20-4.5 Correctional facility staff assigned to program; duties

(a) The correctional facility Superintendent shall designate a staff member to serve as the Institutional Community Release Agreement Program Coordinator. The Institutional Community Release Agreement Program Coordinator shall:

1. Maintain liaison with the Bureau of Contract Administration and the contract agency;

2. Make periodic visits to contract agencies and attend training sessions provided by the Bureau of Contract Administration;

3. Be responsible for having a thorough familiarity with contract agencies and advise correctional facility staff of changes in policies of contract agencies;

4. Be responsible for explaining contract agency programs to inmates; and

5. Be responsible for notifying the Bureau of Contract Administration of any change that occurs in an inmate's status, such as, medical, custody, detainers or any such circumstances that would render the inmate ineligible for participation in the Program.

10A:20-4.6 General eligibility criteria for Residential Community Release Agreement Programs

(a) Candidates for participation in Residential Community Release Agreement Programs shall:

1. Be classified full minimum by the Institutional Classification Committee (I.C.C.) and have successfully completed a minimum of one month in full minimum custody status;

2. Have a positive psychological evaluation not more than six months old which shall address the inmate's readiness and ability to adequately adapt to the pressures and responsibilities of living outside the correctional facility;

3. Have made a satisfactory overall correctional facility adjustment and be seen as not likely to pose a threat to the safety of the community; and

4. Have completed Form 686-I RESIDENTIAL COMMUNITY RELEASE AGREEMENT PROGRAM APPLICATION.

(b) Inmates assigned to the Mountainview Youth Correctional Facility, a minimum security correctional facility, are eligible to apply for participation in Residential Community Release Agreement Program two months after admission to that correctional facility.

10A:20-4.7 Eligibility criteria for halfway houses

(a) In addition to the general criteria in N.J.A.C. 10A:20-4.6, candidates for halfway houses shall be within 12 months of:

1. An established parole date;

2. An expiration of maximum sentence;

3. An actual parole eligibility date established by the New Jersey State Parole Board; or

4. An anticipated parole date, as established by the New Jersey State Parole Board, for inmates serving indeterminate sentences.

10A:20-4.8 Eligibility criteria for Substance Abuse Treatment Programs

(a) In addition to the general criteria in N.J.A.C. 10A:20-4.6, candidates for Substance Abuse Treatment Programs shall be within 15 months of:

1. An established parole date;

2. An expiration of maximum sentence;

3. An actual parole eligibility date established by the New Jersey State Parole Board; or

4. An anticipated parole date, as established by the New Jersey State Parole Board, for inmates serving indeterminate sentences.

10A:20-4.9 Exclusions from Residential Community Release Agreement Programs

(a) The following circumstances may make an inmate ineligible for participation in Residential Community Release Agreement Programs:

1. A previous violation of the:

i. Intensive Supervision Program (I.S.P.);

ii. Intensive Supervision Surveillance Program (I.S.S.P.);

iii. Electronic Monitoring/Home Confinement Program;

iv. Work/Study Release Program;

v. Furlough Program; or

vi. Other Residential Community Release Agreement Programs;

2. Detainers or warrants which do not preclude eligibility for full minimum custody status but on which an arrest would be made by local police departments if an inmate were transferred to a contract agency;

3. Association with organized crime as indicated on the commitment paper or in the pre-sentence report;

4. A medical condition requiring the inmate to take psychotropic and/or addictive medication;

5. Dental work in progress; and/or

6. A pending surgical procedure.

10A:20-4.10 Inmate application and review by the Institutional Community Release Agreement Program Coordinator

(a) An inmate interested in participating in a Residential Community Release Agreement Program shall complete and sign all sections of Form 686-I RESIDENTIAL COMMUNITY RELEASE AGREEMENT PROGRAM APPLICATION and submit it to the Institutional Community Release Agreement Program Coordinator for review.

(b) The Institutional Community Release Agreement Program Coordinator shall explain to the inmate that the inmate's signature on Form 686-I merely signifies a willingness to participate in the Residential Community Release Agreement Program and does not signify that the inmate has been approved for the Program.

(c) The Institutional Community Release Agreement Program Coordinator, upon receipt of the application from the inmate, shall determine:

1. That Form 686-I is completely and accurately filled out; and

2. That the inmate-applicant meets all the general criteria established for inmate participation in the Residential Community Release Agreement Program and the criteria specific to the Program for which the inmate is applying.

(d) If the inmate does not meet the criteria, the inmate shall be notified of the reason(s), in writing, by the Institutional Community Release Agreement Program Coordinator.

(e) If the inmate meets the criteria, the Institutional Community Release Agreement Program Coordinator shall submit the signed Form 686-I to the Institutional Classificaton Committee (I.C.C.) for review.

10A:20-4.11 Medical review of applicants for Residential Community Release Agreement Programs

(a) A complete review of an inmate's medical records shall be made when the inmate is being considered for placement in a Residential Community Release Agreement Program.

(b) The Chief Physician shall be responsible for reviewing an inmate's medical records and considering the following factors which include, but are not limited to:

1. The employability of the inmate;

2. The work limitations of the inmate, such as no food handling, light duty, no work around machinery;

3. Medication(s), such as psychotropic and addictive medication;

4. Chronic illness, such as diabetes, asthma;

5. Dental work in progress; and

6. Impending surgery.

(c) The chief Physician shall be responsible for completing Form 686-II MEDICAL EVALUATION and submitting the Form to the Institutional Community Release Agreement Program Coordinator who will forward Form 686-II to the Institutional Classification Committee (I.C.C.).

(d) If there are questions regarding the appropriateness of medically approving an inmate for participation in a Residential Community Release Agreement Program, the Chief Physician shall contact the Office of Institutional Support Services (O.I.S.S.), Health Service Unit, Director of Medical Services, for assistance prior to sending the completed Form 686-II to the Institutional Community Release Agreement Program Coordinator.

(e) The Institutional Community Release Agreement Program Coordinator shall notify the Bureau of Contract Administration of any changes in the inmate applicant's medical condition that occur during the period of time between the completion of the medical review and the transfer of the inmate to the Program.

10A:20-4.12 Institutional Classification Committee's (I.C.C.) review and disposition

(a) The Institutional Classification Committee (I.C.C.) shall have the authority to review the inmate's file, and the discretion to approve or reject the inmate's application to participate in a Residential Community Release Agreement Program after considering:

1. The general eligibility criteria in N.J.A.C. 10A:20-4.6;

2. The circumstances which make an inmate ineligible for program participation outlined in N.J.A.C. 10A:20-4.9;

3. The nature and circumstance(s) of the present and/or previous convictions;

4. The inmate's overall correctional facility adjustment;

5. The professional and medical reports on the inmate;

6. The extent of the inmate's offense history;

7. The extent of the inmate's substance abuse history;

8. The inmate's assaultive history;

9. The inmate's present and/or previous parole violation(s);

10. The inmate's previous failure in a Residential Community Release Agreement Program; and/or

11. Any other factor(s) which in the judgement of the I.C.C., would assist the I.C.C. in determining the suitability of the inmate to participate in a Residential Community Release Agreement Program.

(b) The I.C.C. is authorized to evaluate the seriousness and/or recency of an inmate's previous violations of the Intensive Supervision Program, Intensive Supervision Surveillance Program, Electronic Monitoring/Home Confinement Program, Work/Study Release Program, Furlough Program, or other Residential Community Release Agreement Programs in order to determine the appropriateness of the inmate for a Residential Community Release Agreement Program placement.

(c) The I.C.C. shall reject an inmate's application when placement of the inmate in a Residential Community Release Agreement Program would pose a threat to the community or cause adverse community reaction.

(d) The I.C.C. should use its discretion in considering the above factors when reviewing an inmate's application for a Residential Community Release Agreement Program.

(e) The Institutional Community Release Agreement Program Coordinator shall attend all meetings of the I.C.C. when Residential Community Release Agreement Program cases are being reviewed.

(f) The Institutional Community Release Agreement Program Coordinator will notify the inmate, in writing, of the status of the inmate's application to a Residential Community Release Agreement Program.

10A:20-4.13 Forwarding documents to the Bureau of Contract Administration

(a) Following approval of an inmate to participate in a Residential Community Release Agreement Program, the Institutional Community Release Agreement Program Coordinator shall submit Form 686-I RESIDENTIAL COMMUNITY RELEASE AGREEMENT PROGRAM APPLICATION and Form 686-II MEDICAL EVALUATION to the Bureau of Contract Administration along with two copies of the following:

1. Up-to-date classification material for the inmate-applicant which includes a psychological evaluation not more than six months old;

2. The progress sheet from the inmate's classification folder and any other relevant information regarding the inmate's correctional facility adjustment and program participation;

3. The inmate's criminal history record (rap sheet);

4. The inmate's parole plan;

5. The New Jersey State Parole Board hearing decision, if available;

6. Form 684-VI REQUEST FOR INVESTIGATION OF FURLOUGH DESTINATION or, if available, the results of that investigation from the appropriate District Parole Office;

7. A recent inmate photograph with physical description on the reverse side;

8. The status of detainers on file;

9. The Pre-Sentence Report;

10. The court commitment order when fines, penalties or restitution are part of the sentence; and

11. Keep separate orders.

(b) If the inmate has not previously applied for furlough, Form 684-VI should be completed and submitted to the Bureau of Contract Administration along with the material listed above.

10A:20-4.14 Role of the Bureau of Contract Administration

(a) The Bureau of Contract Administration shall make every effort to assign the inmate to the Residential Community Release Agreement Program to which the inmate has applied.

(b) The Bureau of Contract Administration may suggest an alternate placement if:

1. Bed space is unavailable at the Residential Community Release Agreement Program to which the inmate has applied and bed space is available at a similar program; or

2. Another program is better suited for meeting the inmate's needs.

(c) When an alternate placement is suggested, the Bureau of Contract Administration shall notify the Institutional Community Release Agreement Program Coordinator who shall discuss the alternate program with the inmate and secure the inmate's written acceptance of the alternate program.

(d) The Institutional Community Release Agreement Program Coordinator shall advise the Bureau of Contract Administration of the inmate's decision to accept or reject an alternate program.

(e) When the applicant is accepted by the contract agency, the Bureau of Contract Administration shall prepare the transfer orders necessary for the inmate to be transferred from the correctional facility to the contract agency.

(f) A waiting list of inmates eligible for consideration by contract agencies for assignment to their programs shall be maintained by the Bureau of Contract Administration.

10A:20-4.15 Notification of contract agency that an inmate is available for a Community Release Agreement Program; contract agency responsibility

(a) After Form 686-I Section V. AUTHORIZATION FOR RELEASE OF INFORMATION has been signed by the inmate, classification material shall be forwarded by the Bureau of Contract Administration to the contract agency for purpose of screening the inmate applicant for the program. The contract agency must treat classification material with strict confidentiality.

(b) If desired, the contract agency may contact the Institutional Community Release Agreement Program Coordinator to arrange for an interview with the inmate.

(c) After a review of the inmate's application and classification material, the contract agency shall notify the Bureau of Contract Administration of the agency's decision to accept or reject the inmate for participation in their program.

(d) When the applicant is not accepted by the contract agency, all classification materials must be returned to the correctional facility with a written statement citing reasons for the denial. A copy of the denial shall be forwarded to the Bureau of Contract Administration by the contract agency.

10A:20-4.16 New Jersey State Parole Board hearing

New Jersey State Parole Board hearings for inmates assigned to Residential Community Release Agreement Programs shall be arranged and conducted in accordance with N.J.A.C. 10A:71-3 and any applicable statutes.

10A:20-4.17 New Jersey State Parole Board extension after inmate is approved for program and is awaiting placement

(a) When an inmate receives a New Jersey State Parole Board extension, after the inmate has been approved for transfer and is on the waiting list for a bed, the Bureau of Contract Administration shall request an updated parole eligibility date.

(b) When the inmate's updated parole eligibility date indicates that the inmate will be eligible again for placement in a Residential Community Release Agreement Program within the next three months, the application shall be held in the Bureau of Contract Administration "Pending File" until the inmate is eligible.

(c) When the inmate is eligible for placement in a Residential Community Release Agreement Program, the Bureau of Contract Administration shall request that the Institutional Community Release Agreement Program Coordinator forward updated information, such as psychological, progress sheet, and medical, to the Bureau for review.

10A:20-4.18 New Jersey State Parole Board extension for halfway house residents

(a) When an inmate's parole eligibility date has been extended, the parent correctional facility, the Regional Institution, the Bureau of Contract Administration and the Director of the halfway house shall determine whether the inmate will remain at the halfway house by reviewing the following:

1. The updated parole eligibility date;

2. The inmate's overall progress and adjustment in the Residential Community Release Agreement Program;

3. The inmate's prognosis for successfully completing the program if allowed to remain;

4. The total length of time the inmate will be in the program (if less than 15 months); and

5. Any other pertinent information.

(b) When an inmate's parole eligibility date has been extended, and the inmate's parole eligibility date would extend participation in the Residential Community Release Agreement Program beyond 15 months, the inmate shall be returned to the correctional facility, but the inmate may reapply when eligible.

(c) Parole eligibility dates shall not be projected in determining appropriate placement of inmates in halfway houses or other Residential Community Release Agreement Programs.

10A:20-4.19 Preparation for transfer to contract agency

(a) A complete medical and dental checkup shall be given each inmate prior to an inmate's transfer to a contract agency.

(b) A check for the money remaining in the inmate's account shall accompany the inmate to the contract agency.

(c) Copies of the transfer authorization shall be sent by the Bureau of Contract Administration to appropriate personnel at:

1. The parent correctional facility;

2. The regional institution;

3. The New Jersey State Parole Board; and

4. The appropriate District Parole Office.

(d) The District Parole Office shall, in turn, notify the affected police department of the inmate's transfer to the contract agency and of the inmate's furlough address.

(e) The Bureau of Contract Administration shall be notified immediately of the cancellation of an impending transfer of an inmate to a contract agency so that another inmate may be selected for placement.

(f) The Institutional Community Release Agreement Program Coordinator shall encourage and assist the inmate, when appropriate, in obtaining documents that will be necessary in the inmate's search for employment and should be processed, if possible, prior to transfer. These documents may include:

1. A Social Security card;

2. A driver's license; and/or

3. A birth certificate.

(g) Only personal property, which can be carried inside two boxes not exceeding two feet by three feet by two feet, may accompany the inmate to the contract agency. All other personal property will be forwarded to the inmate's home or other designated address.

10A:20-4.20 Transportation of inmate

(a) The parent correctional facility shall be responsible for transporting or making the arrangements necessary for transporting the inmate to the contract agency.

(b) Inmates may be transported without restraint to the contract agency in a State owned passenger vehicle.

(c) After an inmate has been assigned to, and is living at, a Residential Community Release Agreement Program, the inmate shall be transported to the regional institution and parent correctional facility in accordance with internal management practices and procedures established to provide transportation between Residential Community Release Agreement Programs and regional institutions or parent correctional facilities.

10A:20-4.21 Contract agency rules, regulations and discipline

(a) An orientation to the contract agency and written rules and regulations shall be given to the inmate immediately following the inmate's arrival at the contract agency.

(b) Inmate residents who violate contract agency rules and regulations shall be subject to such restriction of privileges by contract agency staff as would apply to other inmate residents. Such restrictions shall be imposed in accordance with procedures developed by contract agency staff and agreed upon by the director of the contract agency and the Commissioner, Department of Corrections, or his or her designee (see N.J.A.C. 10A:4).

(c) Major disciplinary violations shall be reported immediately to the regional institution and the Bureau of Contract Administration.

(d) Major violations shall result in immediate return of the inmate to the parent correctional facility. Major disciplinary violations shall include, but are not limited to:

1. Charges by police for violation of law, except minor traffic and municipal violations;
2. Charges for or evidence of violation of any statute governing the use of a controlled dangerous substance (C.D.S.);
3. Asterisk prohibited acts as listed in the N.J.A.C. 10A:4-4, except for prohibited act *.207;
4. Some non-asterisked prohibited acts (see N.J.A.C. 10A:4), such as prohibited act .254 Refusing to Work, which interferes with the purpose of the Residential Community Release Agreement Program since one of the primary goals of the Program is to provide employment for inmates;
5. Unauthorized absences in excess of two hours;
6. Travel outside of the State of New Jersey;
7. Imbibing in alcoholic beverages; and
8. Sexual relations on the premises of the contract agency.

(e) All minor violations and in-house disciplinary actions shall be recorded in the contract agency's log book and the inmate's file for review by the Bureau of Contract Administration staff members.

10A:20-4.22 Urine monitoring

(a) All inmates who participate in Residential Community Release Agreement Programs shall be subject to urine monitoring.

(b) Urine monitoring at contract agencies shall be conducted in accordance with the requirements N.J.A.C. 10A:3-5.9.

(c) In order to comply with N.J.A.C. 10A:3-5.9(b), the director of the contract agency shall be considered the equivalent of the superintendent, and a staff supervisor shall be considered the equivalent of a correction officer of the rank of sergeant or above.

(d) Form 172-I CONTINUITY OF EVIDENCE—URINE SPECIMEN shall accompany all urine samples which are delivered by the contract agency to the Department of Corrections' laboratory.

(e) The laboratory shall report the results of a positive urine analysis to the Bureau of Contract Administration. The Bureau of Contract Administration shall notify the contract agency by telephone of positive urine analysis results and forward the laboratory report to the parent correctional facility with a copy to the contract agency.

(f) When the urine analysis is positive, the contract agency is responsible for:

1. Contacting the regional institution;
2. Making arrangements for the inmate's return to the parent correctional facility; and
3. Writing disciplinary charges in accordance with N.J.A.C. 10A:4.

10A:20-4.23 Emergency medical and dental treatment

(a) Emergency medical and dental services shall be provided for inmates assigned to Residential Community Release Agreement Programs.

(b) The directors of Residential Community Release Agreement Programs shall arrange for a hospital or alternate medical or dental facility to provide emergency medical and dental treatment to inmates assigned to their programs.

(c) When an inmate in a Residential Community Release Agreement Program is hospitalized due to an emergency, the director of the Residential Community Release Agreement Program shall notify the Superintendent of the regional institution and furnish the following information:

1. The inmate's name;
2. The inmate's number;
3. The name and location of hospital;
4. The diagnosis; and
5. The name of attending physician.

(c) It shall be the responsibility of the regional institution to notify the parent correctional facility and the Health Services Unit, Office of Institutional Support Service, of an emergency admission.

10A:20-4.24 Non-emergency medical services

(a) Residential Community Release Agreement Program which do not have physicians on staff, or do not have a written affiliation agreement with a hospital, shall utilize the non-emergency procedures at the regional institution.

(b) Non-emergency hospitalization or surgery shall be considered for approval by the Director of Medical Services, Health Services Unit, Office of Institutional Support Services (O.I.S.S.).

10A:20-4.25 Health care plans use and additional costs

(a) Inmates covered by health care plans through private sector employers may receive medical services from participating physicians to the extent of the provisions of the health care plan.

(b) Any initial per visit cost to determine the nature of a health problem required by health care plans shall be the responsibility of the inmate.

(c) Prior to using a health care plan, the inmate must sign a statement acknowledging that:

1. The inmate voluntarily chooses to use his or her health care plan; and
2. The inmate is cognizant that the New Jersey Department of Corrections would provide medical services to the inmate without charge.

(d) When the cost of non-emergent medical/dental treatment exceeds the amount of coverage provided by an inmate's private sector health care plan, the regional institution and the Director of Medical Services, Office of Institutional Support Services (O.I.S.S.), Health Services Unit, shall review the case to determine whether to approve payment of the additional cost prior to the inmate receiving treatment.

(e) When the regional institution determines that the inmate's requested non-emergent medical/dental treatment is elective, the regional institution shall not pay the additional cost which exceeds the amount of coverage provided by the inmate's private sector health care plan. However, the inmate may submit a request for approval to assume for himself or herself the additional cost of the non-emergent medical/dental treatment to the Chief, Bureau of Contract Administration, for submission to the Director of Medical Services, O.I.S.S., Health Services Unit, for review, pursuant to (d) above.

(f) A listing of health care plans and the inmates covered by them shall be kept on file at the contract agency.

10A:20-4.26 Medication or prescriptions

(a) The parent correctional facility shall be responsible for forwarding a 30-day supply of medication for the inmate with the correction personnel who are transporting the inmate to the Residential Community Release Agreement Program. The correction personnel shall be responsible for turning the medication over to the director of the Residential Community Release Agreement Program or his or her designee.

(b) Prescriptions cannot be continued beyond 30 days. If a prescription extension is required, the inmate shall be evaluated by:

1. The regional institution physician;
2. The physician under contract with the contract agency; or
3. The private health care plan physician.

10A:20-4.27 Inmate work credits

Inmates assigned to a contract agency shall be awarded work time credit pursuant to N.J.S.A. 30:4-92.

10A:20-4.28 Inmate wages in Substance Abuse Treatment Programs

(a) Inmates assigned to a Substance Abuse Treatment Program shall receive wages paid by the regional institution for a five day week based on the semi-skilled average pay level established by internal management policies and procedures.

(b) The regional institution shall forward a check to the Substance Abuse Treatment Program in the name of each inmate at the contract agency. The contract agency shall ensure that the inmate endorses and deposits the funds into an account for the inmate's personal use.

(c) The contract agency shall be responsible for notifying the Institutional Community Release Agreement Program Coordinator when an inmate secures paid employment.

(d) Wages paid by the regional institution shall terminate when the inmate secures paid employment.

10A:20-4.29 On site evaluation of pre-release employment sites

(a) The Bureau of Contract Administration shall be responsible for the evaluation of all prospective places of employment for pre-releases.

(b) The Bureau of Contract Administration staff shall initially survey any prospective pre-release employment placement, and the factors which may be taken into account include, but are not limited to:

1. Legitimacy of place of employment;
2. Credibility of the employer and other employees;
3. Proximity to the contract program;
4. Working conditions of the employees;
5. Availability of transportation;
6. Training opportunities afforded;
7. Potential health hazards to employees;
8. The ability of the employer to meet the New Jersey Department of Corrections' requirements, such as Workman's Compensation and minimum wage;
9. Reaction of union toward inmate employees; and
10. Reputation of place of employment in the community.

(c) The Bureau of Contract Administration shall:

1. Prepare and transmit pre-release employment evaluations, in writing, to the contract agencies and appropriate District Parole Offices;
2. Monitor contract agencies for compliance with employment policies and procedures; and
3. Maintain a current record of pre-release employment sites and completed employment evaluations.

10A:20-4.30 Notification of local police

The contract agencies shall notify the local police, in writing, immediately following an inmate's employment in the community.

10A:20-4.31 Monitoring employment/education sites

(a) Contract agencies shall monitor pre-release employment and education sites in accordance with applicable laws.

(b) The Bureau of Contract Administration shall be responsible for monitoring contract agencies for compliance with applicable laws and for periodic on-site monitoring of the pre-release employment and education sites.

(c) When an inmate starts employment or begins attending educational classes, the Bureau of Contract Administration shall implement a plan for monitoring the placement site as frequently as is necessary. The plan for monitoring the placement shall include periodic contacts with the employer, in the case of an employment placement, or with the campus security office, in the case of education placement.

(d) The periodic contacts may be concerned with factors that include, but are not limited to:

1. The inmate's attendance;
2. The quality of the inmate's relationship with the employer or school administration;
3. The quality of the inmate's relationship with the peer group at the placement site;
4. The inmate's adherence to standards at the placement site;
5. The inmate's work habits and attitudes;
6. The inmate's progress and/or problems;
7. The impact of the program upon the employer and community employees;
8. The reaction of the community to the program; and
9. The likelihood of the inmate retaining the employment or continuing the training after parole.

(e) The Bureau of Contract Administration shall report the results of contacts with the employment or education placement to the contract agency following each time the placement has been monitored.

(f) The Bureau of Contract Administration shall make the results of employment evaluations and periodic monitoring available to the appropriate District Parole Office, upon request.

10A:20-4.32 Maintenance fees

(a) All employed inmates who have been placed in a halfway house under contract with the Department of Corrections shall be required to pay a maintenance fee. The maintenance fee is in accordance with N.J.S.A. 30:4-91.4.

(b) Inmates placed in a Substance Abuse Treatment Program shall be required to pay a maintenance fee when the inmates reach the work release phase of the program.

(c) The maintenance fee is computed as follows:

1. Weekly gross earnings that total $50.00 shall not be subject to maintenance; and
2. Gross earnings over $50.00 and up to $1,000 per week shall be charged a 15 percent maintenance fee, not to exceed $142.50 per week.

(d) Residents shall be given a receipt for the maintenance paid and a copy shall be maintained by the contract agency.

(e) The maintenance fee shall be collected from each inmate by a designated staff member of the contract agency and the amount shall be deducted from the Department of Corrections' monthly invoice by the contract agency.

(f) Information relating to the collection of these maintenance fees shall be attached to Form 50/54.

10A:20-4.33 Payment of fines, penalties and restitution

All employed inmates who have been placed in a contract agency shall be required to pay fines, penalties and/or restitution required by the courts, statutes or Parole Board Authority.

10A:20-4.34 Bank accounts

(a) An inmate resident may open a passbook savings account in a commercial bank or other saving institutions for his or her use while at a contract agency.

(b) An inmate resident may not:

1. Open a bank checking account;
2. Open a charge account;
3. Purchase any item on an installment plan; or
4. Enter into any type of contract, unless approved by the Bureau of Contract Administration.

10A:20-4.35 Personal property

(a) Neither the Department of Corrections nor the contract agency shall be responsible for the personal property of inmates.

(b) Inmates may be permitted to retain in their possession such items of personal property in the contract agency as are permitted by contract agency regulations.

(c) Inmates shall make arrangements to have valuable and excessive property sent home prior to transfer to the contract agency.

10A:20-4.36 Resident passes and furloughs

(a) Inmate residents may receive passes and/or overnight furloughs in accordance with the contract agency's phase system which has been approved by the Bureau of Contract Administration.

(b) The contract agency shall develop a written accountability procedure, to be utilized while the inmate resident is on a pass or overnight furlough, which shall be submitted to the Bureau of Contract Administration for review. If approved, the accountability procedure shall be incorporated into the contract agency's policy and procedure manual.

10A:20-4.37 Overnight furlough limitations

Overnight furloughs shall not exceed two nights or 56 hours within a seven day period unless prior approval has been granted by the Bureau of Contract Administration.

10A:20-4.38 Overnight furlough exclusions

(a) An inmate shall be excluded from receiving an overnight furlough if the inmate:

1. Does not have an approved furlough plan; or

2. Is unemployed and is not engaged in an educational or vocational training program.

10A:20-4.39 Escapes

(a) An inmate residing at a contract agency shall be deemed an escapee under the following conditions:

1. The inmate leaves the contract agency without the authorization of the director or his or her designee; or

2. The inmate fails to return to the contract agency, more than two hours after designated time of return unless the designated time of return has been extended for legitimate reason by the director or his or her designee. The contract agency shall assume the responsibility for determining the legitimacy of the reason for granting an extension.

(b) The inmate who cannot be contacted at the destination to which the inmate has been granted temporary leave shall not be deemed an escapee unless the inmate fails to return to the contract agency at the designated time of return. No two hour "grace period" referred to in (a)2 above may be granted to the inmate under these circumstances. However, if the contract agency receives information that the inmate is leaving or has left the jurisdiction, the regional institution shall be notified immediately.

(c) If the inmate cannot be contacted at the temporary leave site, but does contact the contract agency, the designated time of return may be adjusted by the director of the contract agency or his or her designee, allowing sufficient time for the inmate to return to the contract agency.

(d) An adjustment in the time of return shall be documented with staff signatures on the sign in/out sheet and the log book. No two hour "grace period" may be granted to the inmate who fails to return to the contract agency by the adjusted designated time of return.

10A:20-4.40 Contract agency staff authorized to report escapes

(a) The contract agency shall be responsible for providing the Bureau of Contract Administration with a current list of agency staff members who are authorized to report escapes.

(b) The Bureau of Contract Administration shall be responsible for providing the list of agency staff members who are authorized to report escapes to the Center Control of the regional institution.

10A:20-4.41 Procedure for reporting an escape

(a) The contract agency staff member who is on duty at the time of the escape is responsible for the immediate notification of the director or his or her designee.

(b) The director or his or her designee shall be responsible for notifying the Center Control of the regional institution of the escape and providing Center Control with all pertinent information that is available at the time.

(c) When additional information becomes available or the inmate returns to the contract agency, the contract agency shall immediately notify the Center Control of the regional institution.

10A:20-4.42 Writing the escape charge

(a) The contract agency staff member who was on duty at the time of the escape shall be responsible for writing the escape charge.

(b) The contract agency shall notify the Bureau of Contract Administration of the escape as soon as possible during regular business hours or on the morning following a weekend or holiday.

10A:20-4.43 Persons authorized to remove inmates from contract agencies

(a) An inmate resident legally residing in a contract agency may be removed from a contract agency only by the following persons:

1. Law enforcement personnel holding a legal warrant or a Writ of Habeas Corpus; or

2. Staff of the regional institution or from the correctional facility assigned to transfer the inmate.

(b) Advance notice of the impending removal of an inmate shall be provided to the contract agency by the concerned correctional facility except in cases where such notification could lead to the inmate absconding.

(c) Upon arrival, official identification must be presented to the contract agency by the person(s) authorized to remove an inmate from the contract agency.

10A:20-4.44 Non-disciplinary administrative returns

(a) Situations warranting an administrative return of an inmate to the correctional facility may include, but are not limited to:

1. An inmate needing medical treatment which is required to be obtained at the correctional facility;

2. An inmate failing to make a satisfactory adjustment although the inmate has not committed a major infraction;

3. An inmate desiring to return to the correctional facility;

4. An inmate displaying signs of becoming a potential escape risk; and/or

5. The correctional facility receiving a detainer which requires a change in the inmate's minimum custody status.

(b) In cases when an inmate is being returned to the correctional facility for administrative reasons, the director or his or her designee shall prepare a report which indicates the reason(s) for the return.

(c) A copy of the report shall be given to the correction officer(s) who is transporting the inmate, and a copy shall be forwarded to the Bureau of Contract Administration. The report shall include the following information:

1. The detailed reasons for the return of the inmate; and

2. A summary of the inmate's overall attitude and adjustment while in the Residential Community Release Agreement Program.

10A:20-4.45 Disciplinary returns

(a) When an inmate violates a prohibited act(s) that is listed in N.J.A.C. 10A:20-4.21(d), the inmate shall be returned to the correctional facility in accordance with N.J.A.C. 10A:20-4.20.

(b) Copies of reports, notices and other documents related to an inmate's return from a contract agency shall be forwarded by the Bureau of Contract Administration to:

1. The appropriate regional institution;

2. The parent correctional facility; and

3. The Bureau of Parole personnel.

10A:20-4.46 Forms

(a) The following forms related to Residential Community Release Agreement Programs shall be reproduced by each correctional facility from originals that are available by contacting the Standards Development Unit:

1. 172-I CONTINUITY OF EVIDENCE-URINE SPECIMEN;

2. 684-VI REQUEST FOR INVESTIGATION OF FURLOUGH DESTINATION;

3. 686-I RESIDENTIAL COMMUNITY RELEASE AGREEMENT PROGRAM APPLICATION;

4. 686-II MEDICAL EVALUATION;

5. 686-III WAIVER OF RIGHT TO RECEIVE MEDICAL TREATMENT PROVIDED BY THE DEPARTMENT OF CORRECTIONS;

6. 686-IV TREATMENT INFORMATION; and

7. 686-V RELEASE OF INFORMATION.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF CONSUMER AFFAIRS

BOARD OF EXAMINERS OF OPHTHALMIC DISPENSERS AND OPHTHALMIC TECHNICIANS

Fees

Proposed Amendments: N.J.A.C. 13:33-1.20, 1.21, 1.22, 1.23 and 1.41

Authorized By: Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, H. Lee Gladstein, Executive Director.

Authority: N.J.S.A. 52:17B-41.13.

Proposal Number: PRN 1991-605.

Submit written comments by January 1, 1992 to:
H. Lee Gladstein, Executive Director
Board of Examiners of Ophthalmic Dispensers
and Ophthalmic Techncians
Post Office Box 45011
Newark, New Jersey 07101

The agency proposal follows:

Summary

The Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians is proposing to amend its fee schedule, N.J.A.C. 13:33-1.41, in order to implement a general fee increase. The increase proposed are necessary to prevent a fiscal loss to the Board, which is required pursuant to N.J.S.A. 45:1-3.2 to cover all expenses it incurs in performing its duties. The sums to be raised will be used to cover increases in Board operating costs since fees were last raised approximately three years ago.

Amendments are also proposed to reflect a determination of the Division of Consumer Affairs to amend the fee schedules of the professional boards which it regulates in order to accurately and specifically identify the actual elements for which a Board incurs expenses and in order to create within the Division a uniform method of assessing and collecting fees from the professional boards. Specifically, a separate application fee has been established; previously, application fees were included within the amounts charged for examinations and permits. Because the application fee will now be a separate charge, reexamination fees will be the same as examination fees and permit renewal fees will be the same as permit fees. To reflect this change, references in the fee schedule to reexamination fees and permit renewal fees have been deleted. In addition, the amendments designate initial licensing fees and initial branch office fees and pro-rates these amounts on an annual basis.

Amendments to N.J.A.C. 13:33-1.20 through 1.23 merely clarify existing language and remove references to specific dollar amounts of fees so that all amounts will be consolidated into one section.

Social Impact

The proposed fee increases will affect all applicants, permit holders and current licensees of the Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians. The sums to be raised will enable the Board to continue to discharge its statutory obligations, which include evaluating applicants, investigating consumer complaints and regulating all aspects of the practice of ophthalmic dispensing in New Jersey. Effective Board administration ultimately protects the public health and safety by ensuring professional competence and the maintenance of high professional standards in the fabrication and provision of corrective eyewear.

Economic Impact

The proposed fee increases will have a direct impact upon all applicants for licensure (branch and individual), individuals seeking permits, and current licensees and permit holders in that they will be required to pay increased fees. In addition, the amedments may have an indirect economic impact on the consumer to the extent the increases may be passed along as a cost of practice. However, higher expenses of the Board necessitate the proposed general fee increase. The sums to be raised will prevent a fiscal loss to the Board which, as stated, is required by statute to cover its administrative expenses. The increases have been calculated not to exceed the amount necessary to fund the Board's administration.

Regulatory Flexibility Analysis

If, for the purposes of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., ophthalmic dispensers and ophthalmic technicians are deemed "small businesses" within the meaning of the statute, the following statements are applicable:

The proposed amendments will apply to all current Board licensees (1,350 ophthalmic dispensers, 135 ophthalmic technicians and 160 branch offices) as well as to all applicants for licensure and individuals seeking permits. The proposed amendments do not impose any reporting or record keeping requirements, and no professional services are needed in order to comply. The only compliance requirement is payment of increased licensing and permit fees in a timely manner. The cost of compliance for each person upon whom the rules will impact is reflected in the increase of the particular fee amounts. Since the fees have been set at the lowest amount that will cover the Board's operating expenses, the intent of the Regulatory Flexibility Act to minimize adverse economic impact has been implemented.

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

13:33-1.20 [Duplicate] **Replacement** certificates of registration

The Board will issue a [duplicate] **replacement** certificate of registration, **upon payment of the appropriate certificate replacement fee,** when it shall be certified that the original has been lost or destroyed. [The fee required will be $10.00.]

13:33-1.21 Renewal of licenses; deadline

Renewal applications for ophthalmic dispenser, ophthalmic technician and/or branch office licenses must be mailed no later than midnight of December 31 of each **renewal** year or a [$5.00] penalty will be imposed.

13:33-1.22 Payment of license registration fee; penalty

Any applicant who satisfactorily passes the examinations given by this [board] **Board** shall be required to pay the license registration fee within 30 days after receiving notification from this [board] **Board** that he **or she** has passed the examination or a [$5.00] penalty will be imposed.

13:33-1.23 Change of name

(a) The [board] **Board** shall issue a new registration certificate to any licensee whose name has been legally changed, upon receipt of:

1. Satisfactory evidence of the legality of such change.
2. The return of the original certificate with satisfactory evidence that he **or she** is the same person to whom the certificate was issued; and
3. [A fee of $10.00] **The appropriate certificate replacement fee.**

13:33-1.41 Fee schedule

(a) The following fees shall be charged by the Board effective upon promulgation:

1. Application fee **$100.00**

[1. Examination:
i. Ophthalmic Dispenser $100.00
ii. Ophthalmic Technician 75.00
iii. Qualifying Technical .... 75.00]

2. [Reexamination:] **Examination:**
i. Ophthalmic Dispenser 75.00
ii. Ophthalmic Technician 50.00
iii. Qualifying Technical 50.00

[3. License:
i. Ophthalmic Dispenser 75.00
ii. Ophthalmic Technician 50.00
iii. Branch Office Ophthalmic Dispenser 50.00
iv. Branch Office Ophthalmic Technician .... 50.00]

3. Initial license fee:
i. Opthalmic Dispenser:
(1) During the first year of a biennial renewal period **230.00**

(2) During the second year of a biennial renewal period 115.00
ii. Ophthalmic Technician:
(1) During the first year of a biennial renewal period 175.00
(2) During the second year of a biennial renewal period 87.50
iii. Branch Office Ophthalmic Dispenser:
(1) During the first year of a biennial renewal period 165.00
(2) During the second year of a biennial renewal period 82.50
iv. Branch Office Ophthalmic Technician:
(1) During the first year of a biennial renewal period 110.00
(2) During the second year of a biennial renewal period 55.00

4. Biennial renewal:
i. Ophthalmic Dispenser .... [170.00] **230.00**
ii. Ophthalmic Technician .... [130.00] **175.00**
iii. Branch Office Ophthalmic Dispenser ..... [120.00] **165.00**
iv. Branch Office Ophthalmic Technician ..... [80.00] **110.00**

5. Permits **and permit renewals**:
i. Temporary 50.00
ii. Apprentice Dispenser .... [75.00] **50.00**
iii. Apprentice Technician 50.00

[6. Permit renewal:
i. Apprentice Dispenser 50.00
ii. Apprentice Technician .... 50.00]

[7.] **6.** Late renewal of license or permit .... [50.00] **100.00**
[8.] **7.** Late application for licensure .... [50.00] **100.00**
[9.] **8.** Replacement certificate of registration:
i. License .... [25.00] **50.00**
ii. Branch Office License .... [25.00] **50.00**
iii. Permit .... [15.00] **30.00**

(a)

BOARD OF MEDICAL EXAMINERS

Certified Midwife Practice

Proposed Repeal: N.J.A.C. 13:35-2.6 through 2.12
Proposed New Rules: N.J.A.C. 13:35-2A
Proposed Recodification: N.J.A.C. 13:35-2.14 as 13:35-2A.10

Authorized By: Board of Medical Examiners, Charles A. Janousek, Executive Director.
Authority: N.J.S.A. 45:9-2.
Proposal Number: PRN 1991-588.

Submit written comments by January 1, 1992 to:
Charles A. Janousek, Executive Director
Board of Medical Examiners
28 West State Street
Trenton, New Jersey 08608

The agency proposal follows:

Summary

The Board of Medical Examiners is proposing to repeal all existing rules concerning nurse-midwife practice in the State of New Jersey now set forth at N.J.A.C. 13:35-2.6 through 2.12 and to create a new subchapter concerning certified nurse-midwife practice to be codified at N.J.A.C. 13:35-2A. The primary purpose underlying the proposed reformulation is to clarify the existing rules into a more readable text by redefining terms and eliminating confusing terms. This proposal also updates the rules to comport with recent medical changes and formally establishes a Certified Nurse Midwife Liaison Committee. Substantive amendments to the existing rules and certain new requirements are also proposed, as more specifically described below.

With regard to the qualifications for practice, the proposed repeals and new rules delete the requirement that certified nurse midwives (CNMs) have two years of obstetrical experience but add the requirement that CNMs demonstrate evidence of continuing competency as required by the American College of Nurse Midwives (ACNM). The new rules also add as conditions of practice that CNMs participate in periodic conferences for review of patient records and quality assurance; demonstrate a satisfactory peer review by a peer review committee of the ACNM; and practice in accordance with ACNM standards for the practice of nurse midwifery.

The new rules define with greater clarity the practice standards for certified nurse midwives during normal antepartum, intrapartum and postpartum/well-woman health care periods. Additionally, the rules include new requirements for the management of antepartum patients at risk. The CNM and the physician must specifically agree to include such at-risk patients in the caseload and must establish a management plan for all patients so identified. In that regard, the rules establish patient classification schedules based upon risk factors and set forth minimum standards of physician participation dependent upon the given classification. Requirements for management of the intrapartum patient at risk have also been clarified, and the new rules delineate which conditions require ready availability of the physician, physician presence in the hospital, or immediate physician presence in the delivery suite.

Finally, the new rules establish a Certified Nurse Midwife Liaison Committee to include at least three CNMs and at least two physicians. Proposed functions of the Committee include advising the Board in the evaluation of applicants for registration, investigating unlawful conduct, approving professional training programs, establishing a drug formulary, and reviewing on a periodic and ongoing basis the appropriateness and viability of rules governing certified nurse midwife practice in New Jersey.

N.J.A.C. 13:35-2.14, Limited privileges and conditions of practice permitted for a graduate nurse midwife pending results of certifying examination and licensure, remains unchanged but has been recodified at N.J.A.C. 13:35-2A.10.

Social Impact

The proposed new rules will have a beneficial social impact both because they more clearly define the scope and requirements of certified nurse midwifery practice in the State and because they impose stricter requirements for mandatory physician participation in certain at risk cases. Certified nurse midwives and those physicians with whom they affiliate should benefit from having a clearer delineation of the permissible scope of practice. The new rules should also benefit patients of certified nurse midwives through the operation of the additional safeguards proposed.

Economic Impact

The proposed stricter requirements for mandatory physician participation in at risk cases may have an economic impact upon both CNMs and physicians with whom they are affiliated in that additional consultation time may be required. It is not possible to estimate additional costs involved, since such costs will be dependent upon the percentage of at-risk patients within any given case load. It is the Board's opinion, however, that the proposed increased physician participation requirements are consistent with sound professional practices and that any additional costs to the CNM or the physician will be outweighed by the added protection afforded to the consumer. Although the economic impact, if any, on consumers cannot be predicted, the Board does not anticipate that the proposal should in any way materially increase the cost of services provided by certified nurse midwives. The establishment of a Certified Nurse Midwife Liaison Committee will create administrative costs for the Board of Medical Examiners; however, at the present time it does not appear that fees will have to be increased to accommodate these new expenditures.

Regulatory Flexibility Analysis

If, for the purposes of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., physicians and certified nurse midwives are deemed "small businesses" within the meaning of the statute, the following statements are applicable:

The Board of Medical Examiners currently registers 122 certified nurse-midwives. The proposed new rules will apply to all CNMs as well as to the physicians with whom they are affiliated. While the primary purpose underlying this proposal is to clarify existing rules concerning nurse midwife practice in the State of New Jersey, the new rules do impose some new compliance requirements. CNMs must demonstrate evidence of continuing competency as required by the ACNM; participate in periodic conferences for review of patient records and quality assurance; demonstrate a satisfactory peer review by a peer review committee of the ACNM; and practice in accordance with ACNM standards for the practice of nurse midwifery. In addition, with regard to all antepartum patients identified as at risk pursuant to the proposed new classification schedules, the CNM and the physician must specifically agree to include such at-risk patients in the caseload and must establish a management plan for all patients so identified. CNMs must also comply with the proposed new requirements regarding management of intrapartum patients at risk by assuring physician presence as appropriate. The existing reporting requirement of Board notification in the event of any change of affiliated physician has been amended to require such notification within seven days of the change. The Board does not anticipate that recourse to other providers of professional services will be needed in order to satisfy any of the proposed requirements.

It is not possible to estimate initial capital costs or annual costs of compliance since these costs will depend upon variables such as caseload and number of at risk patients. The Board believes, however, that the proposed requirements and any attendant expenses are well-justified in view of their usefulness as protective measures. Because the proposed new rules impose conditions upon individual practice, the rules must be uniformly applicable to all licensees, without differentiation as to size of practice.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 13:35-2.6 through 2.12.

Full text of the proposed new rules follows:

SUBCHAPTER 2A. LIMITED LICENSES: CERTIFIED NURSE MIDWIFERY

13:35-2A.1 Certified Nurse Midwife practice

(a) A Certified Nurse Midwife ("CNM") shall mean a registered professional nurse licensed in the State of New Jersey who, by virtue of added knowledge and skill gained through an organized program of study and clinical experience, is qualified to manage the care of women and/or newborns during the antepartum, intrapartum and postpartum periods and to provide well-woman health care as expressly limited and set forth below.

(b) A CNM shall maintain current registration with the Board of Medical Examiners (hereinafter the "Board") in order to discharge those responsibilities set forth in this subchapter.

(c) The CNM shall not work alone (that is, in an individual or independent practice) but shall function within a health care system which provides for consultation, collaborative management and referral with a physician licensed to practice medicine and surgery in the State of New Jersey.

13:35-2A.2 Qualifications

(a) A CNM shall demonstrate the following qualifications in order to be registered by the Board:

1. A diploma from a legally chartered school of nurse midwifery accredited by the American College of Nurse Midwives (hereinafter, the "ACNM");
2. Current registration as a professional nurse in the State of New Jersey;
3. Certification by the ACNM and evidence of continuing competency as required by the ACNM; and
4. Proof of age of at least 18 years.

13:35-2A.3 Minimum conditions of practice

(a) The CNM shall establish written agreements with one or more physicians licensed in the State of New Jersey (hereinafter, the "affiliated physician(s)") who practice obstetrics and/or gynecology and who have hospital privileges in obstetrics and/or gynecology. The written agreements shall delineate the scope of practice of the CNM. In no instance, however, may the scope of practice of the CNM in any way exceed the scope of practice of the affiliated physician (as limited by the physician's privileges). All agreements shall include a written protocol setting forth:

1. All procedures and routine orders, including specific tests and treatment regimens, to be performed or provided by the CNM;
2. The circumstances under which consultation, co-management, referral and transfer of care of women and/or newborns between the CNM and the affiliated physician are to take place, and the mechanics by which each is to occur;
3. A list of all medications the CNM may dispense, administer, order and/or prescribe. Under no circumstances may the agreement provide for the use of controlled dangerous substances outside of a licensed hospital except upon prescription of the physician; and
4. A schedule setting forth or a mechanism for determining the availability of the physician (or a designated qualified substitute physician responsible for back-up care) for consultation and emergency assistance or medical management when needed.

(b) The CNM shall file with the Board a notice listing the name(s) and address(es) of the affiliated physician(s) with whom the CNM establishes written agreements and the effective date of the agreement(s) at the time of application for registration with the Board. In the event of any change of physician(s), the CNM shall notify the Board in writing within seven days of the change.

(c) The CNM shall participate in periodic conferences for review of patient records and for quality assurance.

(d) The CNM shall demonstrate a satisfactory peer review by a Peer Review Committee of the ACNM.

(e) The CNM shall function in accordance with the published Standards for the Practice of Nurse-Midwifery of the ACNM.

13:35-2A.4 Normal antepartum management

(a) Certified Nurse Midwife practice during normal antepartum stages shall include, but is not necessarily limited to, the following:

1. The CNM may order medical, therapeutic and diagnostic measures for women not classified as being at risk (see N.J.A.C. 13:35-2A.7) in accordance with the CNM protocol;
2. The CNM may administer, dispense, order and/or prescribe medications provided said medications are included within the list of approved medications in the CNM protocol; and
3. The CNM shall consult, refer or collaborate with the affiliated physician in situations where women present with significant medical problems in accordance with the CNM protocol.

13:35-2A.5 Normal intrapartum management

(a) Certified Nurse Midwife practice during normal intrapartum periods shall include, but is not necessarily limited to, the following:

1. The CNM may manage the labor and delivery of the patient not classified as being at risk (see N.J.A.C. 13:35-2A.8) at any location as long as such management is in accordance with mutually agreed upon protocols that comply with both the published standards of the ACNM and current practice standards. These protocols shall include the medical, therapeutic and diagnostic measures that may be utilized by the CNM;
2. The CNM shall perform immediate screening of the newborn. When necessary, the CNM shall initiate immediate resuscitation of the newborn. In accordance with the written protocol with the affiliated physician, the CNM shall refer problems with the newborn to a physician. When practicing outside the hospital setting, the CNM shall establish a written protocol for transfer of the newborn to a hospital;
3. When labor and delivery take place at the home, the CNM may use a local anesthetic and may perform and repair episiotomies; and
4. When labor and delivery take place in a licensed health care facility (which may include a licensed birthing center), the CNM may administer and/or order medications in accordance with the mutually agreed upon protocols, may perform and repair episiotomies and may use local or pudendal block anesthesia. Additionally, the CNM may repair third degree lacerations upon the direction of the affiliated physician and fourth degree lacerations under the direct supervision of a plenary-licensed physician who has obstetrical privileges.

13:35-2A.6 Postpartum and well-woman health care

The CNM may provide postpartum care and well-woman health care, which may include family planning, reproductive health care counseling and reproductive systems health care screening. The CNM's participation in periodic well-woman health care shall be in accord with written protocol(s) which shall require the prompt referral of women with medical or gynecological abnormalities to the appropriate physician.

13:35-2A.7 Management of antepartum women at risk

(a) The CNM may participate in the management of antepartum patients at risk under the following conditions:

1. The physician/CNM team shall have both agreed to include the patient at risk in the caseload.

2. The physician/CNM team shall have established a management plan for all patients identified as at risk, which plan shall delineate the role of both the physician and the CNM in the care of the patient. The management plan shall set forth the following:

i. Frequency of physician visits;

ii. Timing of appropriate diagnostic and evaluative procedures;

iii. Parameters for consultation; and

iv. A proposed plan for the delivery, including the type, place and provider.

3. All patients at risk shall be classifed as either Schedule "A" or Schedule "B" patients, in accordance with the schedules set forth in (a)4 and 6 below. The minimum standards of physician participation in the management of the at risk patient shall vary dependent upon whether the patient is classified as Schedule "A" or Schedule "B." The minimum standards of physician participation for Schedule "A" patients are set forth in (a)5 below and for schedule "B" patients in (a)7 below.

4. Patients with the following risk factors shall be deemed to be "Schedule A" patients:

i. Documented problems in maternal medical history:

(1) Acute and/or chronic hypertension;

(2) Congenital or acquired heart disease;

(3) Deep vein thrombosis (current or recent history);

(4) HIV positive, AIDS or AIDS Related Complex;

(5) Renal disease;

(6) Severe urinary tract infection;

(7) Seizure disorder requiring medications; or

(8) Hemolytic anemia;

ii. Documented problems in past maternal obstetrical history:

(1) Incompetent cervix;

(2) Two or more second or third trimester fetal losses; or

(3) Preterm delivery; or

iii. Documented problems in present maternal obstetrical history:

(1) Significant uterine myomata;

(2) Hydramnios or oligohydramnios;

(3) Isoimmunization;

(4) Multiple gestation;

(5) Intrauterine growth retardation; or

(6) Current evidence of fetal chromosome or other disorder confirmed by amniocentesis or ultrasound.

5. For all patients classified within Schedule "A", the physician shall be in the office on each patient visit and shall review the care of the patient on each visit. Prior to the Schedule "A" patient's discharge from each scheduled visit, the physician shall review and sign the chart. The physician shall examine the Schedule "A" patient at least once during each trimester and, at that time, the management plan shall be reviewed and revised as necessary by the Physician/CNM team.

6. Patients with the following risk factors shall be deemed to be Schedule "B" patients:

i. Documented problems in maternal medical history:

(1) Drug addiction;

(2) Psychotic episode;

(3) Controlled asthmatics currently on medication; or

(4) Hematologic disease;

ii. Documented problems in past maternal obstetrical history:

(1) Parity of six or more;

(2) Previous cesarean delivery;

(3) Surgery involving the uterine wall;

(4) Previous placental abruption;

(5) Previous significant postpartum hemorrhage; or

(6) Preterm labor; or

iii. Documented problems in present maternal obstetrical history:

(1) Any recent history or visible evidence of genital herpes;

(2) Gestational diabetes;

(3) No prenatal care prior to the 28th week;

(4) Maternal age less than 16 years or more than 35 years; or

(5) Significantly abnormal PAP smear.

7. For all patients classified within Schedule "B", the affiliated physician or his or her designee shall be available for consultation during hours of prenatal visits. The physician shall evaluate the management plan and current status of the Schedule "B" patient at least once each trimester. The plan shall be reviewed and revised as necessary by the physician/CNM team.

8. The patient at risk shall receive all scheduled prenatal care in a licensed ambulatory care clinic, a licensed hospital clinic or a professional office.

13:35-2A.8 Care of intrapartum women at risk

(a) The CNM may participate in the management of labor and delivery of patients in the following circumstances, providing the physician is readily available:

1. Abnormal fetal heart rate tracing responsive to conservative measures;

2. Premature labor at less than 37 weeks, but more than 34 weeks with appropriate pediatric coverage;

3. Premature rupture of membranes more than 24 hours before onset of regular contractions;

4. Failure to progress normally in labor;

5. Assessment of infant less than 2,000 gms or more than 4,000 gms;

6. Vaginal birth after previous cesarean delivery;

7. Soft tissue problems such as severe vulvar varicosities or marked edema of the cervix; or

8. Pitocin infusion.

(b) The CNM may participate in the management of the labor and delivery of patients in the following circumstances, providing the physician is present in the hospital:

1. Development of pregnancy-induced hypertension or signs of preeclampsia;

2. Evidence of active infection;

3. Premature labor at less than 34 weeks; or

4. Significant meconium staining.

(c) Conditions which require immediate physician presence in the delivery suite include, but are not limited to, the following:

1. Abnormal fetal heart rate tracing unresponsive to conservative measures;

2. Prolapse of the cord;

3. Intrapartum hemorrhage;

4. Severe medical/surgical problems;

5. Need for cesarean section/forceps delivery;

6. Multiple gestation;

7. Malpresentation; or

8. Any other condition requiring operative intervention.

13:35-2A.9 Certified Nurse Midwife Liaison Committee

(a) A Certified Nurse Midwife Liaison Committee shall be established by the Board of Medical Examiners. The Committee shall consist of six members who shall serve as consultants to the Board and who shall be appointed by the Board. The Committee shall include at least three certified nurse midwives and at least two physicians, one of whom shall be a member of the Board of Medical Examiners and one of whom shall be Board-certified by the American Board of Obstetrics and Gynecology. The Committee shall meet no less than four times per year but may meet more frequently as needed.

(b) Functions of the Committee shall include, but are not limited to, the following:

1. Advising and assisting the Board in the evaluation of applicants for certified nurse-midwifery registration, investigation of unlawful conduct and approval of professional training programs;

2. Advising and assisting the Board in establishing a formulary of drugs that may be ordered, administered, dispensed or prescribed by CNMs;

3. Periodic and ongoing review of the appropriateness and viability of all rules concerning CNM practice in the State of New Jersey, specifically to include (but not necessarily limited to) periodic review of the categorizations of at risk patients set forth within

N.J.A.C. 13:35-2A.7 and 2A.8. In the event the Committee should determine that any changes in any regulations or in any schedules within said rules are appropriate, the Committee may report said recommendations to the Board and may recommend that the Board seek to revise the rules accordingly; and

4. Ongoing review of CNM practice in the State of New Jersey.

Recodify existing N.J.A.C. 13:35-2.14, Limited privileges and conditions of practice permitted for a graduate nurse midwife pending results of certifying examination and licensure, as N.J.A.C. 13:35-2A.10 (No change in text.)

(a)

BOARD OF MEDICAL EXAMINERS

Declaration of Death Upon the Basis of Neurological Criteria

Proposed New Rule: N.J.A.C. 13:35-6A

Authorized By: Board of Medical Examiners, Charles A. Janousek, Executive Director.

Authority: N.J.S.A. 26:6A-1 et seq. (P.L. 1991, c.90), specifically 26:6A-4.

Proposal Number: PRN 1991-608.

Submit written comments by January 1, 1992 to:
Charles A. Janousek, Executive Director
Board of Medical Examiners, Room 602
28 West State Street
Trenton, New Jersey 08608

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 26:6A-1 et seq. (P.L. 1991, c.90), the New Jersey Declaration of Death Act (the "Act"), the Board of Medical Examiners and the Department of Health are required to promulgate regulations setting forth requirements for physicians authorized to declare death upon the basis of neurological criteria and currently accepted medical standards to govern such declarations of death. On July 3, 1991, representatives of the Department of Health, the New Jersey Commission on Legal and Ethical Problems, and the Board of Medical Examiners met to discuss the requirements of the Act. A determination was made at that meeting that the Medical Board would promulgate rules dealing with requirements for physicians and currently accepted medical standards, since the Medical Board directly regulates physicians. The Department of Health would then incorporate by reference the Medical Board's rules. In order to implement the provisions of the Act, the Board is proposing a new subchapter, entitled "Declarations of Death upon the Basis of Neurological Criteria," to be codified at N.J.A.C. 13:35-6A.

Under the proposed rules, two examinations are required before a person may be pronounced dead based upon the specified neurological criteria. The attending physician's determination of brain death must be confirmed independently by a corroborating physician, who is required to be a duly-qualified neurologist or neurosurgeon or, when declarations of brain death are to be made upon individuals at or below two months of age, a duly-qualified neonatologist, pediatric neurologist or pediatric neurosurgeon. If the attending physician meets the standards for qualification as a corroborating physician, then the corroborating physician may specialize or engage in any area of practice.

The rules also include criteria for setting the minimum amount of time which must elapse between the first and second examinations. The criteria are based upon the individual's age and medical circumstances and whether confirmatory tests have been utilized.

In compliance with the Act, the proposed rules list the clinical determinations both examining physicians must make before an individual may be pronounced brain dead, and additionally specify tests and procedures upon which each determination must be based. The required determinations are: (1) that the individual is in a deep coma as marked by cerebral unreceptivity and unresponsivity; (2) that brain stem functions are absent; and (3) that the cessation of all functions of the entire brain is irreversible. These criteria, and the tests and procedures used to establish the criteria, should be considered to be the absolute minimum required in every case. Physicians are cautioned, however, that there may be instances where prudent medical practice will dictate that measures above and beyond those set forth in these rules should be implemented.

Two additional provisions required by the Act specify (1) that if the individual to be declared dead upon the basis of neurological criteria is or may be an organ donor, neither the attending physician nor the corroborating physician may have any responsibility for a contemplated recovery or transplant of organs; and (2) that if either examining physician has any reason to believe, on the basis of information provided about the individual's personal religious beliefs, that a declaration of brain death would violate the individual's personal religious beliefs, death must be declared solely upon the basis of cardio-respiratory criteria. Additionally, the rules state that when objective documentation is needed to substantiate clinical findings, confirmation must be made by appropriate tests.

Finally, the rules require both examining physicians to document within the patient record the results of all tests performed and to sign the chart. Brain death may then be declared if both examiners have been able to make all requisite determinations.

Social Impact

Existing criteria for establishing brain death may vary among health care facilities. Physicians will benefit from the proposed establishment of uniform minimum criteria, because they will now be able to reference an objective set of standards for declarations of brain death. The Board reiterates that these minimum requirements are to be considered guidelines only and that the Board intends to leave to the physician's medical judgment the decision as to whether the circumstances of each particular case warrant measures in addition to those set forth in these rules.

The proposed rules protect the public by setting minimum standards for declarations of brain death which are applicable State-wide, based upon objective medical criteria, and under Medical Board review. Pursuant to the Act, the Medical Board, the Department of Health, and the New Jersey Commission on Legal and Ethical Problems in the Delivery of Health Care must evaluate these rules and report to the Legislature, before October 5, 1996, recommendations for any changes deemed necessary. The public should also benefit from the inclusion of significant safeguards in the rules. The requirement that the corroborating physician be a neurologist or neurosurgeon (if the attending physician is not) assures that declarations of brain death will be made with the involvement of a physician with appropriate expertise. Furthermore, the prohibition against involvement by examining physicians in the organ donation process ensures physician objectivity, and the prohibition against a declaration of brain death when the physician has information that such a declaration would violate the individual's religious beliefs ensures that the patient's beliefs are respected.

Economic Impact

In general, the Board does not anticipate any negative economic impact upon licensees, health care facilities or the public as a result of the proposed new rules. The required tests and procedures set forth in the rules as the base-line criteria for establishing brain death represent no major departure from currently accepted medical standards.

However, the requirement of a corroborating physician may create additional administrative costs for hospitals which do not have staff physicians who meet the standards for qualification as a corroborating physician. For example, some smaller hospitals may not have pediatric specialists on staff, and these hospitals will incur consultation costs when declarations of death on the basis of neurological criteria are required for patients below two months of age. Any additional administrative costs may be offset, however, to the extent that the proposed standards for declarations of death minimize the risk that patients are needlessly kept on life support systems for prolonged periods of time.

The Board may incur costs in connection with evaluating the implementation of these rules, as required by the Act.

Regulatory Flexibility Statement

The proposed new rules, which govern declarations of death upon the basis of neurological criteria, will be implemented in New Jersey acute-care hospitals, none of which employs less than 100 full-time employees. Only these hospitals have the equipment necessary to make the determinations required under these rules. Since these hospitals would not be considered small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., a regulatory flexibility analysis is not required.

Full text of the proposal follows:

SUBCHAPTER 6A. DECLARATIONS OF DEATH UPON THE BASIS OF NEUROLOGICAL CRITERIA

13:35-6A.1 Purpose

(a) The rules in this subchapter are established pursuant to N.J.S.A. 26:6A-1 et seq. (P.L. 1991, c.90), the New Jersey Declaration of Death Act, and set forth:

1. Requirements, by specialty or expertise, for physicians authorized to declare death upon the basis of neurological criteria; and

2. Currently accepted medical standards, including criteria, tests and procedures, to govern declarations of death upon the basis of neurological criteria.

13:35-6A.2 Definitions

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

"Appropriate period of observation" means the minimum amount of time which must pass between the performance of the initial examination to determine whether brain death has occurred and the second corroborative examination.

"Attending physician" means the physician (or his or her designee) primarily responsible for the care and treatment of the individual upon whom a declaration of brain death is to be made.

"Brain death" means the irreversible cessation of all functions of the entire brain, including the brainstem.

"Corroborating physician" means the physician responsible for performance of the second examination to determine whether brain death has occurred.

"Duly qualified" means the satisfactory completion of a residency program approved by the Accreditation Council for Graduate Medical Education.

13:35-6A.3 Requirements for physicians authorized to declare death on the basis of neurological criteria

(a) The attending physician shall be a plenary licensed physician. The attending physician may specialize or engage in any area of practice.

(b) The corroborating physician shall be a plenary licensed physician, who shall:

1. When determinations of brain death are to be made upon individuals above two months of age, be either a duly qualified neurologist or a neurosurgeon;

2. When determinations of brain death are to be made upon individuals at or below two months of age, be either a duly qualified neonatologist, a pediatric neurologist or a pediatric neurosurgeon.

(c) In the event the attending physician meets the standards for qualification as a corroborating physician set forth in (b) above, then the corroborating physician may specialize or engage in any area of practice.

13:35-6A.4 Standards for determination of brain death

(a) A person may be pronounced dead if it is determined by that person's attending physician, and confirmed independently by a corroborating physician, that brain death has occurred. The attending physician shall perform the initial clinical examination. After passage of an appropriate period of time, in accordance with the standards set forth in N.J.A.C. 13:35-6A.5(a)3iii, the corroborating physician shall perform a second independent clinical examination. Determinations of brain death shall be made in accordance with the mandatory criteria set forth in N.J.A.C. 13:35-6A.5.

(b) If the individual to be declared dead upon the basis of neurological criteria is or may be an organ donor, then neither the attending physician nor the corroborating physician shall have any responsibility for any contemplated recovery or transplant of that individual's organs, including, but not limited to, being the organ transplant surgeon, the attending physician of the organ recipient, or otherwise an individual subject to a potentially significant conflict of interest relating to procedures for organ procurement.

(c) Death shall not be declared on the basis of neurological criteria if either the attending physician or the corroborating physician has any reason to believe, on the basis of information in the individual's available medical records, or information provided by a member of the individual's family or any other person knowledgeable about the individual's personal religious beliefs that such a declaration would violate the personal religious beliefs of the individual. In these cases, death shall be declared, and the time of death fixed, solely upon the basis of cardiorespiratory criteria.

13:35-6A.5 Criteria and testing for establishment of brain death

(a) Declarations of brain death shall be made in accordance with accepted medical standards. At a minimum, each examining physician must be able to make the mandatory determinations set forth below and must document the method(s) by which said determinations are made within the patient's chart:

1. Clinical determination that the individual is in a deep coma as marked by cerebral unreceptivity and unresponsivity: Each examining physician must be able to clinically determine that the individual is in a deep coma as marked by cerebral unreceptivity and unresponsivity. In making that determination, the examining physician shall test to ensure that the individual has no behavioral or reflex response to painful stimuli presumed to be mediated at a level above the spinal cord. If, in the opinion of the examining physician, medical circumstances require confirmation of the determination, the examining physician shall confirm the determination with appropriate studies, including but not necessarily limited to an electroencephalogram or blood-flow study.

2. Clinical determination that brain stem functions are absent: Each examining physician must be able to clinically determine that brain stem functions are absent. In making said determination, the examining physician shall test pupillary light, corneal, oculocephalic, oculovestibular, oropharyngeal and respiratory (apnea) reflexes. Absence of all such reflexes must be found. In testing for apnea, pupillary response to light and ocular movements, the examining physician must be able to make the determinations specified below and, in so doing, perform the tests specified below:

i. Apnea: Spontaneous respirations must be determined to be absent. Confirmation of apnea may be made using the technique of apneic oxygenation or by using other appropriate tests;

ii. Pupils: Pupillary response to light must be determined to be absent. The effect of mydriatic agents must be excluded; and

iii. Ocular responses: Ocular responses must be determined to be absent to passive head turning and to cold caloric testing.

3. Clinical determination of irreversibility: Each examining physician must be able to establish that the cessation of all functions of the entire brain is irreversible. In making said determination, the examining physician shall:

i. Make reasonable efforts to establish the cause of the coma, which cause should be determined to be sufficient to account for the loss of brain functions. The determination may be made by careful clinical examination and investigation of history. If the history is unknown, relevant knowledge of causation may be acquired by computed tomographic scan, measurement of core temperature, drug screening, electroencephalogram, angiography, or other appropriate procedures.

ii. Establish that there is no possibility of any recovery of any brain functions by excluding the possibility of reversible conditions such as hypothermia, neuromuscular blockade, shock, or drug or metabolic intoxication. Toxicology screening is required unless there is a reliable history that the individual did not use any sedative drugs, including ethanol; and

iii. Establish that the cessation of all brain functions persists for an appropriate period of observation. In order to so determine, all of the required findings specified above shall be independently made by both examining physicians, and the second examination shall be performed no sooner than:

(1) Six hours after the initial examination, in all instances where the individual upon whom the determination of brain death is to be made is above the age of one year and has not sustained anoxic brain damage, only so long as the cause of coma can be established to be irreversible and the diagnosis has been established with ap-

propriate confirmatory tests such as an electroencephalogram or a blood flow study;

(2) Twelve hours after the initial examination, in all instances where the individual upon whom the determination of brain death is to be made is:

(A) Above the age of one year and has not sustained anoxic brain damage, so long as the cause of coma can be well established to be irreversible without confirmatory tests; or

(B) Above the age of one year and has sustained anoxic brain damage, so long as irreversibility has been established with confirmatory tests; or

(C) At or below the age of one year and has not sustained anoxic brain damage, so long as the cause of coma can be established to be irreversible and the diagnosis has been established with confirmatory tests.

(3) Twenty-four hours after initial examination, in all instances where the individual upon whom the determination of brain death is to be made:

(A) Has sustained anoxic brain damage, where irreversibility has not been established by confirmatory tests; or

(B) Is at or below the age of one year, where the diagnosis has not been established with confirmatory tests.

13:35-6A.6 Objective documentation

When objective documentation shall be needed to substantiate clinical findings, confirmation shall be made by appropriate tests such as an electroencephalogram, four-vessel angiography or radioisotope cerebral angiography.

13:35-6A.7 Certification of death

The attending physician and the corroborating physician shall both document within the patient record the results of all tests performed during their examinations, and shall both sign the chart. After the two clinical examinations and appropriate confirmatory tests have been completed and documented on the patient's chart, and if both examiners have been able to make all requisite determinations, then brain death may be declared. The two physicians who performed the clinical examinations shall both certify death in the patient's chart and the attending physician shall certify death on the death certificate.

(a)

DIVISION OF CONSUMER AFFAIRS

Sellers of Health Club Services Registration Fee

Proposed Amendment: N.J.A.C. 13:45A-25.2 and 25.4

Authorized By: Emma Byrne, Director, Division of Consumer Affairs.

Authority: N.J.S.A. 56:8-40 and 56:8-48.

Proposal Number: PRN 1991-607.

Submit written comments by January 1, 1992 to:
Emma Byrne, Director
Division of Consumer Affairs
Post Office Box 45027
Newark, New Jersey 07101

The agency proposal follows:

Summary

The Division of Consumer Affairs is proposing to amend N.J.A.C. 13:45A-25.2 in order to increase the registration fee payable to the Division pursuant to N.J.S.A. 56:8-39 et seq., an Act regulating the sellers of health club services and supplementing the Consumer Fraud Act. Under the Act, the Division has the obligation of protecting the consumer by ensuring that sellers of health club services register with the Division and provide relevant data on ownership and operation. The Division's administrative and investigative costs have increased significantly over the past two years and continue to exceed those anticipated when the Division established the initial registration fee in 1988. Therefore, the Division is proposing to raise the health club biennial registration fee from $200.00 to $300.00 in an attempt to defray, although not entirely cover, the Division's rising costs in implementing its statutory mandate.

Additional amendments to N.J.A.C. 13:45A-25.2 and 25.4 merely supply the Division's new post office box number and street address and delete as unnecessary a sentence referring to the initial registration expiration date.

Social Impact

The proposed fee increase will enable the Division of Consumer Affairs to meet the responsibilities imposed upon it by the Legislature in regard to registration of sellers of health club services, thereby ensuring the protection of the consumer.

Economic Impact

The proposed fee increase will have an economic impact on the 240 currently licensed facilities. The increase is necessary, however, to defray administrative costs, which have far exceeded those originally anticipated. The current registration fee has been in effect since February 5, 1990, and the Division's costs have continued to rise since that date. If the current fee structure was to remain in place over the next two years, the Division would not be in a position to properly discharge its statutory responsibilities. In the Division's view, the increase proposed, $50.00 per year, is reasonable as a business expense. The increase has been calculated in such a manner as to significantly defray, although not entirely cover, the Division's rising expenses in connection with health and registrations.

Regulatory Flexibility Analysis

The proposed amendment applies to all sellers of health club services. The Division of Consumer Affairs currently licenses 240 facilities, the majority of which are small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The annual cost of compliance with the proposed amended fee rule is, as a business expense, slight, and was specifically designed to minimize the financial impact on small businesses. While the fee increase may have a greater impact upon registrants with a more limited income-producing capacity, the Division bears the mandatory obligation to meet its expenses in registering health clubs; it has no choice but to increase the fee. There are no additional reporting or recordkeeping requirements related to the proposed fee increase, other than completion of the registration application which will accompany payment.

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

13:45A-25.2 Registration; fees

(a) Applicant(s) shall request information from the Health Club Coordinator, Office of Consumer Protection, [1100 Raymond Boulevard, Room 405] **Post Office Box 45025**, Newark, New Jersey [07102] **07101** regarding the initial registration of a facility; thereafter an application shall be forwarded to the applicant, along with a copy of the Act and a copy of all current rules.

(b) Any person who offers for sale or sells health club services shall pay to the Director of the Division of Consumer Affairs a registration fee of [$200.00] **$300.00** every two years for each health club facility operated, [$100.00] **$150.00** if paid during the second half of the biennial period.

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

(e) The following shall be the text of the Notice to be provided by the Division to each registered facility:

NOTICE

This facility is registered as a seller of health club services by the State of New Jersey, Department of Law and Public Safety, Division of Consumer Affairs, [1100 Raymond Boulevard,] **124 Halsey Street,** Newark, New Jersey 07102. Such registration does not mean that this facility has been approved or endorsed by that agency. Patrons are advised that under New Jersey law, facilities offering contracts for health club services for longer than a three-month period must post with the Division of Consumer Affairs security against failure to provide such services.

(f) (No change.)

(g) All registrations shall expire every two years on the 10th day of February. [The initial expiration date will be February 10, 1990.]

13:45A-25.4 Exemption from security requirement

A separate Declaration of Exemption from Security Requirement shall be filed for each facility claiming exemption from the bond/letter of credit/security requirement of N.J.S.A. 56:8-41 because its membership contracts are for a period no longer than three months. When the Declaration of Exemption from Security Requirement is filed, it must be accompanied by a copy of a written contract as proof that the contract duration is for a period of no longer than three months. The Declaration of Exemption from Security Requirement shall be available upon request from the Health Club Coordinator, Office of Consumer Protection, [Room 405, 1100 Raymond Boulevard] **Post Office Box 45025**, Newark, NJ [07102] **07101**.

(a)

ADVISORY BOARD OF PUBLIC MOVERS AND WAREHOUSEMEN

Fees

Proposed Amendment: N.J.A.C. 13:44D-2.4

Authorized By: Emma Byrne, Director, Division of Consumer Affairs.

Authority: N.J.S.A. 45:14D-15.

Proposal Number: PRN 1991-606.

Submit written comments by January 1, 1992 to:
Diane I. Romano, Executive Director
Advisory Board of Public Movers and Warehousemen
P.O. Box 45018
Newark, New Jersey 07102

The agency proposal follows:

Summary

The Advisory Board of Public Movers and Warehousemen adopted N.J.A.C. 13:44D-2.4, its fee schedule, effective August 5, 1991 (see 23 N.J.R. 2316(a)). The Board has noticed that the late fee, which is charged to licensees who renew their licenses within 60 days after the biennial renewal deadline, was inadvertently proposed and adopted as $200.00, rather than $100.00 as the Board originally intended. (Licensees who fail to renew after this 60-day period are assessed a $200.00 reinstatement fee.) The purpose of this proposal is to amend the fee schedule in order to set forth $100.00 as the amount the Board intended to be charged as the late fee.

Social Impact

Since the proposed amendment merely conforms the amount of the late fee to the amount the Advisory Board originally intended to charge, that is, $100.00, it does not impose any social impact on any person or entity.

Economic Impact

Since the proposed amendment merely conforms the amount of the late fee to the amount the Advisory Board originally intended to charge, that is, $100.00, it does not impose any economic impact on any person or entity.

Regulatory Flexibility Analysis

The proposed amendment imposes limited compliance requirements on "small businesses" as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., in the form of late fees for untimely filed license renewals. Since the proposed amendment merely conforms the amount of the late fee to the amount the Advisory Board originally intended to charge, and since the amount is both a nominal charge and is intended to foster timely filings—considerations having equal application to all licensees regardless of size—variation in the proposed fee based upon business size is not feasible or appropriate.

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

13:44D-2.4 Fees

(a) Fees for initial licenses, renewal licenses and copies of licenses shall be as follows:

1.-3. (No change.)

4. Late renewal fee [$200.00] **$100.00**

5. (No change.)

(b)

DIVISION OF CONSUMER AFFAIRS

Legalized Games of Chance Control Commission Rules of Legalized Games of Chance

Proposed Readoption with Amendments: N.J.A.C. 13:47

Authorized By: Legalized Games of Chance Control Commission, William J. Yorke, Executive Officer.

Authority: N.J.S.A. 5:8-6.

Proposal Number: PRN 1991-609.

Submit written comments by January 1, 1992 to:
William J. Yorke, Executive Officer
Legalized Games of Chance Control Commission
31 Clinton Street
Newark, New Jersey 07102

The agency proposal follows:

Summary

The Legalized Games of Chance Control Commission, an agency of the Division of Consumer Affairs, is proposing to readopt, with modifications, all of its currently effective rules which appear at N.J.A.C. 13:47. Pursuant to Executive Order No. 66(1978), the text of this chapter is scheduled to expire on February 2, 1992.

N.J.A.C. 13:47 was originally promulgated by the Commission pursuant to N.J.S.A. 5:8-6 in order to supervise the administration of the Bingo Licensing Law and the Raffles Licensing Law, N.J.S.A. 5:8-24 et seq. and N.J.S.A. 5:8-50 et seq., respectively. The Commission has found the rules proposed for readoption, with the minor modifications noted below, to be reasonable, necessary and effective for the purposes for which they were originally promulgated. The rules have protected New Jersey citizens against fraud in the conduct of legalized games of chance and have enabled the Commission to fulfill its statutory responsibility under the Bingo and Raffles Licensing Laws.

In compliance with Executive Order No. 66(1978), the Commission has thoroughly reviewed the current rules and is proposing revisions within seven subchapters. In general, the amendments will correct existing disparities between the governing statutes and the rules as they presently appear, as well as more clearly set forth types of activities requiring licensure, items prohibited as prizes, licensing fee payment procedures, and limitations on retail value of merchandise prizes. The Commission anticipates the elimination of confusion by virtue of the clarifying amendments as well as more efficient and uniform administration of the Bingo and Raffles Licensing Laws.

Following is a summary of the provisions of each of the 16 subchapters of N.J.A.C. 13:47 as well as the proposed revisions.

Essential terms are defined in subchapter 1. In order to place the definitions in alphabetical order and to effect stylistic changes thereto, to conform to the current Code definitions and section format, the existing definitions are proposed for repeal and replacement with new definitions and substantive changes to the current defintions are as follows: Senior citizens' associations are added as "qualified organizations," the support of which groups constitutes an "authorized purpose." A one-year minimum period has been added to the current provision which requires organizations seeking to qualify under the rules to have been actively engaged in serving one or more authorized purposes. The Commission believes a one-year minimum period is necessary to establish an organization's financial responsibility. New definitions of various types of raffles have also been proposed, and definitions of playing board and playing card have been added. The two definitions of "equipment" have been amended for clarification purposes by adding the words "bingo" and "raffle," as appropriate. The definitions of "regular" and "special" bingo games have been revised to comport with the statute; specifically, the requirement that a regular bingo game be played on permanent cards has been deleted.

Subchapter 2 details registration and identification procedures for organizations applying for a license to conduct bingo or raffles. Amendments to this subchapter clarify existing registration and approval procedures.

Detailed application procedures for both bingo and raffle licenses are set forth in subchapter 3. Amendments have been made for clarification purposes, and an entirely new text is proposed for N.J.A.C. 13:47-3.6, with clearer, more specific rules pertaining to separate applications and licenses for five types of raffles.

Subchapter 4, License Issuance, sets forth the responsibilities of the governing body of a municipality upon investigating and passing upon a license application, including the responsibility to file its findings and determination with the Control Commission at least seven days prior to the holding of the first game authorized. In the fee section of subchapter 4, N.J.A.C. 13:47-4.9, the bingo licensing fee payable to the Commission remains unchanged at $5.00 per occasion, but the concurrent obligation to pay $5.00 to the municipality where the application is filed is now specifically stated, for a total of $10.00 as authorized by statute. Other fee obligations to the municipality are spelled out, as well as the graduated fees due both the municipality and the Commission in the case of off-premise draw raffles for merchandise prizes. All of the fees in the section merely repeat those set forth in the Bingo Licensing Law and the Raffles Licensing Law, but the rule now clarifies exactly how the amounts are to be paid and to whom.

Procedures to amend a license are set forth in subchapter 5.

Subchapter 6 contains general provisions regarding the conduct of games of chance and includes sections on use of proceeds, license display, inspections, authorization for games on Sunday, player age limitation, permissible frequency of games, prohibited prizes, and advertisements. N.J.A.C. 13:47-6.11 has been revised to indicate more clearly the statutory limitations on the frequency of the conduct of games by a qualified organization, including the specific limitation of one raffle per month placed on an off-premise 50/50 cash raffle.

Also, N.J.A.C. 13:47-6.19(a) now sets forth additional prohibited prizes; alcoholic beverages and foreign or domestic coins have been added to the list. Alcoholic beverages are currently prohibited as a raffle prize by the Division of Alcoholic Beverage Control, and the awarding of coins which have both a numismatic and monetary value, such as the U.S. Eagle and the Canadian Maple Leaf, has been determined by the Control Commission to be in conflict with N.J.S.A. 5:8-62, which prohibits the awarding of cash prizes except in limited circumstances. The existing prohibition against the awarding of cash prizes has been recodified in N.J.A.C. 13:47-6.19(b); exceptions to this prohibition include off-premise as well as on-premise 50/50 raffles and bingo games, as permitted by statute.

Subchapter 7 sets forth specific rules for the conduct of bingo. A new provision has been added in N.J.A.C. 13:47-7.7 with regard to the notice required to be posted in the premises where bingo is played. The licensee must include in the notice the statement that tipping of bingo workers is impermissible. The prohibition against tipping bingo workers is consistent with the statute as well as N.J.A.C. 13:47-6.5. N.J.A.C. 13:47-7.8 has been amended for clarification purposes. In response to problems brought to the Commission's attention concerning the calling of numbers in bingo games, N.J.A.C. 13:47-7.9(d) has been amended to require: (1) that objects shall not be drawn from the receptacle until the caller is ready to announce the number on the object; and (2) that numbers shall not be announced if a player declares bingo prior to the caller starting vocally to make the announcement. N.J.A.C. 13:47-7.9(e) has been amended for clarification purposes. A new subsection (f) has been added requiring all bingo cards to be sold at a uniform price, without discount for the purchase of more than one card. By requiring all players to pay the same price to participate, regardless of the number of cards they purchase, this new provision will ensure the fair conduct of the game. Additional amendments include an amendment to N.J.A.C. 13:47-7.11 to allow organizations conducting bingo to offer a more varied arrangement of numbers to be covered in order to win the game.

Subchapter 8 sets forth specific rules for the conduct of raffles. N.J.A.C. 13:47-8.3 has been revised as follows to reflect amendments to N.J.S.A. 5:8-62:

(1) The maximum aggregate retail value of all prizes awarded by a raffles licensee in any one calendar year has been increased from $5,000 to $50,000. Included in subsection (a) is the statutory exception for licensees having one or more auxiliary organizations; the principal licensee may not award prizes in excess of $25,000 and the auxiliary licensee may not offer prizes in excess of $25,000.

(2) The ability to award one article of merchandise having a retail value in excess of the applicable limits has been retained and is set forth in subsection (b).

(3) The permissible retail value of prizes given in nondraw raffles has been increased from $15.00 to $250.00.

N.J.A.C. 13:47-8.7, which concerns the required content of off-premise raffle tickets, has been amended and a new N.J.A.C. 13:47-8.8 created in order to differentiate between off-premise raffles awarding merchandise prizes and off-premises raffles awarding money prizes. The statements to appear on tickets will now more specifically identify the requirements for each type of raffle. For the protection of both the ticket holder and the licensed organization, additional identifying information must also appear on ticket stubs. Finally, a new N.J.A.C. 13:47-8.17 has been added setting forth the permissible conduct of a "duck race" raffle, a variation of an off-premise draw raffle which the Commission has found is being conducted with increasing frequency.

Subchapter 9 contains rules regarding required reports of operations.

Provisions regarding suspension and revocation of licenses are set forth in subchapter 10.

Procedures concerning the filing of appeals are detailed in subchapter 11, and subchapter 12 details procedures and requirements for the hearing and disposition of appeals. N.J.A.C. 13:47-12.1 has been amended to reflect that an appeal may be transmitted either to the Office of Administrative Law or scheduled before the Control Commission. Such hearings shall be conducted pursuant to the Administrative Procedure Act and the Uniform Administrative Procedure Rules. N.J.A.C. 13:47-12.2, 12.3 and 12.4 are proposed for repeal because they are superceded by the UAPR.

Subchapter 13 sets forth the qualifications required of raffles equipment lessors and the procedures for Commission approval.

Provisions regarding the rental of premises for bingo are detailed in subchapter 14.

Subchapter 15 contains general provisions regarding forms, the Control Commission seal, and annual reports required to be filed by each municipal clerk of a municipality which has adopted the Bingo Licensing Law or the Raffles Licensing Law or both.

Rate schedules are included in subchapter 16 together with various application and reporting forms numbered LGCCC 1-A through 21.

Social Impact

It is anticipated that readoption of N.J.A.C. 13:47 will benefit both the citizens of the State of New Jersey and qualified organizations sponsoring games of chance. The conduct of legalized games of chance, specifically bingo and raffles of various kinds, enables qualified organizations to continue their support of educational, charitable, religious and public-spirited programs. Readoption of rules regarding the conduct of games will enable the Commission to continue to fulfill its statutory responsibilities to ensure that only qualified individuals or organizations are issued licenses to conduct games or receive approval to lease equipment; that games of chance are fairly and properly conducted for the purposes authorized in the Bingo and Raffles Licensing Laws; and that there is uniformity in the administration of said laws throughout the State. If these rules are not readopted, New Jersey residents will be unprotected against fraud in the conduct of games of chance, and organizations which conduct games fairly and properly may lose public support to those which do not.

The proposed amendments are also expected to have a positive social impact. The inclusion of senior citizens associations or clubs as organizations eligible to conduct bingo and raffles will further ensure the uniform administration of the Bingo and Raffles Licensing Law, and the prohibition against bingo card discounts for the purchase of more than one card will ensure the fair conduct of the game. In addition, the revisions correcting existing disparities between the statutes and rules will benefit sponsoring organizations, patrons, and the Control Commission itself. These disparities have created confusion, and amended wording which better defines those activities subject to licensing and the manner in which licensing fees are to be paid is expected to reduce misunderstanding and to ease the Commission's burden of explanation.

Economic Impact

Revenues generated from legalized games of chance, such as raffles and bingo, support a large number of educational, charitable, religious and public-spirited programs. Readoption of N.J.A.C. 13:47 will have a positive economic impact upon sponsoring organizations and the beneficial services they fund, in that they will be able to continue their support of such programs.

Sponsoring organizations are required to pay the licensing and equipment rental fees referenced in the rules. Commercial renters of premises for bingo must pay a $100.00 one-time licensing fee plus a $5.00 fee for each occasion on which bingo games are held. All licensing and rental fees, which have been in effect since 1969, are set by statute and accordingly remain unchanged. The limitations on the retail value of merchandise prizes are also set by statute and have not changed since

1986; the revisions proposed with regard to prize limitations merely reflect statutory amendments.

The rules proposed for readoption will continue to protect New Jersey citizens against economic loss which may occur if games were not conducted fairly and properly. The State will also benefit, in that bingo and raffles licensing fees paid to the Commission are deposited into the State's general fund and lessen the governmental burden of educating youth, providing human services and protecting lives and property Statewide.

The Control Commission does not anticipate any economic impact from the proposed amendments, except possibly for the proposed amendment at N.J.A.C. 13:47-7.9(f). The uniform unit price for bingo cards requirement should have a positive economic impact on sponsoring organizations as it will allow for more reliable accounting.

Regulatory Flexibility Analysis

The rules in subchapters 1 through 12 impose reporting and compliance requirements on those entities meeting the definition of a "qualified organization" under N.J.A.C. 13:47-1.1, and clerks of municipalities in which legalized games of chance are held. While the Control Commission does not consider such qualified organizations to be small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., due to their non-profit religious, fraternal, charitable or community/group service nature, the following analysis is provided in the event that any such organization may come within such Act's definition:

Qualified organizations wishing to conduct bingo or raffles are required to register with the Control Commission, as set forth under amended N.J.A.C. 13:47-2. Before conducting bingo, a raffle or other game of chance, a registered organization must apply for and obtain a license from the municipality in which the games are to be held, operated or conducted, in accordance with N.J.A.C. 13:47-3, as amended. License forms, fees and amendment procedures are set forth in N.J.A.C. 13:47-4 and 5, and at N.J.S.A. 5:8-24 et seq. and 5:8-50 et seq.

General requirements for the conduct of games are set forth in N.J.A.C. 13:47-6, including, for example, who is in charge, use of proceeds, compensation, license display, Control Commission inspection, player age limits and, as amended herein, frequency of games. Specific compliance requirements for the conduct of bingo and raffles are set forth in N.J.A.C. 13:47-7 and 8, respectively. Reporting requirements are specified in N.J.A.C. 13:47-9. N.J.A.C. 13:47-10 sets forth the process for suspension or revocation of license by the municipal governing body or the Control Commission; appeals from such suspensions or revocations are addressed in N.J.A.C. 13:47-11 and 12.

As the requirements imposed upon qualified organizations by these rules are administrative or game-conduct directed in nature, the Control Commission does not consider their capital cost to be significant, particularly in light of the positive economic impact on the organizations from the games activities. Whether professional services would need to be utilized by the qualified organizations in registering, obtaining licenses or conducting games depends upon the membership resources of each organization. In order to maintain the integrity and propriety of gaming operations, no exemptions or lesser requirements can be provided based upon the size of the qualified organization sponsoring the games.

The rules contained in subchapters 13 and 14 concerning raffles equipment lessors and commercial renters of premises for bingo may affect small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Pursuant to subchapter 13, raffles equipment lessors must file annually an application for Commission approval. In addition, within 48 hours after agreeing to supply equipment to a licensee, the lessor must file a letter certification with the Commission containing information about the lease. Twelve raffles equipment lessors are currently approved by the Commission.

Subchapter 14 places compliance requirements on all commercial renters receiving payment for the rental or use of premises for the conduct of bingo. Renters are required to file various statements and forms and to pay a one-time licensing fee of $100.00 plus a $5.00 fee for each occasion on which bingo games are held. Approximately 13 commercial renters are currently licensed by the Commission. Commercial renters must file with the Commission, at least 15 days prior to the date of any occupancy, a written agreement containing the rental terms and conditions. A statement of rental payment receipt, together with the required $5.00 fee, must be filed within 10 days of a rental payment receipt. Other requirements include maintenance for a two-year period of a complete set of books and records of receipts and disbursements; maintenance of a register of rental dates reserved; and notification of the Commission in the event of any change in the rentor's organizational structure. Compliance costs are, as a business expense, minimal, and it is unlikely that commercial renters would require professional services in order to comply with these requirements. In order to maintain the integrity and propriety of gaming operations, no differentiation in these compliance requirements can be made based upon business size.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:47.

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

SUBCHAPTER 1. DEFINITIONS

13:47-1.1 Words and phrases defined

The following words and terms, when used in this [Chapter] **chapter** shall have the following meanings, unless the context clearly indicates otherwise:

["Authorized purpose"—An educational, charitable, patriotic, religious or public-spirited purpose, which terms are defined to be the purpose of benefiting an indefinite number of persons either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering, or constraint, by assisting them to establish themselves in life, or by erecting or maintaining public buildings or works, or otherwise lessening the burden of government. Such terms do not include the erection, acquisition, improvement, maintenance or repair of property, real, personal, or mixed, unless such property is and shall be used exclusively for one or more of the purposes hereinabove stated.

"Authorized use"—The use of funds for an authorized purpose.

"Bingo"—A specific kind of game of chance played for prizes with cards bearing numbers or other designations five or more in one line, the holder covering numbers, as objects, similarly numbered, are drawn from a receptacle and the game being won by the person who first covers a previously designated arrangement of numbers on such card, by selling tickets or rights to participate in such games.

A "regular" bingo game is a game that is played with permanent cards.

A "special" bingo game is a game that is played with disposable cards which have consecutive numbers.

"Equipment"—The receptacle and numbered objects to be drawn from it, the master board upon which such objects are placed as drawn, the cards or sheets bearing numbers or other designations to be covered and the objects used to cover them, the boards or signs, however operated, used to announce or display the numbers or designations as they are drawn, public address systems, and all other articles essential to the operation, conduct and playing of bingo.

"Net proceeds"—The gross income received from all activities engaged in on an occasion when bingo is played, less only such actual expenses incurred as are authorized in the Bingo Licensing Law and the rules and regulations of this Chapter.

"Occasion"—A single gathering or session at which a series of successive bingo games is played not to exceed 35 in number.

"Control Commission"—The Legalized Games of Chance Control Commission.

"Goods, wares and merchandise"—Prizes, equipment as defined in this Section, chairs and tables, and articles of a minor nature such as pencils, crayons, tickets, envelopes, paper clips and coupons necessary to the conduct of games of chance.

"Person"—A natural person, firm, association, corporation or other legal entity.

"Qualified Organization"—A bona fide organization or association of veterans, religious congregration, religious organization, charitable organization, educational organization, fraternal organization, civic and service club, officially recognized volunteer fire company, officially recognized first aid squad, and officially recognized rescue squad, which if incorporated:

1. Is incorporated in New Jersey as a religious corporation or as an association not for pecuniary profit and is empowered by its articles of incorporation to further one or more of the authorized purposes; or, if unincorporated, is organized in New Jersey as a religious organization or as an organization not for pecuniary profit, has a membership of not less than 25 persons and is authorized by its written constitution, charter or by-laws, or by the written constitution, charter or by-laws, of a parent organization of which it is a part, to further one or more of the authorized purposes; and

2. Has actively engaged prior to its initial application for a license in serving one or more of the authorized purposes in this State; and

3. Has received and used and in good faith expects to continue to receive and use funds from sources other than the conducting of games of chance for the furtherance of an authorized purpose.

"Raffle"—A specific kind of game of chance played by drawing for prizes or the allotment of prizes by chance, by the selling of shares or tickets or rights to participate in such a game. Nothing contained in this Chapter shall be deemed to authorize as a raffle the playing for money or other valuable thing at roulette wheels, at cards, dice or other game, with one or more dice, having one or more figures or numbers, or at billiards, pool, tennis, bowls or shuffleboard, or A.B.C. or E.O. table, or other tables, or at faro bank, or other bank of a like nature by whatever name known; or with any slot machine or device in the nature of a slot machine, or with any other instrument, engine, apparatus or device having one or more figures or number thereon.

"Draw raffle"—A raffle in which the winners are determined by drawing from a container having therein counterparts of all tickets sold.

"Nondraw raffle"—Any raffle in which the winners are determined by any means other than drawing from a container having therein counterparts of all tickets sold.

The Control Commission shall maintain copies of a list of approved and authorized non-draw raffles. Copies may be obtained upon request for the same from the Control Commission.

"On-premise raffle"—One for which all tickets or shares are sold only to persons present at the place of the drawing, the winners determined, and the prizes awarded, on the occasion of the drawing.

"Off-premise raffle"—A draw raffle with respect to which any ticket is sold in advance of the occasion.

"Special door prize raffle"—A raffle for a door prize of donated merchandise of the value of less than $50.00 for which no extra charge is made at an assemblage to raise funds for authorized purposes and at which no other game of chance is held, operated or conducted.

"50-50 raffle"—A cash raffle conducted by a drawing with respect to which all tickets are sold only to persons present at the place of the drawing, at the time of the drawing, the winners determined, and the prizes awarded, on the occasion of the drawing with the prizes equaling 50 per cent of the total received for the tickets. This raffle is the only raffle for which the prize may be cash.

"Equipment"—Implements, devices and machines designed, intended or used for the conduct of raffles and the identification of the winning number or unit and the ticket or other evidence of rights to participate in raffles.

"Net proceeds"—The gross income from the sale of tickets or rights to participate in a raffle, whether sold in advance of the occasion or not, less only such actual expenses incurred as are authorized in the Raffles Licensing Law and this Chapter. In the case of a special door prize raffle "net proceeds" means the entire net income derived from the assemblage at which such raffle is held.

"Services rendered"—Repair to equipment and reasonable compensation to bookkeepers or accountants who assist by rendering their professional services for an amount conforming to the schedule of authorized fees fixed by this Chapter. (See Section 16.2, Schedule of Fees, "B", of this Chapter.) In the case of bingo "services rendered" also means rental of premises. (See Subchapter 14, Rental of Premises for Bingo, of this Chapter.) Where premises are not rented for a fee, "services rendered" may include a reasonable amount for janitorial service. In the case of raffles "services rendered" does not include rental of premises but does include rental of equipment for raffles, when rented from an approved person in an amount conforming to the schedule of authorized rates fixed by these rules. In the case of raffles "services rendered" shall not be an authorized expense unless rendered solely for the conduct of the raffle.]

"Authorized purpose" means an educational, charitable, patriotic, religious or public-spirited purpose, which terms are defined to be the purpose of benefiting an indefinite number of persons either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering, or constraint, by assisting them to establish themselves in life or by erecting or maintaining public buildings or works, or otherwise lessening the burden of government or, in the case of a senior citizen association or club, the support of such organization. Such terms do not include the erection, acquisition, improvement, maintenance or repair of property, real, personal or mixed, unless such property is and shall be used exclusively for one or more of the purposes hereinabove stated.

"Authorized use" means the use of funds for an authorized purpose.

"Bingo" means a specific kind of game of chance played for prizes with cards bearing numbers or other designations five or more in one line, the holder covering numbers, as objects, similarly numbered, are drawn from a receptacle and the game being won by the person who first covers a previously designated arrangement of numbers on such card, by selling tickets or rights to participate in such games.

"Bingo equipment" means the receptacle and numbered objects to be drawn from it, the master board upon which such objects are placed as drawn, the cards or sheets bearing numbers or other designations to be covered and the objects used to cover them, the boards or signs, however operated, used to announce or display the numbers or designations as they are drawn, public address systems, and all other articles essential to the operation, conduct and playing of bingo.

"Control Commission" means the Legalized Games of Chance Control Commission.

"Draw raffle" means a raffle in which the winners are determined by drawing from a container having therein counterparts of all tickets sold.

"Duck race raffle" means a variation of an off-premise draw raffle wherein a player is sold a ticket, share or right to participate. Game pieces representing all tickets, shares or rights to participate are released into a running waterway which has been barricaded in an acceptable form to create a gate which will permit the passage of only one game piece at a time. The winner is the holder of the ticket, share or right to participate on which is printed the number that corresponds with the number on the game piece that passes through the gate in the predetermined sequence required to win a particular prize.

"Goods, wares and merchandise" means prizes, equipment as defined in this section, chairs and tables, and articles of a minor nature such as pencils, crayons, tickets, envelopes, paper clips and coupons necessary to the conduct of games of chance.

"Merchandise" means any objects, wares, goods or commodities not specifically prohibited by this chapter.

"Net proceeds," as pertains to bingo, means the gross income received from all activities engaged in on an occasion when bingo is played, less only such actual expenses incurred as are authorized in the Bingo Licensing Law and this chapter.

"Net proceeds," as pertains to raffle, means the gross income from the sale of tickets or rights to participate in a raffle, whether sold in advance of the occasion or not, less only such actual expenses incurred as are authorized in the Raffles Licensing Law and this chapter. In the case of a special door prize raffle, "net proceeds" means the entire net income derived from the assemblage at which such raffle is held.

"Non-draw raffle" means a raffle conducted by means other than drawing from a container having therein the counterparts of all tickets or rights to participate, that is, any wheel or game approved

by the Control Commission to be licensed as an allotment of a prize(s) by chance.

"Occasion" means a single gathering or session at which a series of successive bingo games is played not to exceed 35 in number.

"Off-premise draw raffle" means a raffle conducted by a drawing, for a merchandise prize(s), with respect to which tickets may be sold in advance of the occasion of the drawing and the winner(s) need not be present to win.

"Off-premise 50-50 raffle" means a raffle conducted by a drawing for a cash or money prize or prizes with respect to which tickets may be sold in advance of the occasion of the drawing and the winner(s) need not be present to win, the prize or prizes equaling 50 percent of the amount received for all tickets or rights to participate.

"On-premise draw raffle" means a raffle conducted by a drawing for a merchandise prize or prizes, with respect to which all tickets are sold only to persons present at the place of the drawing, the winner(s) determined and the prize(s) awarded to a person or persons present at the drawing.

"On-premise 50-50 raffle" means a raffle conducted by a drawing for cash or money prizes with respect to which all tickets are sold only to persons present at the place of the drawing, the winner(s) determined and the prize(s) awarded equaling 50 percent of the amount received for all tickets or rights to participate.

"Person" means a natural person, firm, association, corporation or other legal entity.

"Playing board" means a board containing more than one playing card.

"Playing card" means a card bearing 24 numbers or other designations and a free space, upon which "Bingo" is played.

"Qualified organization" means a bona fide organization or association of veterans, religious congregation, religious organization, charitable organization, educational organization, fraternal organization, civic and service club, officially recognized volunteer fire company, officially recognized first aid squad, and officially recognized rescue squad, and senior citizens association or club which:

1. If incorporated, is incorporated in New Jersey as a religious corporation or as an association not for pecuniary profit and is empowered by its articles of incorporation to further one or more of the authorized purposes;

2. If unincorporated, is organized in New Jersey as a religious organization or as an organization not for pecuniary profit and is authorized by its written constitution, charter or by-laws, or by the written constitution, charter or by-laws of a parent organization of which it is a part, to further one or more of the authorized purposes;

3. Has a membership of not less than 25 persons;

4. Has actively engaged prior to its initial application for registration in serving one or more of the authorized purposes in this State for a period of not less than one year; and

5. Has received and used and in good faith expects to continue to receive and use funds from sources other than the conducting of games of chance for the furtherance of an authorized purpose.

"Raffle" means a specific kind of game of chance played by drawing for prizes or the allotment of prizes by chance, by the selling of shares or tickets or rights to participate in such a game. Nothing contained in this chapter shall be deemed to authorize as a raffle the playing for money or other valuable thing at roulette wheels, at cards, dice or other game, with one or more dice, having one or more figures or numbers, or at billiards, pool, tennis, bowls or shuffleboard, or A.B.C. or E.O. table, or other tables, or at faro bank, or other bank of a like nature by whatever name known; or with any slot machine or device in the nature of a slot machine, or with any other instrument, engine, apparatus or device having one or more figures or number thereon.

"Raffle equipment" means implements, devices and machines designed, intended or used for the conduct of raffles and the identification of the winning number or unit and the ticket or other evidence of rights to participate in raffles.

"Regular bingo game"means a game in which a player is entitled to participate without additional charge, upon payment of the charge for admission to the room or place where the game is played.

"Senior citizens association or club" means an association or club that is formed and is functioning as an organization not for profit to the benefit of its membership in general and is comprised predominantly of persons who are at least 62 years of age.

" 'Special' bingo game" means a game that is played in addition to a "regular" bingo game, for which a player must pay a charge in addition to the charge for admission to the room or place where the game is played. A "special" game must be played on a non-reusable card that is indelibly marked.

"Special door prize raffle" means a raffle for a door prize(s) of donated merchandise, the total retail value of which shall not exceed $50.00, for which no extra charge is made, at an assemblage where no other game of chance is held, operated or conducted, and the net proceeds of which are devoted to an authorized purpose.

"Services rendered" means repair to equipment and reasonable compensation to bookkeepers or accountants who assist by rendering their professional services for an amount conforming to the schedule of authorized fees fixed by this chapter (see N.J.A.C. 13:47-16.2, Schedule of Fees, "B"). In the case of bingo "services rendered" also means rental of premises (see N.J.A.C. 13:47-14, Rental of Premises for Bingo). Where premises are not rented for a fee, "services rendered" may include a reasonable amount for janitorial service. In the case of raffles, "services rendered" does not include rental of premises but does include rental of equipment for raffles, when rented from an approved person in an amount conforming to the schedule of authorized rates fixed by these rules. In the case of raffles, "services rendered" shall not be an authorized expense unless rendered solely for the conduct of the raffle.

13:47-2.3 Copies of form

[Upon the request of any organization, accompanied by a self-addressed, stamped envelope, the Secretary shall provide two copies of Form 1-A. The organization shall complete and file both copies with the Secretary.]

(a) Each organization requesting registration shall submit a written request signed by an officer together with sufficient proof of eligibility for registration. Such proofs shall include at least:

1. The by-laws and constitution or any other written authority under which the applicant organization operates;

2. A detailed financial summary, showing all sources and amounts of income and expenditures, including the amounts, recipients and the purpose for which the expended funds were used, for a period of not less than one year from the date of application;

3. A complete list of the organization's members, including the name, address and age of each member; and

4. If incorporated, a copy of the applicant organization's articles of incorporation which have been filed with the Secretary of State of New Jersey.

(b) The Control Commission, when provided with all information required by this section and upon its considered review of such qualifying information, and being satisfied that the applicant organization is a qualified organization, shall direct the Secretary to provide two copies of Form 1-A to the applicant organization. The applicant organization shall complete and file both copies with the Secretary. The Secretary shall assign an identification number to the organization and affix that number to both copies of Form 1-A. The Secretary shall retain one copy and return the other copy to the organization.

13:47-2.5 [Evidence of eligibility] **Municipal approval**

[Neither registration nor the assignment of an identification number shall constitute, or be any evidence of, the eligibility of any organization to receive a license for, or to conduct, any legalized game of chance.]

Neither registration nor the assignment of an identification number shall entitle any organization to hold, operate or conduct, or assist in the holding, operating or conducting of, any game or games of chance without the approval of the governing body of the municipality in which the game or games are to be held, operated or conducted.

13:47-2.9 License to conduct games of chance

[Every] **No registered** organization [having secured an identification number] shall [not] conduct [a] bingo, any type of raffle, [except a special door prize raffle,] or other forms of games of chance, **except a special door prize raffle,** without [also] having **first** obtained a license to conduct the same **from the municipality in which the game or games are to be held, operated or conducted.** [Every] **No registered** organization [having secured an identification number] shall [not] conduct any unauthorized raffle or game of chance.

13:47-3.1 Bingo license application form; certificate for rented premises

Applications for bingo licenses shall be made on Form 2B-A, which is hereby adopted. Where premises are to be rented, a certificate of the landlord shall be obtained **from the landlord** and attached to the application, such certificate to be on Form 10-A which is hereby adopted.

13:47-3.2 Raffles license application form; certificate for leased equipment

Applications for raffles licenses shall be made on Form 2R-A, which is hereby adopted. Where raffles equipment is to be leased, a certificate of the lessor shall be obtained **from the raffle equipment supplier** and attached to the application, such certificate to be Form 13 which is hereby adopted.

13:47-3.6 Separate application and license

[(a) With the exception of a special door prize raffle for which no license is required (See N.J.S.A. 5:8-51; See Sections 3.11, Notice to clerk, and 8.14, Special door-prize raffle, of this Chapter), a separate application and license shall be used for each of the following kinds of raffles and shall, in each instance, specify the particular kind of raffle:

1. On-premise draw raffle with prizes wholly donated;
2. On-premise cash raffle (prizes must be equal to 50 per cent of total received for tickets or rights to participate in the drawing);
3. All other draw raffles;
4. Nondraw raffles (number of raffles and type must be specified in detail).]

(a) A separate application and license shall be used for each of the following types of raffles and shall in each instance specify the particular type of raffle as follows:

1. On-premise draw raffle;
2. On-premise 50/50 raffle;
3. Off-premise draw raffle;
4. Non-draw raffle; and
5. Off-premise 50/50 raffle.

(b) In the case of a special door prize raffle, see N.J.A.C. 13:47-3.11, Notice to clerk, and N.J.A.C. 13:47-8.4, Special door-prize raffle.

13:47-4.9 Fees payable by law

(a) The fees payable by law are:

1. Bingo: [$5.00] **$10.00** for each occasion on which any game or games of bingo are to be conducted under the license. **Five dollars of the fee shall be remitted to the municipality in which the application is filed and the remaining $5.00 for each such occasion shall be forwarded to the Control Commission by check payable to the Treasurer of the State of New Jersey;**

2. On-premise draw raffle **for cash (50/50) or merchandise prizes**: $5.00 for each day on which [the same] **a drawing** is to be conducted under the license, **payable to the municipality in which the application is filed;**

3. Non-draw raffle: $5.00 for all **non-draw** raffles concurrently held on any one day, or any series of consecutive days not exceeding six in any one week at one location, **payable to the municipality in which the application is filed;**

4. Off-premise draw raffle **for merchandise prizes**: $5.00 for each [$1,000.00 of retail value of the prizes to be awarded or any part thereof] **day on which a drawing is to be conducted under the license, payable to the municipality in which the application is filed, plus $10.00 for each $1,000 or part thereof of the retail value of the prize or prizes. Five dollars of the latter fee shall be remitted to the municipality in which the application is filed and the remaining $5.00 for each $1,000, or part thereof, of retail value of the prize or prizes shall be forwarded to the Control Commission by check payable to the Treasurer of the State of New Jersey;**

[5. Special door prize raffle for under $50.00 value of merchandise and for which no license is required: no fee is payable.]

5. Off-premise cash (50/50) raffle: $5.00 for each day on which a drawing is to be conducted under the license, payable to the municipality in which the application is filed;

6. Special door prize raffle: no fee is payable and no license is required, provided the merchandise is wholly donated, has a total retail value of less than $50.00, and the raffle is conducted in accordance with N.J.A.C. 13:47-3.11 and 8.14.

13:47-6.11 [Time limitation] **Frequency of games**

[No organization may hold, operate or conduct bingo more often than six days in any calendar month and no organization may hold, operate or conduct raffles more than six days in any calendar month.]

(a) No organization shall conduct any game(s) of chance more often than as set forth in this section:

1. Bingo shall not be conducted more often than six days in any calendar month.

2. On-premise draw raffles awarding either cash or merchandise as prizes shall not be conducted more often than six days in any calendar month.

3. Off-premise draw raffles awarding merchandise prizes shall not be conducted more often than six days in any calendar month.

4. Non-draw raffles (wheels and games) shall not be conducted more often than six days in any calendar month.

5. Off-premise 50/50 cash draw raffles shall not be conducted more often than once in any calendar month.

(b) Only the day upon which a drawing or allotment of prizes takes place shall be considered when determining the frequency of games prescribed by this section.

13:47-6.19 Prohibited prizes[[1]]

(a) No licensee shall offer[, distribute or give] **or award** any prize consisting of real estate of an interest therein, bonds, shares of stock, securities or evidences of indebtedness, weapons, live animals, personal **or professional** services, **alcoholic beverages, foreign or domestic coins,** or any merchandise refundable in any of the foregoing or in money or cash.

(b) No prize consisting of cash or money may be offered or awarded except in the case of:

1. A raffle conducted by a drawing with the prize(s) equaling 50 per cent of the amount received for all tickets or right to participate; or

2. Any bingo game(s) conducted in accordance with the provisions of this chapter and the Bingo Licensing Law, N.J.S.A. 5:8-24 et seq.

[[1]Alcoholic beverages may not be awarded as a prize. See ruling of Director of Alcoholic Beverage Control, dated May 25, 1954, Bulletin 1017, Page 12.]

13:47-7.7 Notice

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

(d) The notice shall also bear the statement "no tipping of bingo workers."

13:47-7.8 Person conducting bingo; restriction

No licensee shall permit any person to engage in the conduct of bingo for it or on its behalf who has engaged in the conduct of bingo for or on behalf of any [other] **unaffiliated** licensee during the same calendar year.

13:47-7.9 Equipment; general operation of bingo

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

(d) [Each number shall be announced as soon as the object is drawn from the receptacle and all numbers shall be announced so as to be visible or audible to all players present.] **Objects shall not be drawn from the receptacle until the caller is ready to announce the number on the object. Numbers on objects drawn from the receptacle shall not be announced if a player declares bingo prior to the caller starting vocally to make the announcement. Numbers**

on the objects drawn from the receptacle shall be announced so as to be visible or audible to all players.

(e) [The card or sheets of the players shall be part of a deck, group or series of cards, no two of which shall be alike and which deck, group or series shall not be so prepared or arranged as to prefer any card.] **The card used by the player shall be part of a deck, group or series of cards, no two of which shall contain the same number pattern. No deck, group or series of cards shall be prepared or arranged as to prefer any card.**

(f) All cards shall be sold for a uniform unit price without any discount or allowance for the purchase of more than one card.

13:47-7.11 Arrangement of numbers; limitations; **required notice**

[(a) No arrangement of numbers shall be required to be covered in order to win the game other than the following:

1. One unspecified horizontal row;
2. One unspecified vertical row;
3. One unspecified full diagonal row;
4. One unspecified row (horizontal, vertical or diagonal);
5. Two or more of the foregoing, forming a specified arrangement;
6. The entire card;
7. Four corners;
8. Eight spaces surrounding the free space.]

(a) The licensee shall describe and illustrate in the application for license the arrangement of numbers required to be covered in order to win each game.

(b) No arrangement of numbers shall require a player to cover fewer than four numbers on any one card.

(c) No arrangement of numbers shall require the use of more than four cards.

(d) An illustration of the arrangement of numbers required to win the game must be clearly visible to all players during the conduct of the game.

13:47-8.3 Amount of prize limitation

(a) No prize having a retail value greater than that set forth in this section shall be offered or awarded in any raffle.

[(a)]**(b)** The aggregate retail value of all prizes to be offered [and given] **or awarded** by a licensee in [Raffles] **raffles** in any one calendar year shall not exceed [$5,000.00, but in lieu thereof there may be offered and given one article of merchandise having a retail value in excess of $5,000.00] **$50,000 except that in the case of licensees having one or more auxiliary organizations, the principal licensee shall not offer or award prizes having a total retail value in excess of $25,000 and the auxiliary licensee shall not offer or award prizes having a total retail value in excess of $25,000.**

[(b) Cash prizes may not be offered or given except in an on-premise draw raffle where the prizes equal 50 per cent of the total received for the tickets and rights to participate in the drawing.]

(c) In lieu of the limits set forth in (a) above, a licensee may offer or award as a prize one article of merchandise having a retail value in excess of the applicable limits. Any licensee that avails itself of this option shall not be permitted to conduct any other raffle subject to the limits herein prescribed in the same calendar year.

[(c)]**(d)** The limit of the aggregate **retail** value of prizes which may be awarded in any one calendar year shall not apply to on-premise draw raffles where all of the prizes are wholly donated, nor [to cash raffles provided for in subsection (b) of this Section] **shall it apply to any on-premise 50/50 cash raffle.**

(d) No prize having a retail value greater than [$15.00] **$250.00** shall be **offered or** awarded in [any raffle not conducted by a drawing for each spin of the wheel or other allotment by chance] **a non-draw raffle**.

13:47-8.7 Contents of ticket; off-premise raffle **awarding merchandise as a prize**

(a) When tickets are sold for an off-premise raffle **awarding merchandise as a prize**, each ticket shall contain at least the following [statements] **information**:

1. Name **and identification number** of the qualified organization and number of the license issued for the occasion;

2.-6. (No change.)

7. **The statement:** "No substitution of the offered prize may be made and no cash will be given in lieu of the prize."

(b) (No change.)

(c) The stub or counterpart of each ticket shall bear the name and address of the holder, **the number of the ticket, the raffle license number issued for the occasion and the identification number of the licensed organization.**

(d) All information required by (a), (b) and (c) above shall be clearly and conspicuously set forth on the face of the ticket.

13:47-8.8 Contents of ticket; off-premise raffle awarding cash or money as a prize

(a) When tickets are sold for an off-premise raffle awarding cash or money as a prize, each ticket shall contain at least the following information:

1. Name and identification number of the qualified organization and number of the license issued for the occasion;

2. Place where the occasion will be held and the date and time thereof;

3. The statement: "This is a 50/50 cash raffle and the winner will receive 50 percent of the amount received for all tickets or rights to participate";

4. If the prize pool is to be divided among multiple winners, the ticket must indicate the percentage of the prize pool that each winner will receive;

5. The number of the ticket;

6. Price of the ticket;

7. The purpose to which the entire net proceeds will be devoted; and

8. The statement: "No substitution of the offered prize may be made."

(b) The presence of the holder of a ticket shall not be required in order to win unless the ticket bears the statement "NOT VALID UNLESS HOLDER IS PRESENT AT THE DRAWING."

(c) The stub or counterpart of each ticket shall bear the name and address of the holder, the number of the ticket, the raffle license number issued for the occasion and the identification number of the licensed organization.

(d) All information required by (a), (b) and (c) above shall be clearly and conspicuously set forth on the face of the ticket.

Recodify existing N.J.A.C. 13:47-8.8 to 8.15 as **8.9 to 8.16** (No change in text.)

13:47-8.17 Conduct of "duck race" raffle

(a) Equipment for the conduct of a duck race raffle must be used in accordance with N.J.A.C. 13:47-8.13.

(b) Each player must be provided with a ticket printed in accordance with N.J.A.C. 13:47-8.7. Tickets may be represented by the actual duck shaped objects used for the conduct of the race.

(c) Each object used for the conduct of the race shall be equal as to size, weight, shape and balance and as to all other characteristics that may control its selection.

(d) Each object used for the conduct of the race shall bear the name and identification number of the licensee and the license number issued for the occasion.

(e) Live animals may not be used in the conduct of the race.

(f) In the event a race for which tickets have been sold cannot be conducted, the winner(s) shall be determined by drawing from a container having in it the stub or counterpart of all tickets sold, and prize(s) shall be awarded at the time and place indicated on the license.

SUBCHAPTER 12. APPEALS: HEARINGS AND DISPOSITION

13:47-12.1 Date and place

Upon receipt of the Counterstatement of Appeal, **the matter shall be transmitted to the Office of Administrative Law or scheduled for hearing before the Control Commission. Such hearing shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14-1 et seq. and 52:14F-1 et seq. and Uniform Administrative Procedure Rules, N.J.A.C. 1:1.** [the Secretary of the Control Commission shall notify the parties of the date and place fixed for hearing the appeal, and shall request each party to indicate to him and to each other, within five days, whether the appeal is desired on the appeal papers alone, or whether oral argument is desired, or whether any party desires to cross-examine any person making an affidavit on which another party relies, and the names of such persons.]

13:47-12.2 [Duty to produce witness] **(Reserved)**

[Whenever any person making an affidavit is designated to be cross-examined at the hearing on appeal, the party relying on his affidavit shall produce the witness at the hearing, and in default thereof, the affidavit shall not be considered on the appeal.]

13:47-12.3 [Additional witnesses] **(Reserved)**

[The Control Commission may, upon application of any party, for good cause shown allow the production at the hearing of additional witnesses and evidence in support of any facts material to the determination of the appeal.]

13:47-12.4 [Subpoenas] **(Reserved)**

[At the request of any party to an appeal, and for proper cause stated in the request, the Chairman of the Control Commission shall issue subpoenas for the attendance of witnesses and the production of books, records, and other documents.]

13:47-12.5 through 13:47-12.8 (No change in text.)

(a)

DIVISION OF CONSUMER AFFAIRS
OFFICE OF WEIGHTS AND MEASURES

Notice of Request for Informal Public Input
Magnitude of Allowable Variations (MAVs) for Commodities in Package Form
N.J.A.C. 13:47K-5.2

Authorized By: William J. Wolfe, State Superintendent, Office of Weights and Measures.

Authority: N.J.S.A. 51:1-29a and b.

Take notice that the State Superintendent of Weights and Measures, pursuant to N.J.A.C. 1:30-3.2(a), is soliciting comments with respect to evaluating N.J.A.C. 13:47K-5.2, the magnitude of allowable variations (MAVs) for commodities in package form. The current rule has been in effect for one year and the Superintendent wishes to evaluate the impact of this rule on New Jersey consumers and affected businesses.

The National Institute of Standards and Technology (NIST) within the United States Department of Commerce is responsible for encouraging the states to adopt uniform laws and inspection standards. In 1985 NIST adopted the standards contained in a publication known as Handbook 133. Over 41 states including New Jersey have since adopted in whole or in part the standards contained in this document. New Jersey's rules became effective on September 17, 1990. The current rule replaced MAVs which permitted far less variation.

In January of 1992, regulations promulgated by the U.S.D.A. will preempt state MAVs with those in Handbook 133 for meat and poultry. The preemption is limited to meat and poultry packaged and labeled as to net weight in a Federally inspected plant.

At the same time that NIST has been encouraging states to adopt the tolerances in Handbook 133, technological advances have made it possible to police the marketplace effectively and efficiently. Both industry and enforcement agencies have greater ability to establish, maintain and evaluate standardized packaging tolerances than in the past.

The Superintendent has decided to analyze the costs and benefits of the new MAVs to determine whether the current tolerances should be continued or tightened. Comments from all interested parties are welcome.

Interested persons may submit written comments, suggestions or ideas concerning the above to the State Superintendent by January 2, 1992.

Comments should be addressed to:

State Superintendent William J. Wolfe
State Office of Weights and Measures
1261 Routes 1 and 9 S
Avenel, NJ 07001

The issues will also be discussed at a **public hearing** to be held on January 23, 1992 at 10:00 A.M. at:

Hughes Justice Complex
25 Market Street
Trenton, New Jersey 08625
A-1, 4th Floor Conference Center

Interested persons who wish to provide comment at the public hearing should so advise the State Superintendent, in writing, by January 2, 1992, at the State Office of Weights and Measures, 1261 Routes 1 and 9 S, Avenel, NJ 07001.

This is a Notice of Request for Informal Public Input (see N.J.A.C. 1:30-3.2(a)). Any rule proposal which may result concerning the subject of this public hearing must still comply with the rulemaking provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., as implemented by the Office of Administrative Law Rules for Agency Rulemaking, N.J.A.C. 1:30.

TRANSPORTATION

(b)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS

Restricted Parking and Stopping
Route U.S. 1 and 9 (Truck) in Hudson County
Proposed Amendment: N.J.A.C. 16:28A-1.106

Authorized By: Richard C. Dube, Director, Division of Traffic Engineering and Local Aid.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, and 39:4-198.

Proposal Number: PRN 1991-576.

Submit comments by January 1, 1992 to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
Bureau of Policy and Legislative Analysis
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625
(609) 530-2041

The agency proposal follows:

Summary

The proposed amendment will establish a "no stopping or standing" zone along U.S. 1 and 9 (Truck) in the Town of Kearny, Hudson County, for the efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon request from the local government in the interest of safety, and as part of a review of current conditions, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of a "no stopping or standing" zone along Route U.S. 1 and 9 (Truck) in Hudson County was warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.106 based upon the request from local government, and the traffic investigation.

Additionally, the rule has been recodified to indicate municipalities within counties.

Social Impact

The proposed amendment will establish a "no stopping or standing" zone along Route U.S. 1 and 9 (Truck) in the Town of Kearny, Hudson County, for the efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local government will incur direct and indirect costs for mileage, personnel and equipment requirements. The local government will bear the costs for the installation of "no stopping or standing" zone signs. The cost of signs varies based upon their size, materials used and the method of procurement. Motorists who violate the rules will be assessed the appropriate fine as established by N.J.S.A. 39 and the State of New Jersey "Statewide Violations Bureau Schedule," issued under New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

The proposed amendment does not place any reporting, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rule primarily affects the motoring public and governmental entities responsible for enforcement of the rules.

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

16:28A-1.106 Truck Route U.S. 1 and 9

(a) The certain parts of State highway Truck Route U.S. 1 and 9, which runs from milepost 51 to milepost 54.5 (approximately 4.14 miles), below the Pulaski Skyway, [described in this section] **which are described in this subsection** shall be designated and established as "no [parking] **stopping or standing**" zones where stopping or standing is prohibited at all times [except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in the City of Jersey City, Hudson County:

i. Along both sides of Truck route U.S. 1 and 9:

(1) For] **for** the entire length, including all ramps and connections under the jurisdiction of the Commissioner of Transportation:

1. Within the corporate limits of:

i. The Town of Kearny, Hudson County; and

ii. The City of Jersey City, Hudson County.

RULE ADOPTIONS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Notice of Administrative Change
Special Hearing Rules
Board of Public Utility Hearings

N.J.A.C. 1:14

Take notice that pursuant to Executive Order No. 38(1991), the title "Board of Regulatory Commissioners" must be used when referring to the newly reorganized Board of Public Utilities. Therefore, all references in N.J.A.C. 1:14 to the Board of Public Utilities has been changed to refer instead to the Board of Regulatory Commissioners. These changes will be reflected in the December 16, 1991 update to the New Jersey Administrative Code.

This notice of administrative change is published pursuant to N.J.A.C. 1:30-2.7.

ENVIRONMENTAL PROTECTION AND ENERGY

(b)

ENVIRONMENTAL CLAIMS ADMINISTRATION

Continued Suspension of Claims Against Sanitary Landfill Facility Contingency Fund

Adopted Amendment: N.J.A.C. 7:1I-3.3

Proposed: December 17, 1990, at 22 N.J.R. 3675(a).
Adopted: November 4, 1991, by Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.
Filed: November 6, 1991 as R.1991 d.582, **without change.**
Authority: N.J.S.A. 13:1B-3, 13:1D-9, 13:1E-100 et seq., particularly N.J.S.A. 13:1E-106 and 13:1E-114.
DEP Docket Number: 040-90-11.
Effective Date: December 2, 1991.
Expiration Date: July 18, 1993.

Summary of Public Comments and Agency Responses:

On December 17, 1990, the Department of Environmental Protection (Department) proposed amendments to N.J.A.C. 7:1I-3.3. The amendments continue the suspension of claims against the Sanitary Landfill Facility Contingency Fund for diminution of property value. Absent the amendment, suspended claims would have been reinstated automatically on December 1, 1990; the Department intends to apply the amendment retroactively to December 1, 1990, to avoid that automatic reinstatement. In response to the proposed amendments, the Department received comments from the following persons:

Kenneth Bubser
Joseph Bucola
Citizens for Equity (a non-profit organization representing 255 families in Gloucester Township in proximity to GEMS Landfill)
Grace Hopkins
L. Kathleen Romero
Melanie Sullivan

The period to submit comments on the proposal ended on January 16, 1991. A summary of the comments, and the Department's responses follows:

COMMENT: As a preface to its comments, Citizens for Equity ("CFE") noted that its comments on the amendment should in no way be misinterpreted as any endorsement of the Department's existing rules concerning the Sanitary Landfill Contingency Fund. CFE also noted that since it is a party to pending litigation concerning those rules, it does not endorse or oppose the proposed extension of the suspension period, but only acknowledges the existence of the proposal.

RESPONSE: The Department has considered CFE's comments in light of these statements.

COMMENT: CFE expressed concern and alarm over what it called the "carte blanche discretionary power" afforded the Department under N.J.A.C. 7:1I-3.3(f) and (g), to reactivate claims and to extend the suspension period.

RESPONSE: The Department has no discretion under N.J.A.C. 7:1I-3.3(g) to continue the suspension of a claim if the claimant desires to reinstate it; under N.J.A.C. 7:1I-3.3(d)i, a claimant can end the suspension and reinstate his or her claim at any time, upon written notice to the Department. The Department's discretion to reactivate claims under subsection (f) is also limited, since it can be exercised only upon the conclusion of litigation between the claimant and persons alleged to be responsible for the claimant's damages.

COMMENT: CFE urged the Department to delay the adoption of the amendment, and informally discuss the matter with CFE to provide it with an opportunity to submit its views beyond the written response.

RESPONSE: In response to CFE's request, the Department met with representatives of CFE. In the Department's discussion with CFE, CFE raised no issues regarding the amendments which are the subject of this adoption, other than those which were already set forth in CFE's written comments. The Department recognizes CFE's strong interest in the rules governing property value diminution of claims generally, inasmuch as CFE is a party to pending litigation challenging those rules, and considering the large number of homeowners represented by CFE who are asserting such claims. The Department also recognizes that no action or lack of action taken by CFE concerning the amendments which are the subject of this adoption should be interpreted as prejudicing CFE's position in the ongoing litigation.

COMMENT: CFE commented that the Department's explanation of the factual circumstances making continued suspension necessary are inconsistent with positions which the Department has previously taken. CFE disagreed with the following statement in the Summary portion of the proposal: "The Department originally had found that the suspension was necessary to allow time for completion of remediation and of pending legal actions against allegedly responsible parties; orderly processing of claims is difficult while such activities are in progress." In support of its position, CFE cites a certification by the Administrator of the Environmental Claims Administration. The cited portion of the certification concerned a suspension of processing of claims alleged to have occurred before the existing rules (the "1988 rules") were adopted in 1988.

RESPONSE: The original proposal of the 1988 rules did not expressly state all of the reasons behind the original two-year suspension of claims. The proposal of this amendment was more comprehensive and explicit in explaining that reasoning. By doing so, the Department has not made any statement in conflict with the original proposal. In addition, the portion of the Administrator's certification cited by CFE concerns the period before the adoption of the 1988 rules, and therefore sheds no light upon the option afforded claimants to suspend their own claims under the 1988 rules.

COMMENT: CFE comments that it sees no connection between the continuing remediation of a landfill and the processing of claims, and no factual basis for such a connection. CFE states that the expiration of the suspension claims should not be linked to the completion of the construction phase of the landfill remediation.

RESPONSE: After the remediation of a landfill has been completed, it is more likely that the effect of the landfill upon property values will be reduced or eliminated. As a result, the Department expects that at that time many claimants may decide not to sell their homes, and withdraw their claims. Accordingly, if claims remain suspended until the remediation is completed, the claims process should cause less disruption of the lives of claimants. No claimant will be required to wait until remediation is complete before pursuing a claim, because he or she can reinstate the claim immediately upon written notice to the Department.

COMMENT: CFE asks whether its current litigation concerning the 1988 rules is sufficient justification to continue the suspension, though CFE has taken no legal action against persons alleged to be responsible for the damages claimed by its members.

RESPONSE: The litigation over the 1988 rules does not, by itself, require suspension of any claims. However, the ongoing remediation of GEMS landfill and other ongoing litigation with the alleged responsible parties will be the basis for a continued suspension, though any claimant may end that suspension and reinstate the claim upon written notice to the Department.

COMMENT: CFE states that the extension of the suspension period indicates that the Department remains inflexible in requiring that claimants first offer their properties for sale in order to be eligible for compensation. CFE continues to disagree that claimants should be required to offer their properties for sale in order to be eligible for compensation.

RESPONSE: The proposed amendment does not affect the eligibility requirements of N.J.A.C. 7:1I-3.

COMMENT: CFE disagrees with the Department's conclusion that claims can be processed with less disruption to the claimants' lives after litigation between the claimants and alleged responsible parties is complete.

RESPONSE: After the conclusion of litigation between the claimant and alleged responsible parties, the claimant should be better able to determine whether it is necessary to pursue a claim against the Fund for property value diminution. If the claimant determines that it is unnecessary, no sale of the claimant's home would be necessary, resulting in less disruption of the claimant's life.

COMMENT: CFE notes that when the Department adopted the 1988 rules, it stated that allowing suspensions for any longer than two years "would not create any better conditions for claimant's decision making and could inhibit accurate substantiation of claims because of the lapse of time." CFE asks why the Department has changed this position by proposing to extend the suspension period.

RESPONSE: In its experience applying the 1988 rules, the Department has learned that the lapse of time during the suspension of a claim has not materially inhibited accurate substantiation of the claim. The Department's belief that suspension for more than two years would not create better conditions for the claimant's decision making was primarily based upon the expectation that Phase I of the GEMS landfill remediation and litigation with persons alleged to be responsible for the GEMS claimants' damages both would be complete by the end of the original suspension period. Neither Phase I nor the litigation is complete. Accordingly, the circumstances which made the suspension necessary originally are still present; the Department's original estimate of the time in which those circumstances would end was too optimistic.

COMMENT: CFE asks why the extension of the proposed suspension period is necessary in light of the circumstances of the individual claimants it represents.

RESPONSE: After the remediation of GEMS landfill is complete, it is more likely that the effect of the landfill upon property values will be reduced or eliminated. As a result, the Department expects that at that time many claimants will be able to withdraw their claims and decide not to sell their homes. Accordingly, if claims remain suspended until the remediation is completed, the claims process should cause less disruption of the lives of claimants. However, if any claimant which CFE represents disagrees with this evaluation, that claimant can reinstate the claim upon written notice to the Department.

COMMENT: One homeowner located near a landfill commented that claims have not been processed in a quick and fair manner.

RESPONSE: The comment is outside the scope of the amendment, which does not affect the manner of processing claims. The Environmental Claims Administration has contacted the commenter to discuss the processing of her claim.

COMMENT: Several claimants notified the Department of their desire to reactivate their claims, or to continue the suspension of their claims.

RESPONSE: The Department has reactivated those claims for which it has received written notice that the claimant desires reactivation. If the claimant has stated his or her desire to continue the suspension, or if the claimant has taken no action at all to reactivate the claim, the claim will remain suspended.

Full text of the adoption follows.

7:1I-3.3 Criteria for claims based on real property value diminution damage

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

(c) The Department shall notify each claimant who filed a claim before March 7, 1988 of the requirements of this chapter. Such claimants shall then have 60 days from receipt of such notice to inform the Department, by certified mail return receipt requested, of their intent to pursue their claim for property value diminution pursuant to this chapter, immediately request that the claim be suspended or to withdraw that claim for those damages. If a claimant requests suspension of their claim, the claimant may at any time during the period of suspension, request reactivation of the claim. At the end of the suspension period provided in (d) below, the claim will be automatically reactivated, unless the claimant has previously withdrawn the claim. Priority status of reactivated claims will be established based on the date of receipt of the reactivation request.

(d) All claims suspended pursuant to (c) above will remain in suspension until one of the following occurs:

i. The Department receives written notice for the claimant, stating that the claimant desires to reinstate the claim; or

ii. The claimant receives written notice from the Department, stating that the construction phase of the landfill remediation has been completed to the satisfaction of the Department.

(e) Notices provided in (d)i and ii above shall be sent by certified mail, return receipt requested, or by other means which provide a receipt for delivery.

(f) The Department may, in its discretion, reactivate a claim upon the conclusion of litigation between the claimant and parties allegedly responsible for the damages which are the subject of the claim, which litigation concerns such damages. For the purpose of this subsection (f), litigation shall be deemed to have concluded upon the occurrence of any of the following: a complete settlement of the litigation; or the entry of a judgment or order completely resolving the litigation, followed by the expiration of time allotted to appeal or otherwise challenge such judgment or order.

(g) The Department may, in its discretion, extend the suspension period set forth in (d) above, or again suspend claims reactivated automatically under (d) above or by the Department's action under (f) above. The Department shall notify all affected claimants of such an extension or re-suspension, either by certified mail, return receipt requested, or by notice published in the New Jersey Register.

Recodify existing (d)-(f) as (h)-(j) (No change in text.)

HEALTH

(a)

HEALTH FACILITIES RATE SETTING

Standard Hospital Accounting and Rate Evaluation (SHARE) Manual Cost Accounting and Rate Evaluation Guidelines

Adopted Amendments: N.J.A.C. 8:31A-1.1, 2.6, 7.4, 7.5 and Appendix A

Proposed: August 5, 1991 at 23 N.J.R. 2242(a).

Adopted: October 31, 1991 by Frances J. Dunston, M.D., M.P.H., Commissioner, Department of Health (with approval of the Health Care Administration Board).

Filed: November 6, 1991 as R.1991 d.580, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3), **and with portions not adopted (8:31A, Appendix D).**

Authority: N.J.S.A. 26:2H-1 et seq.

Effective Date: December 2, 1991.

Operative Date: January 1, 1992.

Expiration Date: February 20, 1995.

AGENCY NOTE: Please note that Appendix A, Cost Center Record, incorrectly printed at 23 N.J.R. 2244, is part of this rule.

Summary of Public Comments and Agency Responses:

COMMENTERS: Matheny School Hospital, Children's Specialized Hospital.

COMMENT: The commenters object to the use of patient admissions rather than patient days as the statistical unit of service to measure costs in the Other Physical Medicine and Psychology cost center. For hospitals providing lengthy stays, the use of admissions would constantly put them in an overspending challenge in this center. Also, there is a wide diversity in the types of patients that are treated. The hospitals believe it would be unreasonable and statistically incorrect to base peer comparison calculations on a unit of measure which could represent a length of stay from a few days to a number of months.

RESPONSE: The Department agrees with the commenters and the statistical unit of service in OPPM will remain as patient days, as reflected in adopted Appendix A.

COMMENTER: Children's Specialized Hospital.

COMMENT: There is no indication in the proposed amendments for the prior funding sources for the Department of Health administrative costs. Also, the hospital takes exception to the statement that "The implementation of a fee to be added to the per diem rate will have no direct, immediate economic impact on the consumer or the provider." The taxpayers, who are also consumers of health care, will have to pay for Medicaid, while Blue Cross would have to increase their rates.

RESPONSE: After further analysis and decision, the Department has decided to withdraw this issue from consideration, and is, accordingly, deleting N.J.A.C. 8:31A-1.1(d) on adoption, as well as proposed Appendix D.

COMMENTER: Children's Specialized Hospital.

COMMENT: The hospital takes exception to the proposed change to use Non-Physician Hours as the statistical unit for the Education and Research (EDR) cost center. Since this is a Level III cost center and treated as a pass-through cost, the hospital finds the change confusing as to how the Department intends to utilize the statistic.

RESPONSE: Non-Physician hours will be used as the unit of service in comparing unit costs among SHARE peers as a screen for reasonableness. Hospitals may utilize the appeal process to address uniqueness.

Summary of Agency-Initiated Changes:

The Department has made changes to N.J.A.C. 8:31A-7.5(c) to conform the text to Appendix A, as adopted.

Full text of adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*).

8:31A-1.1 Introduction

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

*[(d) A charge per patient day, based on the latest available data, shall be assessed each hospital for which the Department of Health establishes prospective per diem rates.

1. The charge will be calculated by dividing the total 1992 Facilities Rate Setting program administrative expenses by the latest available Medicaid and Blue Cross inpatient days.

i. The per diem charge, as calculated, will be added to the hospital's effective rate.

2. Each hospital shall remit a check to the State Treasury covering the add-on amounts in accordance with the process illustrated in Appendix D, incorporated herein by reference. These checks may be remitted monthly, quarterly, semi-annually or annually, at the discretion of the hospital.]*

8:31A-2.6 Other cost center definitions

(a) (No change.)

(b) Education and Research (EDR) rules are as follows:

1. (No change.)

2. Statistics: Non-Physician Hours total.

(c)-(g) (No change.)

8:31A-7.4 Methodology for calculating Global Rates

(a) (No change.)

[(b) An administrative add-on, calculated in accordance with N.J.A.C. 8:31A-1.1(d), will be added to the reimbursement rates.]

8:31A-7.5 Methodology for Alternate Rates

(a) (No change.)

(b) (No change.)

[(c) An administrative add-on, calculated in accordance with 8:31A-1.1(d), will be added to the reimbursement rates.]

*[(d)]****(c)*** For hospitals which have entered the SHARE system since January 1, 1986 ***and which have no historical statistics and costs in the base year and*** which do not have an "Approved Rate" in accordance with N.J.A.C. 8:31A-7.2 of the Hospital Rate Review Guidelines, the Alternate rate will be developed from equalized median unit costs from base year actual costs in accordance with Appendix A cost *[centers, peer groups and units of service; and base year median cost]* per admission for the *[Other Physical Medicine and the]* Education and Research cost center*[s]*. ***Base year median cost per patient day will be utilized as the unit of service for the Other Physical Medicine cost center.*** Certificate of Need square feet projections will be utilized as the units of service for the Plant and Housekeeping cost centers. Depreciation and lease costs reportable in the Plant cost center will be reimbursed for the covered inpatient portion of Certificate of Need approved costs stated in the Certificate of Need approval letter and application. Interest expense on long-term debt reportable in the Plant cost center will be reimbursed for the covered inpatient portion of Certificate of Need approved costs stated in the Certificate of Need approval letter and application.

1. (No change.)

APPENDIX A
Cost Center Record

Function	Cost Center (Abbr.)	Level	Peer Group	Units of Service	Reasonableness Limit	Cost Increase Analysis Variability Personnel	Factor Supplies
Inpatient Care	PCU	I	Category	PCU Patient Days	1.15	50	100
Outpatient Care	EMR	II	Character	ER Admission	1.1	50	100
Ancillary Service	ANS	III	Statewide	OR Hours & Dels.	—	50	100
	CSS	I	Category	Admissions	1.1	50	100
	DEL	I	Statewide	Del & Gyn Procedures	1.1	50	100
	DIA	III	Statewide	DIA Treatments	—	50	100
	EDG	I	Category	Admissions	1.1	50	100
	LAB	I	Category	Admissions	1.1	50	100
	ORR	I	Category	ORR Hrs. + (.241* operations)	1.1	50	100
	PHM	I	Category	Patient Days & (3.74* adm.)	1.1	50	100
	PHT	II	Category	Patient Days	1.3	50	100
	RAD	I	Category	Admissions	1.1	50	100
	RSP	I	Category	Patient Days	1.2	50	100
	CCA	III	Statewide	Procedures	—	50	100
	BBK	II	Statewide	Admissions	1.2	—	100
	OPPM	III	Statewide	Admissions	1.3	50	—
Physician	PHY	II	Statewide	Fee & Sal. Hrs.	1.1	0	0
	RSD	II	Statewide	Fee & Sal. Hrs.	1.1	0	0
General Services	A&G	I	Category	Patient Days	1.1	0	0
	DTY	I	Statewide	Patient Days**	1.1	50	100
	FIS	I	Category	Admission	1.1	50	100
	HKP	I	Statewide	Sq. Ft.*	1.1	0	0
	MAL	III	Category	Patient Days	1.5	0	0
	MRD	I	Category	Admissions	1.1	50	100
	PCC	II	Category	Admissions	1.1	0	0
	PLT	I	Character	Sq. Ft.*	1.1	0	0
	UTC	III	Statewide	Sq. Ft.*	1.5	0	0
	OGS	II	Character	Patient Days	1.3	0	0
	L&L	I	Statewide	Patient Days	1.1	50	100
Other	EDR	III	Category	Non-Phy Hours	1.3	0	0
Fringe Benefits	LFB	—	Statewide	Hours			
	PFB	—	Statewide	Hours			
	PEN	—	Statewide	Hours			
	INT	III	Statewide	Patient Days			
	DEP	III	Statewide	Patient Days			

*Inpatient % for this cost center
**Excluding "In & Out" same day

(a)

HEALTH FACILITIES RATE SETTING

Residential Alcoholism Treatment Facilities (RATF) Cost Accounting and Rate Evaluation

Adopted New Rules: N.J.A.C. 8:31C-1.21 and 8:31C, Appendix A

Proposed: August 5, 1991 at 23 N.J.R. 2243(a).
Adopted: October 31, 1991 by Frances J. Dunston, M.D., M.P.H., Commissioner, Department of Health (with approval of the Health Care Administration Board).
Filed: November 6, 1991 as R.1991 d.579, **without change.**
Authority: N.J.S.A. 26:2H-1 et seq.
Effective Date: December 2, 1991.
Operative Date: January 1, 1992.
Expiration Date: January 20, 1992.

AGENCY NOTE: Please note that Appendix A, Cost Center Record, incorrectly printed at 23 N.J.R. 2244, is not a part of this rule.

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

Full text of adoption follows:

8:31C-1.21 Administrative cost add-on

(a) A charge per patient day based on the latest available data shall be assessed each facility for which the Department of Health establishes prospective per diem rates.

1. The charge will be calculated by dividing the total 1992 Facilities Rate Setting program administrative expenses by the latest available Blue Cross inpatient days.

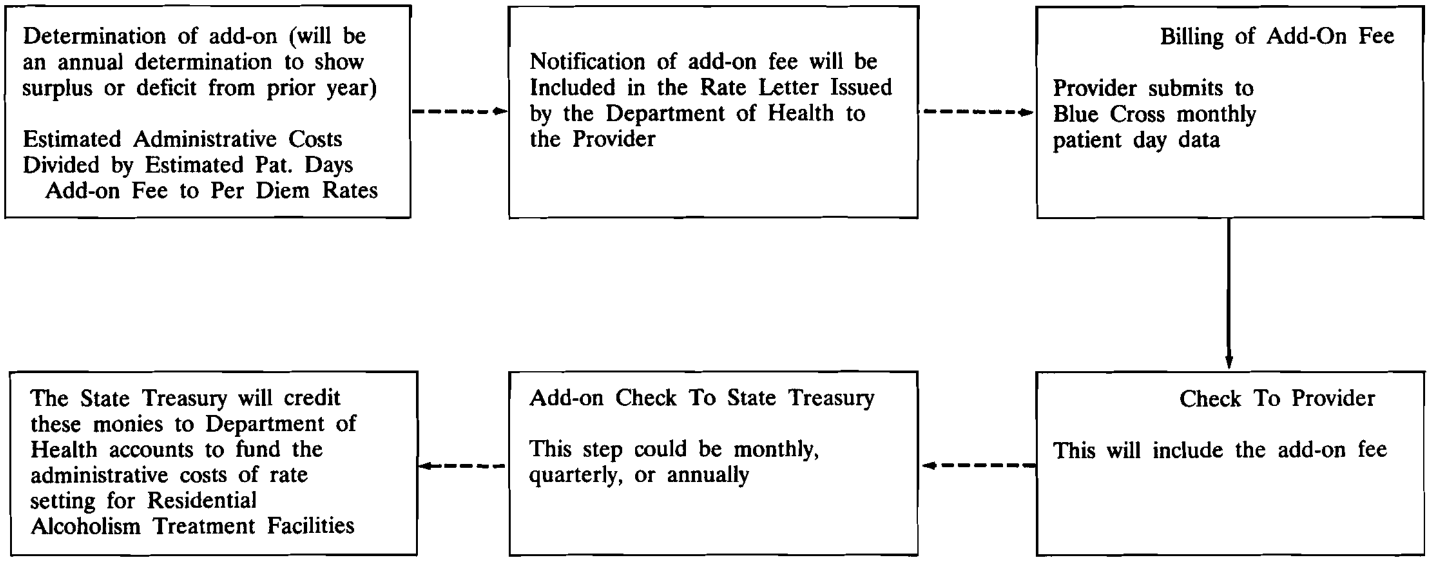
i. The per diem charge, as calculated, will be added to the facility's effective rate.

2. Each facility shall remit a check to the State Treasury covering the add-on amount. This reimbursement may be monthly, quarterly, semi-annually or annually, at the discretion of the facility, in accordance with the process illustrated by Appendix A, incorporated herein by reference.

APPENDIX A

FEE STRUCTURE
RATE

ASSUME:	Administrative Costs	$100,000
	Patient Days	$ 55,739
	Add-On Fee	$ 1.79



HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Home Care Services Manual
Home Care Expansion Program
Cost Sharing by Beneficiaries
Adopted Amendment: N.J.A.C. 10:60-4.3

Proposed: September 16, 1991 at 23 N.J.R. 2826(a).
Adopted: October 30, 1991 by Alan J. Gibbs, Commissioner, Department of Human Services.
Filed: November 1, 1991 as R.1991 d.578, **without change.**
Authority: N.J.S.A. 30:4E; 30:4D-7, 7a, b and c; 30:4D-12.
Effective Date: December 2, 1991.
Expiration Date: February 19, 1996.

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

Full text of the adoption follows.

10:60-4.3 Services available under HCEP

(a) The seven services provided under HCEP are:

1. Case management: A process in which a social worker or professional nurse shall be responsible for planning, locating, coordinating, and monitoring a group of services designed to meet the individual health needs of the beneficiary being serviced. The case manager shall be responsible for the initial and ongoing assessment of the beneficiary's need for home care services, and shall be the pivotal person in establishing a service package to meet those needs.

i. (No change.)

2.-7.-(No change.)

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

(d) Cost sharing for HCEP is as follows:

1. Beneficiaries may be required to share in the cost of their services when monthly income exceeds a standard monthly maintenance allowance. Beneficiaries shall be billed monthly for an established amount to be determined by the Division, which is set at $20.00 a month. The standard monthly maintenance allowance has been set to be equal to the Medicaid institutional standard "CAP," as defined in N.J.A.C. 10:71-5.6(c)5V.

2.-3. (No change.)

(b)

DIVISION OF YOUTH AND FAMILY SERVICES

Court Actions and Procedures
Readoption: N.J.A.C. 10:132

Proposed: July 15, 1991 at 23 N.J.R. 2099(a).
Adopted: October 23, 1991, by Alan J. Gibbs, Commissioner, Department of Human Services.
Filed: October 25, 1991, as R.1991 d.576, **without change.**
Authority: N.J.S.A. 30:1A-1, 30:4C-4(c) and (h), and 4C-4.1 and 4.2.
Effective Date: October 25, 1991.
Expiration Date: October 25, 1996.

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

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:132.

PUBLIC UTILITIES

(a)

BOARD OF REGULATORY COMMISSIONERS

Electric Service

Adopted New Rules: N.J.A.C. 14:5

Proposed: May 20, 1991 at 23 N.J.R. 1519(a).

Adopted: November 6, 1991 by the Board of Regulatory Commissioners, Dr. Edward H. Salmon, Chairman, and Jeremiah F. O'Connor and Carmen J. Armenti, Commissioners.

Filed: November 6, 1991 as R.1991 d.583, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 48:2-13.

BRC Docket Number: EX91030342.

Effective Date: December 2, 1991.

Expiration Date: December 2, 1996.

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

Since N.J.A.C. 14:5 expired December 16, 1990, pursuant to Executive Order No. 66(1978), the proposed rules are adopted herein as new rules, in accordance with N.J.A.C. 1:30-4.4(f).

It should be noted that at the time these rules were proposed, the Board was designated as the Board of Public Utilities. Effective on August 19, 1991, pursuant to Reorganization Plan No. 002-1991, the Board is now designated as the Board of Regulatory Commissioners. As a result thereof, the Board has modified the proposed rules only to reflect its new title.

Full text of the adoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:5.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*).

14:5-1.2 Separation and protection of conductors buried in earth

(a) (No change.)

(b) Exceptions to (a) above are as follows:

1.-4. (No change.)

14:5-1.3 Protection at crossings of cables

(a) (No change.)

(b) Exceptions to (a) above are as follows:

1. (No change.)

2. This protection is not required where supply conductors over 550 volts between conductors are installed in accordance with N.J.A.C. 14:5-1.2(b)3.

14:5-1.4 Protection of cables installed parallel

(a) Where buried communication and buried supply conductors or cables are installed in the same trench generally parallel to each other, the buried supply conductors or cables shall be covered with concrete or creosoted wood planking or equivalent mechanical protection, except that this covering may be omitted in the following cases:

1.-3. (No change.)

4. Where supply conductors over 550 volts between conductors are installed in accordance with N.J.A.C. 14:5-1.2(b)3.

(b) (No change.)

14:5-1.5 Fault protection

Where buried communication and power supply conductors of 550 volts or more between conductors are installed in the same trench without separation and in accordance with the requirements of N.J.A.C. 14:5-1.2, the cable shall be protected by devices capable of clearing phase to ground faults.

14:5-1.7 Ground protection

(a) Where communication and power supply conductors are buried in the same trench without separation, the following ground protection shall be provided:

1. At each transformer and/or pedestal installation all grounds, sheaths and neutrals shall be interconnected. The common neutral conductor shall normally be continuous. Where straight splices are required in the common neutral, only two ends of the conductors shall be joined with one conductor. All interconnections, including equipment neutral connections, to the common neutral required by N.J.A.C. 14:5-1.2 through 1.8 shall be made by taps to the common neutral.

2. (No change.)

14:5-2.1 Service connections; electric

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

(c) If the length of service connection exceeds the amount mentioned in (b) above, the customer may be required to pay for the cost of such excess.

(d) (No change.)

14:5-2.3 Adequacy of service

(a) (No change.)

(b) Each electric utility supplying alternating current shall adopt a standard frequency, the suitability of which may be determined by the Board, and shall maintain this frequency; provided, however, that changes or variations of frequency which are clearly due to no lack of proper equipment or reasonable care on the part of the utility shall not be considered a violation of this rule.

14:5-3.2 Periodic testing of electric meters

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

(c) All types of alternating current watt-hour meters installed upon customers' premises shall be tested as follows:

1. (No change.)

2. Self-contained single-phase meters and three-wire network meters-at least once in eight years or by a variable interval or statistical sampling technique approved by the Board.

14:5-4.2 Definitions

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

...

"Board" means Board of *[Public Utilities]* ***Regulatory Commissioners***.

"Building" means a permanent structure enclosed within exterior walls or fire walls, built, erected and framed of component structural parts and designed for single-family or duplex-family occupancy.

1. A duplex family building may consist of either a duplex apartment with rooms on two floors and a private interstairway, or a duplex house with two separate family units side by side.

...

14:5-4.4 Installation of underground distribution system within subdivision

(a) Upon receipt of a proper application the utility shall, after conditions in N.J.A.C. 14:5-4.3 have been met and after coordination with other utilities, install along new streets and along existing streets not already served by overhead facilities, using suitable materials, an underground electric distribution system reasonably equivalent to a comparable overhead system which will assure that the applicant will receive safe, adequate and proper electric service.

1. "Suitable materials" shall be construed to mean those components of a direct buried residential-type underground distribution system, including, but not limited to, transformers, which shall be pad mounted unless otherwise directed by the Board, cables, conduits, street lighting poles and fixtures, switch gear and enclosures, which the industry has adopted as standard consistent with the "state of the art" as it applies to the development of such components and also consistent with the service requirements of this rule. Such standards shall be understood to be reasonable standards designed to implement this rule with a minimum increase in the difference in cost between overhead and underground distribution systems.

2. (No change in text.)

3. No utility will be obligated to furnish electric service to any building in a subdivision unless and until an application has been made for the distribution system in the subdivision in accordance with this subsection and a deposit has been made in accordance with N.J.A.C. 14:5-4.6, unless otherwise ordered by the Board.

(b) (No change.)

(c) The applicant shall also supply the final subdivision map of the section of the subdivision which has received the final approval of the appropriate authorities and which the applicant proposes to develop in the immediate future. This submission shall also detail the planned electric load requirements as described in (b) above.

(d) (No change.)

(e) Semiannually, each electric utility may submit a proposed tariff, modifying existing undergrounding charges. These proposed tariffs shall be supported by unit costs of construction in a form as required for approval by the Board.

(f) For the installation of an underground electric distribution system, the applicant shall pay the utility the differential cost between the construction of an underground and an equivalent overhead distribution system as determined from the utility's approved tariff as provided by (e) above.

(g)-(m) (No change.)

(n) Extensions of high-capacity main line distribution facilities, not exceeding 4MVA, to reach the applicant's subdivision, through another residential subdivision where the provisions of this subchapter are applicable, shall be made underground. The applicant shall pay the utility a prorated differential cost for such extensions only for that capacity necessary to serve his subdivision, in addition to the charges required pursuant to (f) above. The utility may require a deposit and charge the balance of the differential cost to the property owner or owners of the residential subdivision through which the extension is made, when such owner or owners make an application for electric service, on a prorated basis.

1. (No change.)

14:5-4.6 Advances by applicant

(a) Prior to the start of construction on a section of the subdivision, the utility shall require from the applicant a deposit equivalent to the estimated amount of the charges payable to the utility in accordance with N.J.A.C. 14:5-4.4(f) for the total number of building lots shown on the subdivision map supplied to the utility by the applicant under the provisions of N.J.A.C. 14:5-4.4(c).

(b) (No change.)

(c) If the amount of the deposit is in excess of the charges payable to the utility in accordance with N.J.A.C. 14:5-4.4(f), then the excess amount shall be returned upon completion of the installation of the distribution construction facilities.

(d) (No change.)

(e) When an applicant requests the installation of underground facilities in an area for which there is no planned immediate construction of dwelling units, the utility may require a deposit from the applicant in addition to a deposit required pursuant to (a) above. Such a deposit shall not be more than the estimated cost of providing equivalent overhead extension and shall be collected and refunded in accordance with N.J.A.C. 14:3-8.1.

14:5-4.7 Cooperation by applicant

(a) The charges specified in this subchapter are based on the premise that each applicant shall agree to cooperate with the utility in accordance with N.J.A.C. 14:5-4.3 in an effort to keep the cost of construction and installation of the underground electric distribution system as low as possible. This includes the scheduling of construction to preclude the necessity for trenching in frozen soils or in land fill operations before soils have become stabilized.

(b) (No change.)

(c) Requests for adjustment of charges, specified in the tariff of any utility filed pursuant to N.J.A.C. 14:5-4.4(e), to cover excess cost, if any, due to temporary installations, may be referred to the Board in accordance with N.J.A.C. 14:5-4.11.

14:5-4.8 Construction

(a) Where practical, as determined by the affected utilities, electric cables, communication cables and cable television cables shall be installed in the same trench, care being taken to conform to any applicable codes and regulations.

(b) Where joint use of a trench is practical, a utility will not be obliged to commence work on an underground system unless and until the applicant has made all necessary arrangements with the communication utility and cable television company to commence work on their underground system.

(c)-(e) (No change.)

14:5-4.10 Records

(a) Each electric utility shall maintain on a calendar year basis for periodic review by, or upon request, submission to the Board the following records:

1. The amount of trench which it has shared with communication cables and cable television cables. The record shall also show the contribution per foot by it and by the collaborating telephone companies and cable television companies for joint use of trench.

2. (No change.)

14:5-4.11 Special conditions or exemptions

(a) When the application of this subchapter will result in extreme hardship or inequity, or be discriminatory to other customers, the utility or applicant may refer the matter to the Board for special exemption or for approval of special conditions.

(b) The applicant invoking the jurisdiction of this Board, pursuant to (a) above, may be required to deposit in an escrow account as determined by the Board, prior to hearing, a deposit up to the estimated cost differential between underground and overhead service to be advanced to the utility in the event the Board determines an exemption is not warranted.

APPENDIX A—REGULATION FOR
RESIDENTIAL ELECTRIC UNDERGROUND EXTENSIONS

Illustrative examples of how costs for underground extensions are to be determined in different situations.

Note: Dollar amounts shown are for illustrative purposes only and do not represent current utility charges. Such current charges are shown in the tariff of each individual electric utility and is on file with the Board and available for inspection at either the offices of the Board or the local offices of the utility.

A.-B. (No change.)

Exhibits 1 through 5 (No change.)

14:5-5.1 Adoption by reference of the Uniform System of Accounts

The Board adopts by reference the Uniform System of Accounts for Classes A and B Electric Utilities that have been promulgated by the Federal Energy Regulatory Commission as well as all present and subsequent amendments, revisions, deletions and corrections which the Federal Energy Regulatory Commission may adopt insofar as they relate to electric utilities subject to the jurisdiction of the Board and are in accordance with the Board's policies and procedures.

14:5-5.2 Adoption by reference of rules concerning preservation of records; electric utilities

(a) On September 14, 1972, the then Board of Public Utility Commissioners in the Department of Public Utilities, pursuant to the authority of N.J.S.A. 48:2-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act of 1968, adopted by reference the "Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities" originally proposed to various states for adoption by the National Association of Regulatory Utility Commissioners as promulgated and published in April, 1972, for use by the electric, gas and water utilities.

(b) The Board of *[Public Utilities]* ***Regulatory Commissioners*** adopts these rules as its modified regulations governing the preservation and destruction of records for all classes of electric, gas and water utilities subject to its jurisdiction and as a supplement to its uniform system of accounts for all classes of electric, gas and water utilities.

(c) (No change.)

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

General Administration
Administrative Practices
Deadlines for County and Municipal Early Retirement Incentive Meetings and Resolutions

Adopted New Rule: N.J.A.C. 17:1-12.9

Proposed: September 16, 1991, at 23 N.J.R. 2847(a).

Adopted: October 30, 1991, by Margaret M. McMahon, Director, Division of Pensions.

Filed: November 6, 1991 as R.1991 d.581, **without change.**

Authority: N.J.S.A. 52:18A-95 et seq.; P.L. 1991, c.229.

Effective Date: December 2, 1991.

Expiration Date: May 6, 1993.

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

Full text of the adoption follows:

17:1-12.9 Deadline for county and municipal early retirement incentive resolutions

To provide the early retirement incentive benefits authorized under P.L. 1991, c.229, the governing body of a county or municipality shall adopt a resolution and file a certified copy of the resolution with the Director of the Division of Pensions on or before October 15, 1991. Prior to October 15, 1991, each employer covered by this law shall meet and consult with the bargaining representatives of the bargaining unit or units representing employees eligible for benefits under the law, and shall formally consider and decide whether or not to adopt the provisions of the law.

TREASURY-TAXATION

(b)

DIVISION OF TAXATION

Sales and Use Tax
Exempt Organizations; Organizations Carrying on Trade or Business

Adopted Amendment: N.J.A.C. 18:24-9.11

Proposed: July 1, 1991 at 23 N.J.R. 2005(a).

Adopted: October 25, 1991 by Leslie A. Thompson, Director, Division of Taxation.

Filed: October 25, 1991 as R.1991 d.577, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 54:32B-24.

Effective Date: December 2, 1991.

Expiration Date: June 7, 1993.

Summary of Public Comments and Agency Responses:

The Division received one comment concerning PRN 1991-349, which was from the State Tax Procedure and Agency Liaison Committee of the Taxation Section of the New Jersey State Bar Association.

COMMENT: The commenters suggested changing the opening language in subsection (d) of N.J.A.C. 18:24-9.11 by deleting certain language and substituting language from N.J.A.C. 54:32B-9(b)(2), which is the statute that the rule interprets. These suggested changes merely clarify that amusement charges, uses and occupancies by an exempt organization in the course of a trade or business in substantial competition with private businesses are subject to sales and use tax. The result of these suggested changes would be to merely state the Division's longstanding interpretations of the statute mentioned above.

The commenters also believed that the suggested change would support the position that, when an exempt organization is conducting a trade or business in substantial competition with privately operated nonexempt businesses, sales that are demonstrably outside that trade of business may still be exempt. Again, this would be consistent with the Division's longstanding interpretations of the statutes and this rule. Also, to further clarify the proposed amendment to N.J.A.C. 18:24-9.11(d)2, the commenters submitted two examples which do not enlarge or curtail the proposed amendment.

RESPONSE: The commenters' suggested changes are being adopted with only a few minor or technical changes. The Division agreed with the commenters that the suggested changes to the proposed amendments to N.J.A.C. 18:24-9.11(d) help clarify that rule.

Because the comment-initiated changes add the terms "amusement charge" and "occupancy," the Division added language in the first part of (d) to avoid it conflicting with N.J.S.A. 54:32B-9(e) and (f), which pertain to certain occupancies and admissions. Similarly, the Division added language to (d)2 to avoid it overlapping with (d)1 or conflicting with N.J.S.A. 54:32B-9(f)(2).

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

18:24-9.11 Organizations carrying on trade or business

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

(d) *[Where an exempt organization conducts a trade or business]* ***Any sale, amusement charge, use or occupancy by an exempt organization, in the course of a trade or business*** in substantial competition with privately operated nonexempt business entities, ***is not directly related to the purposes of the exempt organization. Except as specifically exempted in N.J.S.A. 54:32B-9(e) and (f),*** such ***an*** organization shall, in the conduct of ***the*** trade or business, pay and collect sales and use taxes in the same manner required of *[the]* ***a*** privately operated nonexempt business *[entity]*.

1. An exempt organization is considered to be engaged in a trade or business in substantial competition with privately operated nonexempt business entities to the extent sales are made as follows:

i. From a shop or store operated by such organization;

ii. By mail, telephone, or facsimile orders accepted by such organization on a regular, continuous or long term basis; or

iii. By or through a nonexempt business entity on behalf of or under an agreement with such organization.

2. An exempt organization is not considered to be engaged in a trade or business in substantial competition with privately operated nonexempt business entities to the extent sales are made by such organizations through fundraising events or activities which are of relatively short duration, and are not held on a regular basis during a calendar year; provided, however, that all proceeds inure to the benefit of the exempt organization. ***Nothing in this paragraph shall be construed as exempting sales that are subject to sales and use taxes under (d)1 above or N.J.S.A. 54:32B-9(f)(2).***

***Example 1: The operation of a booth selling sandwiches and soft drinks at a state fair for two weeks a year is an activity of relatively short duration and that is not held on a regular basis during the calendar year. The exempt organization is not required to collect sales tax on the sandwiches and soft drinks.**

Example 2: The operation of a coffee shop one day a week throughout the year is an activity that is conducted on a regular basis. The exempt organization must collect sales tax on the coffee shop sales.*

3. A shop or store as used in (d)1i above includes any place or establishment from which goods are sold with a degree of regularity, frequency and continuity.

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Notice of Administrative Change Information and Filings

N.J.A.C. 19:40-3.1, 3.4 and 3.5

Take notice that the Casino Control Commission is amending, through this notice of administrative change, N.J.A.C. 19:40-3.1, 3.4 and 3.5 to reflect the recent relocation of its offices.

This notice of administrative change is published in accordance with N.J.A.C. 1:30-2.7.

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

19:40-3.1 Offices; hours

(a) The main offices of the Commission, including the [Offices] **offices** of the Commissioners, [the Legal Division, the Division of Financial Evaluation and Control's Accounting Unit and Evaluation Unit, and the Administrative Division] **the General Counsel and the Division of Licensing** are located at:

[3131 Princeton Pike, Building 5
CN 208
Trenton, N.J. 08625

(b) The License Division and the Affirmative Action and Planning Division are located at:]

Arcade Building[, 2nd Floor]
Tennessee Avenue and the Boardwalk
Atlantic City, N.J. 08401

[(c)] **(b)** The Division of Financial Evaluation [and Control's Audit Unit, Casino Operations Unit and Inspection Unit], **the Division of Administration and the Division of Compliance** are located at:

Citicenter Building [, 4th Floor]
1300 Atlantic Avenue
Atlantic City, N.J. 08401

[(d)] **(c)** (No change in text.)

[(e)] **(d)** The Division of Gaming Enforcement maintains offices at:

[Richard J. Hughes Justice Complex]
140 East Front Street
CN-047
Trenton, N.J. 08625

19:40-3.4 Public information office

(a) Requests for information regarding the Casino Control Commission may be directed to:

Casino Control Commission
Public Information Office
[3131 Princeton Pike, Building 5
CN 208
Trenton, New Jersey 08625]
Arcade Building
Tennessee Avenue and the Boardwalk
Atlantic City, N.J. 08401

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

19:40-3.5 Filing of petitions and applications

(a) Petitions for formal action by the Commission should be mailed to:

Casino Control Commission
[Records Administrator]
Division of Administration
Document Control Unit
Arcade Building, [2nd] **1st** Floor
Tennessee Avenue and the Boardwalk
Atlantic City, N.J. 08401

(b) Applications for the issuance or renewal of any license or registration required by the Act should be mailed to:

Casino Control Commission
Division of Administration
Document Control Unit
Arcade Building [2nd] **1st** Floor
Tennessee Avenue and the Boardwalk
Atlantic City, N.J. 08401

(c) (No change.)

(b)

CASINO CONTROL COMMISSION

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

Adopted Amendments: N.J.A.C. 19:45-1.40A and 1.40B

Proposed: November 19, 1990 at 22 N.J.R. 3455(a).

Adopted: November 6, 1991, by the Casino Control Commission, Steven P. Perskie, Chairman.

Filed: November 6, 1991, as R.1991 d.584, **with the proposed amendments to N.J.A.C. 19:45-1.40A not adopted,** and with portions of the proposed amendments to N.J.A.C. 19:45-1.40B previously adopted (see 23 N.J.R. 1025(b)).

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

Effective Date: December 2, 1991.

Expiration Date: March 24, 1993.

On March 6, 1991, the Casino Control Commission adopted the part of this proposal which authorized the use of United States Treasury Bonds to secure annuity jackpot payments (see 23 N.J.R. 1025(b)). The remainder of the amendments were considered by the Commission at its public meeting of November 6, 1991. The Commission decided not to adopt either of the proposed alternative amendments to N.J.A.C. 19:45-1.40A(b) which would have permitted deferred annuity jackpot payments to be deducted from gross gaming revenues; the Commission did, however, adopt the technical amendment to that subsection. The remainder of the amendments to N.J.A.C. 19:45-1.40B(a), (b)5, (e), (f) and (j)2i were all adopted as proposed.

Summary of Public Comments and Agency Reponses:

Comments on the proposal were received from the Division of Gaming Enforcement (DGE), the Atlantic City Megabucks Trust (Trust), International Game Technology (IGT), the Sands and Bally's Grand.

COMMENT: The Trust, IGT, the Sands and Bally's Grand each expressed support for the adoption of Alternative A of the proposed amendments to N.J.A.C. 19:45-1.40A(b). According to the Trust, Alternative A complies with the provisions of N.J.S.A. 5:12-24 because that section defines "gross revenue" as permitting the deduction of "all sums paid out as winnings to patrons." IGT agrees with this position, noting that the amount which would be deductible under Alternative A more accurately reflects the statutory requirement that the deduction equal the amount of winnings actually paid out to patrons. Both commenters point out that the deduction which would be permitted under Alternative B is based on the cost to the trust of providing the deferred payments to the winners, as opposed to the amount of the payments the winner actually receives. The Trust also maintains that Alternative B is fundamentally unfair in that it requires the present value of the payments to be deducted on a straight line basis over the life of the annuity payments, thus depriving the trust of the time value of the funds used to purchase the annuity contract or Treasury bonds.

RESPONSE: The comments of the Trust, IGT, the Sands and Bally's Grand are rejected to the extent that the Commission has determined that the adoption of either alternative amendment to N.J.A.C. 19:45-1.40A(b) would be inappropriate. As the Commission has ruled previously on two occasions, an annuity jackpot is a "thing of value" under the terms of section 45 of the Casino Control Act, N.J.S.A. 5:12-45. That section specifically provides that the cash equivalent value of any merchandise or thing of value offered as a jackpot "shall not be included in the total of all sums paid out as winnings to patrons for purposes of determining gross revenues as defined by [N.J.S.A. 5:12-24.]"

Although it is a basic principle of statutory construction that a specific statutory provision overrides a general statutory statement on the same issue, none of the commenters addressed the impact of section 45 on the proposed rules.

As the Commission has stated previously, when a patron wins an annuity jackpot, that patron wins the right to receive cash payments at specified times in the future. This right to receive the future payments is not cash, but a "thing of value." IGT seems to acknowledge this fact in its comment when it states that "the winner is no more than an unsecured creditor with only an entitlement to an annual payment and nothing more." The actual payment of cash which occurs in the future, pursuant to the right which was previously won, does not convert the jackpot or any portion thereof into a cash jackpot for the purposes of N.J.S.A. 5:12-45. The determination whether a jackpot is either a payout of cash or a thing of value must occur when the jackpot is won. The internal control procedures which a casino licensee must observe in the awarding of a jackpot require the licensee to identify the type of jackpot at the moment it is won, not when it is delivered to the patron (see N.J.A.C. 19:45-1.40, 1.40A and 1.40B). Clearly, when an annuity jackpot is won, the patron is winning the right to receive future payments at fixed intervals, which right cannot be considered a payout of cash.

The Commission does not have the authority to alter a clear statutory requirement by promulgating a rule which contravenes the obvious intent of the Act. Accordingly, any relief which can be provided in this area must be sought from the Legislature.

COMMENT: The DGE opposed the adoption of either alternative amendment to N.J.A.C. 19:45-1.40A(b) on the basis that the proposed amendments would violate the provisions of N.J.S.A. 5:12-45.

RESPONSE: The Commission accepts the comment of the DGE as indicated in its previous response.

COMMENT: All of the commenters, with the exception of Bally's Grand, expressed their general support for the proposed amendments to N.J.A.C. 19:45-1.40B; Bally's Grand offered no comment on the amendments.

RESPONSE: The Commission accepts the comments which were submitted and adopts the proposed amendments to N.J.A.C. 19:45-1.40B as they were published.

Full text of the adoption follows:

19:45-1.40A Jackpot payouts of merchandise or other things of value

ALTERNATIVE A

(a) (No change.)

(b) Whenever a casino licensee offers any merchandise or thing of value as part of a slot machine payout, such merchandise or thing of value shall have a cash equivalent value of at least $5,000 and shall not be included in the total of all sums paid out as winnings to patrons for purposes of determining gross revenue or be included in determining the payout percentage of any slot machine. The cash equivalent value of such merchandise or thing of value shall be determined in accordance with the following requirements:

1.-4. (No change.)

(c)-(o) (No change.)

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

(a) For purposes of this section, the phrase "annuity jackpot" refers to any slot machine jackpot offered by a casino licensee or group of casino licensees pursuant to which a patron wins the right to receive cash payments at specified intervals in the future. No annuity jackpot shall be permitted unless it provides for the payment of fixed amounts at fixed intervals. In addition, no annuity jackpot shall be permitted unless it expressly prohibits the winner from encumbering, assigning, or otherwise transferring in any way his or her right to receive the future cash payments, except as permitted by (j)2i below, and except for a transfer to the estate of the winner upon his or her death. A casino licensee or group of casino licensees may, with the prior approval of the Commission, terminate all future payments to a winner who attempts to encumber, assign or otherwise transfer the right to receive future payments in violation of this prohibition.

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

1. (No change.)

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

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

4. The trust continue to be maintained until all payments owed to winners of the annuity jackpots have been made; and

5. The trustees obtain and file with the Commission and the Division within 30 days of receipt an annual audit by an independent certified public accountant licensed to practice in the State of New Jersey attesting to:

i.-ii. (No change.)

(c) If the trustee or trustees purchase annuity contracts in satisfaction of (b)2 above, a separate annuity contract shall be purchased for each annuity jackpot won. The annuity contract shall name the trust fund as beneficiary, shall provide for annuity payments which are equal to or greater than the payments required under the annuity jackpot, and shall provide for each annuity contract payment to be made to the trust fund prior to the date the payment is required to be made under the annuity jackpot. The annuity contract shall be purchased within 180 days after the annuity jackpot is won, and a copy of the contract shall be provided to the Commission and Division within 30 days of its purchase. The annuity contract shall be issued by an insurance company which:

1. Has fidelity and fiduciary insurance or bonding coverage for 100 percent of the value of the annuity contract;

2. Has a combined capital and surplus of at least 100 million dollars, assets of at least one billion dollars, and an A.M. Best Company rating of A plus (superior); and

3. Is authorized to issue annuities in New Jersey by the State's Commissioner of Insurance and is either licensed to sell annuities in this State, or represented by an entity so licensed.

(d) If the trustee or trustees purchase United States Treasury Bonds in satisfaction of (b)2 above, a separate treasury bond shall be purchased for each payment which is required to be made under the terms of the annuity jackpot. Each treasury bond shall have a surrender value at maturity, excluding any interest which is paid before the maturity date, which is equal to or greater than the value of the corresponding annuity jackpot payment, and shall have a maturity date which is prior to the date the annuity jackpot payment is required to be made. All treasury bonds shall be purchased within 180 days after the annuity jackpot is won, and a copy of the bonds will be provided to the Commission and Division within 30 days of the final purchase of the bonds. No treasury bond purchased pursuant to this section shall be cashed or surrendered prior to its maturity date.

(e) Any casino licensee or group of casino licensees which offers an annuity jackpot shall be strictly and immediately liable for any payment which is owed to a bona fide winner of such a jackpot, as ascertained by the rules of the Commission, in the event that the payment is not made by the trustees when due. Where the annuity jackpot is offered as part of a multi-casino progressive slot system, each casino licensee participating in the system when the jackpot is won shall be jointly and severally liable for each jackpot payment required to be made under this subsection.

(f) All checks received by the trustees under the annuity contracts and all checks received upon surrender of the treasury bonds shall be restrictively endorsed "for deposit only" to the bank acccount of the trust or, with the approval of the Commission, to an account with a non-bank broker dealer which is registered with the Securities and Exchange Commission and is a member of the Securities Investor Protection Corporation, deposited into such an account, and immediately recorded on an Annuity Deposit Log. The Annuity Deposit Log shall contain, at a minimum, the following:

1.-2. (No change.)

3. The source of the payment, including, if applicable, the name of the insurance company issuing the payment; and

4. (No change.)

(g)-(i) (No change in text.)

(j) Any casino licensee or group of casino licensees planning to offer an annuity jackpot shall first be required to establish to the satisfaction of the Commission either that:

1. A winning patron will not be liable for income tax on the deferred portion of the annuity jackpot in the tax year in which the jackpot is won; or

2. Reasonable accommodations have been made to enable a winning patron to satisfy any income tax liability attributable to the deferred portion of the annuity jackpot which is incurred in the tax year in which the jackpot is won.

i. If the casino licensee or group of casino licensees comply with this section by lending funds to a winning patron to pay the income tax liability, the casino licensee or group of casino licensees may require a winning patron to encumber, assign or transfer to it or them the right to receive a portion of the future payments sufficient to repay such a loan.

PUBLIC NOTICES

ENVIRONMENTAL PROTECTION AND ENERGY

(a)

BUREAU OF UNDERGROUND STORAGE TANKS

Notice of Availability of Applications for Underground Storage Tank Certifications

Take notice that applications are now available for persons or firms who wish to apply to the Department of Environmental Protection and Energy for certification under P.L. 1991, c. 123. The law, which requires all services performed on regulated underground storage tanks (USTs) pursuant to the Underground Storage of Hazardous Substances Act be done by certified persons and firms, directs the Department to develop a program for these certifications. The first phase of this program was the development of interim guidelines to address those activities which must be effectuated before regulations are actually required. This interim policy addresses such concerns as education and experience requirements, professional engineers' exemptions, "grandfather" rights, proficiency exams, and certifications and qualifications for firms who perform tank services.

Applications and copies of the Interim Procedures Document can be obtained from:

New Jersey Department of Environmental Protection and Energy
Bureau of Revenue
CN 417
Trenton, New Jersey 08625-0417

(b)

OFFICE OF REGULATORY POLICY

Amendment to the Upper Raritan Water Quality Management Plan

Public Notice

Take notice that on October 22, 1991, pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Statewide Water Quality Management Planning rules (N.J.A.C. 7:15-3.4), an amendment to the Upper Raritan Water Quality Management Plan was adopted by the Department. The amendment was proposed by the Raritan Township Municipal Utilities Authority (RTMUA). This amendment adopts a Wastewater Management Plan (WMP) for the RTMUA. The WMP identifies: expansion of the RTMUA treatment plant to accommodate wastewater flows of 4.4 million gallons per day from Raritan Township, Readington Township and Flemington Borough; changes and clarifications of the RTMUA sewer service area; expansion of the RTMUA sewer service area to include the Hedgerow Estates/Park Lane Estates developments in Readington Township, delineation of a non-surface discharge service area for facilities less than 20,000 gallons per day, and; delineates individual subsurface sewage disposal system service areas.

(c)

OFFICE OF REGULATORY POLICY

Amendment to the Lower Delaware Water Quality Management Plan

Public Notice

Take notice that the New Jersey Department of Environmental Protection and Energy (NJDEPE) is seeking public comment on a proposed amendment to the Lower Delaware Water Quality Management (WQM) Plan. This amendment, which was proposed by the Lawrence Township Board of Education, would identify an on-site relocation and expansion of the existing ground water discharge from the Myron E. Powell School located at Block 191, Lot 9, in Lawrence Township, Cumberland County to serve a proposed 35,900 square foot building addition. The proposed school expansion will bring the total school population to 454 students and staff.

This notice is being given to inform the public that a plan amendment has been proposed for the Lower Delaware WQM Plan. All information related to the WQM Plan and the proposed amendment is located at the NJDEPE, Office of Regulatory Policy, 401 East State Street, 3rd Floor, CN-029, Trenton, NJ 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday. An appointment to inspect the documents may be arranged by calling the Office of Regulatory Policy at (609) 633-7026.

Interested persons should submit written comments on the proposed amendment to Mr. Ed Frankel of the Office of Regulatory Policy, at the NJDEPE address cited above. A copy of the comments should be sent to Mr. J. Michael Fralinger, P.E., Albert A. Fralinger, Jr. P.A., West Park Executive Campus, 629 Shiloh Pike, P.O. Box 477, Bridgeton, NJ 08302. All comments must be submitted within 10 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEPE with respect to the amendment request.

Any interested persons may request in writing that NJDEPE hold a nonadversarial public hearing on the amendment or extend the public comment period in this notice up to 30 additional days. These requests must state the nature of the issues to be raised at the proposed hearing or state the reasons why the proposed extension is necessary. These requests must be submitted within 10 days of this public notice to Mr. Frankel at the NJDEPE address cited above. If a public hearing is held, the public comment period in this notice shall be extended to close 15 days after the public hearing.

HUMAN SERVICES

(d)

NEW JERSEY COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

Notice of Availability of Grant Funds

Clerical Skills/Word Processing Training Program for Severely Visually Impaired Persons

Take notice that, in compliance with N.J.S.A. 52:14-34.4, 34.5 and 34.6, the New Jersey Commission for the Blind and Visually Impaired, Department of Human Services, hereby announces the availability of the following grant program funds.

A. **Name of program:** Clerical Skills/Word Processing Training Program for Severely Visually Impaired Persons.

B. **Purpose:** To develop curriculum and provide training which will prepare selected visually impaired adults in the clerical skills/word processing fields.

C. **Amount of available funding for the program:** $50,000.

D. **Organizations which may apply for funding under this program:** Profit or not-for-profit organizations, institutions or agencies, including accredited business schools and community colleges.

E. **Qualifications needed by an applicant to be considered for funding:** Experienced in business education, clerical skills and word processing training experience with curriculum development, be familiar or have the ability to become familiar with basic adaptive office equipment for the blind and visually impaired and availability of placement assistance for students for the blind and visually impaired who successfully complete the training program.

F. **Procedure for eligible organizations to apply:** A technical assistance workshop will be held at Joseph Kohn Rehabilitation Center address on December 17, 1991 at 10:00 A.M. A request for proposal can be obtained by phoning the New Jersey Commission for the Blind Contract Unit at (201) 648-4799 or by writing to the address below.

G. **Address to which applications must be submitted:**

Judith Liebman, Supervisor
Program Development/Contract Unit
New Jersey Commission for the Blind and Visually Impaired
153 Halsey Street
P.O. Box 47017
Newark, N.J. 07101

H. Deadline by which applications must be submitted: January 31, 1992.

I. Date the applicant is to be notified of acceptance or rejection: February, 1992.

INSURANCE

(a)

DIVISION OF ENFORCEMENT AND CONSUMER PROTECTION

Notice of Receipt of Petition for Rulemaking and Action Thereon

Insurance Producer and Limited Insurance Representative Standards of Conduct: Marketing

N.J.A.C. 11:17A

Petitioner: New Jersey Land Title Association.

Authority: N.J.S.A. 52:14B-4(f); N.J.A.C. 11:1-15.1 et seq.

Take notice that petitioner New Jersey Land Title Association, whose membership consists of 19 title insurance underwriting companies which write substantially all of the title insurance written in New Jersey and 132 title insurance agents which are licensed by the Department of Insurance (Department), through its Executive Director/Attorney John R. Weigel, filed with the Department a petition to add new language to certain portions of the rules concerning Insurance Producer and Limited Insurance Representative Standards of Conduct, N.J.A.C. 11:17A, which rules were adopted effective January 2, 1990 (see 22 N.J.R. 30(b)). The petition was received on September 27, 1991.

The petition is directed at three matters as follows:

1. To clarify that attorneys representing clients in real estate closings would not be required to be licensed as insurance producers for title insurance, a new subsection (b) should be added to N.J.A.C. 11:17A-1.5 as follows:

11:17A-1.5 Activities for which licensure not required

(a) (No change.)

(b) "The representation by an attorney-at-law of this state of his or her client at a real estate closing or settlement, including all customary activities incidental to the consummation of the real estate transaction, but excluding the activities of a title insurance agent as defined in R.S. 17:46B-1(i)."

2. To clarify that action by title insurance underwriters and title insurance agents to encourage the use of attorneys in title insurance matters is not an "unfair discrimination," the following language should be added to N.J.A.C. 11:17A-2.7:

"Nothing contained herein shall be construed to prohibit an insurance producer from refusing to accept an application for insurance from a proposed insured, whether or not represented by counsel, so long as the refusal is not based upon one of the grounds specifically prohibited by this section. The acceptance of an application from a proposed insured who is not represented by counsel shall not obligate the producer to perform any functions beyond those customarily performed by the producer in connection with the effectuation of insurance coverage, nor does it authorize the performance of any action prohibited by R.S. 17:46B-13."

3. To prevent what is referred to as "the unlawful 'brokerization' of the title insurance industry," a new subsection (d) should be added to N.J.A.C. 11:17A-1.4 as follows:

"No producer shall be permitted to solicit, negotiate, or effectuate a title insurance policy, or to receive any fee or commission for same, unless he or she is a partner, principal, director, shareholder or officer of an entity which falls within the definition of 'title insurance agent' contained in R.S. 17:46B-1(i); or unless he or she is a *bona fide* employee of such an entity.

"For the purposes of this subsection, the phrase '*bona fide* employee' is defined as one who is regularly on the payroll of the entity employing him or her; whose job duties are performed under the supervision or control of the employing entity; and who meets the following criteria with respect to business originated or controlled by him or her: no more than twenty-five (25%) percent of the business originated or controlled by the employee may fall within the definition of 'personal or controlled insurance' found in R.S. 17:46B-1(n) and R.S. 17:46B-39."

The Commissioner hereby certifies that the petition was duly considered pursuant to law. Upon due deliberation, the Commissioner hereby denies the Petition.

With regard to the first matter referred to above, an insurance consultant is defined at N.J.S.A. 17:22A-2h to be "a person who, for a fee, commission or other consideration, acts or holds himself out to the public or any licensee as offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages under any insurance policy or contract that is or could be issued in this State, but shall not include bank trust officers, attorneys-at-law and certified public accountants who negotiate contracts on behalf of others or provide general financial counsel if no commissioner brokerage fee is paid for those services."

The above statutory language specifically exempts attorneys-at-law who negotiate contracts on behalf of others when no commission or brokerage fee is paid. Since it is not within the powers of the Commissioner to promulgate rules inconsistent with the statutory framework of the enabling legislation, the Department has not imposed and is not now imposing such a requirement. When an attorney-at-law is paid a commission or brokerage fee by the insurer, licensure is required by statute.

With regard to the second matter, the Department agrees that all parties to a real estate transaction should consult with legal counsel. However, there is nothing in any statute, rule or court decision that requires an individual to retain an attorney when buying or selling real estate. Therefore, an insurance producer with title authority would be in violation of N.J.A.C. 11:17A-2.7 if the producer refused to accept an application from an individual who proposes to purchase real estate. There is nothing in the producer statute or regulation which would require a title producer to provide services to such an individual which are not provided by the producer to others.

With regard to the third matter, it is not within the powers of the Commissioner to promulgate rules inconsistent with the statutory framework of N.J.S.A. 17:22A-1 et seq. An insurance producer is defined at N.J.S.A. 17:22-2j as "any person engaged in the business of an insurance agent, insurance broker or insurance consultant." Reference to title agents and their required duties and responsibilities in N.J.S.A. 17:46B-1 et seq. does not preclude the role of producers seeking to broker title insurance coverage. If a title company does not wish to accept business through a producer with title authority who is acting as a broker, it is not compelled to do so.

LABOR

(b)

DIVISION OF WORKPLACE STANDARDS

Notice of Action on Petition for Rulemaking

Prevailing Wages for Public Works

N.J.A.C. 12:60-3

Petitioners: American Telephone & Telegraph Company by Mudge Rose Guthrie Alexander & Ferdon (Joseph A. Hoffman); New Jersey Bell Telephone Company by Schiller, Vyzas, Squeo & Hartnett (Bernard Hartnett).

Take notice that on September 12, 1991, the Department of Labor (the Department) received a petition for rulemaking concerning N.J.A.C. 12:60-3, the Department's rules on the New Jersey Prevailing Wage Law. Specifically, petitioners requested that the Department amend N.J.A.C. 12:60-3.2 to include "telephone workers" within those crafts, trades or classes of workers which shall be paid prevailing wages on public works construction contracts governed by the New Jersey prevailing Wage Act. Public notice of this petition was published in the October 21, 1991 New Jersey Register at 23 N.J.R. 3181(b).

Take further notice that, in accordance with N.J.A.C 1:30-3.6 and after thorough review of the petition, the Department has determined that the matter will receive further consideration. Accordingly, the Commissioner has delegated this matter to staff for further study and examination of the issues raised by the petitioners. This further review shall be concluded by December 31, 1991.

Upon the conclusion of the Department's deliberations, the decision will be mailed to the petitioners and published in a future New Jersey Register.

A copy of this notice has been mailed to the petitioners, as required by N.J.A.C. 1:30-3.6.

PUBLIC UTILITIES

(a)

BOARD OF REGULATORY COMMISSIONERS

Notice of Applicable Interest Rates on Customer Deposits Effective for Calendar Year 1992

Take notice that N.J.A.C. 14:3-7.5(c) provides in pertinent part that: Simple interest at a rate equal to the average yields on new six month Treasury Bills for the 12 month period ending each September 30 shall be paid by the utility on all deposits held by it, provided the deposit has remained with the utility for at least three months. Said rate, which shall be rounded up or down to the nearest half percent, shall become effective on January 1 of the following year. The Board shall perform the annual calculation to determine the applicable interest rate and shall notify the affected public utilities of said rate.

Based upon the foregoing, **be advised** that the average yield on new six month Treasury Bills for the 12 month period ending September 30, 1991, rounded to the nearest half percent, is 6.0 percent. Accordingly, simple interest at the rate of 6.0 percent shall be applied to all customer deposits received by public utilities on and after January 1, 1992, pursuant to the provisions of N.J.A.C 14:3-7.5.

TRANSPORTATION

(b)

THE COMMISSIONER

DIVISION OF POLICY, CAPITAL PROGRAMMING, AND AUTHORITIES

BUREAU OF POLICY AND LEGISLATIVE ANALYSIS

Notice of Receipt of Petition for Rulemaking

Speed Limits Along Routes 679, North Maple Avenue and U.S. Highway 9, New Gretna Village

N.J.A.C. 16:28-1.41

Petitioners: Mrs. Joan A. Zaryck, RD #1, Box 299B, New Gretna, New Jersey 08087; including Petition with 138 signatures of citizens.

Authority: N.J.S.A. 52:14B-4(f).

Take notice that on October 16, 1991, the Department of Transportation (Department) received a petition from petitioners Mrs. Joan A. Zaryck and 138 other citizens for rulemaking concerning N.J.A.C. 16:28-1.41, the Department rules governing the speed limit along Route U.S. 9 in the Village of New Gretna, New Jersey in Bass River Township.

Specifically, petitioners request that the Department amend the speed limit presently indicated to a lower speed limit to assist in enhancing the safety of children who have to walk to and from school.

In accordance with the provision of N.J.A.C. 1:30-3.6, the Department shall subsequently mail to the petitioners, and file with the Office of Administrative Law, a notice of action on the petition.

TREASURY-GENERAL

(c)

CHARITIES REGISTRATION

Charitable Organization

Notice of Application for the Public Employee Charitable Fund-Raising Campaign and Campaign Steering Committee

Take notice that Douglas C. Berman, Treasurer, State of New Jersey, pursuant to the Public Employee Charitable Fund-Raising Act, P.L. 1985, c.140 (N.J.S.A. 52:14-15.9c1 et seq.) and State Employee Charitable Fund-Raising Campaign Rules (N.J.A.C. 17:28-3.2(b)1), announces that the Department of the Treasury will be accepting applications via the Division of Consumer Affairs (see below) until December 31, 1991 from the charitable fund-raising organizations for participation in the State Employee's Charitable Fund-Raising Campaign for Fall of 1992.

For the purposes of this notice, "Charitable fund-raising organization" shall mean a voluntary not-for-profit organization which receives and distributes voluntary charitable contributions. A charitable-fund-raising organization shall be eligible to participate on the Steering Committee and in the 1992 Campaign if it meets the following requirements:

a. The organization is exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code;

b. The organization qualifies for tax deductible contributions under Section 170(b)(1)(A)(vi) or (viii) or the Internal Revenue Code;

c. The organization is not a private foundation as described in Section 509 of the Internal Revenue Code;

d. The organization is incorporated under or subject to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes and the "Charitable Fund Raising Act of 1971," P.L. 1971, c.469 (N.J.S.A. 45:17A-1 et seq.);

e. The organization demonstrates to the satisfaction of the State Treasurer that a significant portion of funds raised in each of its two fiscal years preceding its application to participate in a campaign consist of individual contributions from citizens of the State;

f. The organization shall have raised at least $60,000 and distributed that sum among at least 15 charitable agencies in each of its two fiscal years preceding its application to participate in a State campaign.

Copies of the application may be obtained from the Division of Consumer Affairs, Charities Registration, and then submitted to same along with a cover letter. Requests for application forms should be addressed to:

Anne Mallett
Charities Registration
Division of Consumer Affairs
P.O. Box 254
Newark, NJ 07101

Applications can also be requested by calling (201) 648-4704.

OTHER AGENCIES

(d)

EXECUTIVE COMMISSION ON ETHICAL STANDARDS

Notice of Action Regarding Petition for Rulemaking

Procedure to Request Commission Action to Promulgate, Amend or Repeal Rules

N.J.A.C. 19:61-5.5

Petitioner: Somerset-Middlesex Area Libertarians, a county committee of the New Jersey Libertarian Party.

Take notice that a notice of receipt of a petition for rulemaking to amend N.J.A.C. 19:61-5.5 concerning the procedure to request Commission action to promulgate, amend or repeal rules was published in the October 21, 1991 New Jersey Register at 23 N.J.R. 3181(c).

The Executive Commission has reviewed the petition and has concluded that the currently proposed rulemaking rule is reasonable and does not need to be amended inasmuch as it is not necessary to reiterate N.J.A.C. 1:30-3.6 and N.J.S.A. 52:14B-4(f). If petitioner's amendment to the proposed rulemaking rule were adopted, the Executive Commission would have to adjust its regulations as the law and code are amended in the future. As currently written, the rule references the applicable law and code, thus eliminating republication of the same language and assuring that the Commission's procedure automatically remains consistent with any changes to the law and code.

EXECUTIVE ORDER NO. 66(1978) EXPIRATION DATES

Pursuant to Executive Order No. 66(1978), an administrative rule is assigned an expiration date not to exceed five years from the date of promulgation by a State agency, unless the rule is exempt from the provisions of the order. In the Administrative Code, a single expiration date is affixed at the chapter level and applies to the entire chapter. See N.J.A.C. 1:30-4.4 for an explanation of expiration date assignment.

The following table is a complete listing of established New Jersey Administrative Code expiration dates and exemptions, by Title and Chapter. Current expiration dates may also be found in the loose-leaf volumes of the Administrative Code as a part of the Title Table of Contents for each executive department or agency, on the Subtitle Page for each group of chapters in a Title, and at the beginning of each Chapter.

This listing is published quarterly, in March, June, September and December, in the first issue of the month.

OFFICE OF ADMINISTRATIVE LAW—TITLE 1

N.J.A.C.	Expiration Date
1:1	5/4/92
1:5	9/13/96
1:6	5/4/92
1:6A	3/19/95
1:7	5/4/92
1:10	5/4/92
1:10A	5/4/92
1:10B	9/13/96
1:11	5/4/92
1:13	5/4/92
1:13A	4/3/94
1:14	7/15/96
1:20	5/4/92
1:21	5/4/92
1:30	1/25/96
1:31	6/17/92

AGRICULTURE—TITLE 2

N.J.A.C.	Expiration Date
2:1	11/19/95
2:2	1/17/94
2:3	8/21/94
2:5	8/21/94
2:6	9/3/90
2:9	8/19/96
2:16	1/22/96
2:17	5/31/96
2:18	8/5/96
2:19	10/1/95
2:20	10/1/95
2:21	8/5/96
2:22	7/6/92
2:23	7/18/93
2:24	4/2/95
2:32	6/1/92
2:33	3/6/94
2:34	1/2/95
2:48	10/25/95
2:50	5/1/92
2:51	5/31/92
2:52	5/1/95
2:53	1/10/96
2:54	Exempt (7 U.S.C. 601 et seq. 7 C.F.R. 1004)
2:68	11/7/93
2:69	11/7/93
2:70	8/20/95
2:71	7/8/93
2:72	7/8/93
2:74	7/8/93
2:76	7/31/94
2:90	6/22/95

BANKING—TITLE 3

N.J.A.C.	Expiration Date
3:1	1/4/96
3:2	4/12/95
3:3	1/11/95
3:6	3/1/96
3:7	9/12/95
3:11	5/1/94
3:13	11/17/91
3:16	6/18/95
3:17	6/13/96
3:18	1/19/93
3:19	3/15/96
3:21	2/2/92
3:22	5/12/94
3:23	7/6/92
3:24	8/18/94
3:25	8/17/92
3:26	12/31/95
3:27	9/12/95
3:28	12/12/94
3:29	8/5/96
3:32	10/3/93
3:33	9/18/94
3:38	10/5/92
3:41	10/11/95
3:42	4/4/93

PERSONNEL—TITLE 4A

N.J.A.C.	Expiration Date
4A:1	10/5/92
4A:2	10/5/92
4A:3	9/6/93
4A:4	6/6/93
4A:5	10/5/92
4A:6	1/4/93
4A:7	10/5/92
4A:8	1/16/95
4A:9	10/5/92
4A:10	11/2/92

COMMUNITY AFFAIRS—TITLE 5

N.J.A.C.	Expiration Date
5:1	2/5/95
5:2	4/10/94
5:3	9/1/93
5:4	10/5/92
5:10	11/17/93
5:11	3/10/94
5:12	12/27/94
5:13	12/24/92
5:14	11/9/95
5:15	5/1/94
5:18	1/4/95
5:18A	1/4/95
5:18B	1/4/95
5:18C	2/5/95
5:19	2/1/93
5:20	9/3/96
5:22	2/5/95
5:23	3/1/93
5:24	7/10/95
5:25	2/19/96
5:26	2/7/96
5:27	5/2/95

N.J.A.C.	Expiration Date
5:28	12/13/95
5:29	2/19/96
5:30	6/29/93
5:31	12/1/94
5:33	8/6/95
5:34	12/3/95
5:37	1/7/96
5:50	10/27/93
5:51	9/1/93
5:52	1/2/95
5:70	7/9/92
5:71	6/4/95
5:80	4/20/95
5:91	2/7/96
5:92	2/7/96
5:100	6/18/95

DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS—TITLE 5A

N.J.A.C.	Expiration Date
5A:1	3/12/95
5A:2	5/17/95

EDUCATION—TITLE 6

N.J.A.C.	Expiration Date
6:1	1/11/96
6:2	2/6/94
6:3	7/8/93
6:5	10/22/95
6:7	1/2/95
6:8	1/5/92
6:11	9/21/95
6:12	3/8/96
6:20	7/16/95
6:21	11/22/94
6:22	7/16/95
6:22A	12/19/93
6:24	1/11/96
6:28	4/10/94
6:29	2/8/95
6:30	7/5/93
6:31	11/16/94
6:39	8/14/94
6:43	8/10/95
6:46	10/5/92
6:51	8/5/96
6:53	7/7/92
6:64	1/11/93
6:68	2/26/95
6:69	6/4/91
6:70	10/17/94
6:78	11/7/93
6:79	11/25/92

ENVIRONMENTAL PROTECTION AND ENERGY—TITLE 7

N.J.A.C.	Expiration Date
7:1	8/15/95
7:1A	6/5/92
7:1C	6/15/95
7:1D	11/28/93
7:1E	9/3/96
7:1F	4/20/92
7:1G	9/29/94
7:1H	7/13/95
7:1I	7/18/93
7:2	10/7/96
7:3	3/21/93
7:4A	9/18/94
7:5	11/19/95
7:5A	6/24/93
7:5B	6/24/93
7:5C	1/16/95
7:6	6/9/94
7:7	5/12/94
7:7A	6/6/93
7:7E	7/24/95
7:7F	1/19/93
7:8	2/5/93
7:9	1/18/96
7:9A	8/21/94
7:10	9/1/94
7:11	5/13/93
7:12	4/11/93
7:13	7/14/94
7:14	4/27/94
7:14A	6/2/94
7:14B	12/21/92
7:15	10/2/94
7:18	7/3/96
7:19	2/26/95
7:19A	3/19/95
7:19B	3/19/95
7:20	5/2/95
7:20A	12/16/93
7:22	1/5/92
7:22A	2/5/95
7:23	6/9/94
7:24	4/22/96
7:25	2/15/96
7:25A	4/23/95
7:26	10/25/95
7:26A	11/18/96
7:26B	12/21/92
7:27	Exempt
7:27A	12/4/94
7:27B-3	Exempt
7:28	7/30/95
7:29	5/21/95
7:29B	2/1/93
7:30	12/4/92
7:31	6/20/93
7:36	11/21/93
7:38	9/18/95
7:45	2/6/94

HEALTH—TITLE 8

N.J.A.C.	Expiration Date
8:7	9/14/95
8:8	4/12/94
8:9	2/14/96
8:13	9/8/92
8:18	11/6/94
8:19	5/11/95
8:20	3/2/95
8:21	10/23/95
8:21A	4/1/90
8:22	7/11/96
8:23	12/13/94
8:24	5/2/93
8:25	5/19/93
8:26	4/12/96
8:31	1/16/95
8:31A	2/20/95
8:31B	8/17/95
8:31C	1/20/92
8:33	7/27/95
8:33A	2/20/92
8:33B	7/27/95
8:33C	7/17/91
8:33E	6/23/92
8:33F	11/16/94
8:33G	7/17/94
8:33H	5/16/95
8:33I	9/15/91
8:33J	4/24/94
8:33K	3/27/94

N.J.A.C.	Expiration Date
8:33L	11/16/92
8:33M	7/17/94
8:33N	5/15/94
8:33P	3/19/95
8:33Q	11/19/95
8:34	11/15/93
8:38	4/3/94
8:39	6/20/93
8:40	5/7/91
8:41	2/17/92
8:42	8/17/92
8:42A	6/19/94
8:42B	7/18/93
8:43	11/19/92
8:43A	7/27/95
8:43E	12/11/92
8:43F	2/20/95
8:43G	2/5/95
8:43H	8/21/94
8:43I	3/21/93
8:44	11/2/93
8:45	2/7/95
8:51	9/17/95
8:52	12/15/91
8:53	8/4/91
8:57	4/20/95
8:57A	4/20/95
8:59	9/29/94
8:60	5/3/95
8:61	10/4/96
8:65	6/17/96
8:66	3/5/95
8:66A	3/5/95
8:70	8/19/93
8:71	2/17/94

HIGHER EDUCATION—TITLE 9

N.J.A.C.	Expiration Date
9:1	2/21/94
9:2	5/4/95
9:3	9/27/93
9:4	9/26/96
9:5	4/1/96
9:6	4/30/95
9:6A	1/4/93
9:7	2/28/93
9:8	10/15/95
9:9	10/3/93
9:11	4/17/94
9:12	4/17/94
9:14	4/11/95
9:15	8/21/94

HUMAN SERVICES—TITLE 10

N.J.A.C.	Expiration Date
10:1	11/7/93
10:2	1/5/92
10:3	11/21/93
10:6	1/7/96
10:11	1/16/95
10:12	1/5/92
10:13	7/18/93
10:14	5/16/93
10:31	6/5/94
10:36	6/30/92
10:37	11/2/95
10:38	4/29/96
10:39	5/7/95
10:40	5/11/94
10:41	3/20/94
10:42	8/19/96
10:43	8/21/94
10:44A	11/21/93

N.J.A.C.	Expiration Date
10:44B	7/16/95
10:45	2/20/95
10:46	9/17/95
10:47	11/2/95
10:48	12/19/95
10:49	7/13/95
10:50	2/27/96
10:51	10/9/95
10:52	2/8/95
10:53	4/27/95
10:54	2/15/96
10:55	3/8/95
10:56	8/21/96
10:57	2/13/96
10:58	2/22/96
10:59	2/15/96
10:60	2/19/96
10:61	2/15/96
10:62	12/19/93
10:63	11/28/94
10:64	2/22/96
10:65	2/19/96
10:66	12/15/93
10:67	2/19/96
10:68	6/28/96
10:69	6/6/93
10:69A	4/20/93
10:69B	11/21/93
10:70	6/7/96
10:71	12/24/95
10:72	8/27/92
10:73	7/15/96
10:80	5/19/94
10:81	8/24/94
10:82	8/24/94
10:83	1/19/94
10:85	12/20/94
10:87	1/27/94
10:89	5/24/95
10:90	10/14/92
10:91	9/4/95
10:95	Exempt
10:97	5/15/94
10:99	6/4/95
10:109	2/4/96
10:120	7/9/96
10:121	7/16/95
10:121A	12/7/92
10:122	5/15/94
10:122A	Exempt
10:123	7/13/95
10:124	12/7/92
10:125	6/4/95
10:126	11/7/93
10:126A	5/7/95
10:127	8/26/93
10:128	2/19/96
10:129	7/13/95
10:130	7/2/95
10:131	12/7/92
10:132	10/25/96
10:141	2/7/94

CORRECTIONS—TITLE 10A

N.J.A.C.	Expiration Date
10A:1	7/6/92
10A:2	2/5/95
10A:3	9/16/96
10A:4	5/7/96
10A:5	6/17/96
10A:6	11/2/92
10A:8	11/16/92
10A:9	1/20/92
10A:10-6	8/17/92
10A:16	4/6/92

N.J.A.C.	Expiration Date
10A:17	12/15/91
10A:18	7/6/92
10A:19	8/21/94
10A:21	2/4/96
10A:22	7/5/93
10A:31	3/5/95
10A:32	4/16/95
10A:33	5/2/94
10A:34	4/6/92
10A:35	4/15/96
10A:70	Exempt
10A:71	2/5/95

INSURANCE—TITLE 11

N.J.A.C.	Expiration Date
11:1	1/31/96
11:2	11/30/95
11:3	1/4/96
11:4	11/30/95
11:5	10/28/93
11:7	10/19/92
11:10	7/12/95
11:12	9/27/96
11:13	11/12/92
11:15	10/26/94
11:16	1/31/96
11:17	4/18/93
11:17A	1/2/95
11:17B	1/2/95
11:17C	1/2/95
11:17D	1/2/95
11:18	12/18/94

LABOR—TITLE 12

N.J.A.C.	Expiration Date
12:3	12/19/93
12:5	9/19/93
12:6	10/17/93
12:15	7/30/95
12:16	3/23/95
12:17	1/4/96
12:18	3/7/93
12:19	7/2/95
12:20	8/14/94
12:35	7/16/95
12:40	2/5/95
12:41	1/17/94
12:45	5/2/93
12:51	6/30/91
12:55	9/26/95
12:56	9/26/95
12:57	9/26/95
12:58	9/26/95
12:60	3/21/93
12:90	12/15/94
12:100	9/22/94
12:102	5/21/95
12:105	1/11/96
12:110	1/19/93
12:112	9/6/93
12:120	5/3/95
12:175	11/28/93
12:190	1/4/93
12:195	6/24/93
12:196	8/6/95
12:200	8/3/95
12:210	9/6/93
12:235	5/3/96

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

N.J.A.C.	Expiration Date
12A:9	3/7/93
12A:10-1	10/13/94
12A:11	9/21/92
12A:12	9/21/92
12A:31	7/16/95
12A:50	8/15/93
12A:54	8/15/93
12A:60	11/21/93
12A:80	7/2/95
12A:100	7/17/96
12A:120	9/6/93
12A:121	12/5/93

LAW AND PUBLIC SAFETY—TITLE 13

N.J.A.C.	Expiration Date
13:1	7/5/93
13:1A	10/15/95
13:2	7/24/95
13:3	4/25/93
13:4	1/17/96
13:10	3/27/94
13:13	7/16/95
13:14	9/16/96
13:18	3/30/95
13:19	8/18/94
13:20	12/13/95
13:21	12/13/95
13:23	5/26/94
13:24	9/27/94
13:25	3/16/95
13:26	9/26/93
13:27	2/20/95
13:28	5/16/93
13:29	5/23/95
13:30	3/12/95
13:31	12/12/91
13:32	10/23/92
13:33	3/12/95
13:34	10/26/93
13:35	9/21/94
13:36	9/27/94
13:37	1/23/95
13:38	8/27/95
13:39	6/19/94
13:39A	6/21/96
13:40	8/3/95
13:41	7/17/95
13:42	10/31/93
13:43	9/1/93
13:44	8/7/94
13:44B	11/2/92
13:44C	7/18/93
13:44D	8/7/94
13:44E	7/1/96
13:45A	11/9/95
13:45B	4/17/94
13:46	9/4/95
13:47	2/2/92
13:47A	10/5/92
13:47B	2/21/94
13:47C	6/9/94
13:47K	9/17/95
13:48	1/17/96
13:49	12/16/93
13:51	9/16/96
13:54	11/18/96
13:59	7/30/95
13:60	1/20/92
13:61	3/5/95
13:62	3/19/95
13:63	8/19/96
13:70	1/25/95

N.J.A.C.	Expiration Date
13:71	1/25/95
13:75	6/5/94
13:76	6/27/93
13:77	2/1/93
13:78	3/20/94
13:80	9/17/95
13:81	8/6/95

PUBLIC UTILITIES—TITLE 14

N.J.A.C.	Expiration Date
14:1	12/16/90
14:3	5/6/96
14:5	12/2/96
14:6	9/3/96
14:9	4/1/96
14:10	9/6/96
14:11	1/27/92
14:12	11/4/96
14:17	4/24/94
14:18	7/26/95
14:25	3/5/95
14:29	3/4/96
14:30	2/19/96
14:32	1/22/96
14:38	4/1/96

ENERGY—TITLE 14A

N.J.A.C.	Expiration Date
14A:6	1/16/95
14A:8	1/16/95
14A:11	1/16/95
14A:13	2/2/92
14A:14	1/30/94
14A:20	2/3/91
14A:22	6/4/89

STATE—TITLE 15

N.J.A.C.	Expiration Date
15:2	5/2/93
15:3	8/19/96
15:5	2/17/92
15:10	4/15/96

PUBLIC ADVOCATE—TITLE 15A

N.J.A.C.	Expiration Date
15A:2	12/27/94

TRANSPORTATION—TITLE 16

N.J.A.C.	Expiration Date
16:1	10/1/95
16:1A	6/16/94
16:4	9/16/96
16:5	11/20/94
16:6	8/7/94
16:7	3/6/94
16:13	9/4/95
16:20A	2/20/95
16:20B	2/20/95
16:21	8/6/95
16:21A	11/20/94
16:21B	12/3/95
16:22	12/18/95
16:24	2/5/95
16:25	8/15/93
16:25A	7/18/93
16:26	9/5/94
16:27	4/8/96

N.J.A.C.	Expiration Date
16:28	6/1/93
16:28A	6/1/93
16:29	6/1/93
16:30	6/1/93
16:31	6/1/93
16:31A	6/1/93
16:32	2/8/95
16:38	10/15/95
16:41	7/28/92
16:41A	1/23/95
16:41B	7/2/95
16:43	5/10/95
16:44	5/25/93
16:45	9/18/94
16:46	11/6/94
16:49	2/8/95
16:51	4/6/92
16:53	7/17/94
16:53B	7/3/94
16:53C	6/16/93
16:53D	5/3/94
16:54	3/28/96
16:55	6/14/93
16:56	8/7/94
16:60	6/14/93
16:61	6/14/93
16:62	2/26/95
16:72	3/20/96
16:73	1/30/92
16:74	10/20/91
16:75	5/13/93
16:76	2/6/94
16:77	3/5/95
16:78	12/17/95
16:79	9/12/96
16:80	11/7/93
16:81	11/7/93
16:82	9/5/94

TREASURY-GENERAL—TITLE 17

N.J.A.C.	Expiration Date
17:1	5/6/93
17:2	11/8/94
17:3	8/15/93
17:4	6/8/95
17:5	11/30/95
17:6	11/22/93
17:7	12/19/93
17:8	10/15/95
17:9	10/3/93
17:10	5/6/93
17:12	10/13/94
17:13	10/13/94
17:14	10/13/94
17:16	5/2/96
17:19	3/8/95
17:20	9/26/93
17:25	5/26/94
17:27	10/7/93
17:28	8/17/95
17:29	9/26/95
17:30	5/4/92
17:32	3/21/93
17:33	4/17/94
17:40	11/19/95
17:41	4/1/96

TREASURY-TAXATION—TITLE 18

N.J.A.C.	Expiration Date
18:1	7/21/94
18:2	9/6/93
18:3	3/14/94
18:5	3/14/94

N.J.A.C.	Expiration Date
18:6	3/14/94
18:7	3/14/94
18:8	2/24/94
18:9	6/7/93
18:12	7/29/93
18:12A	7/29/93
18:14	7/29/93
18:15	7/29/93
18:16	7/29/93
18:17	7/29/93
18:18	3/14/94
18:19	3/14/94
18:21	2/19/96
18:22	2/24/94
18:23	2/24/94
18:23A	9/4/95
18:24	6/7/93
18:25	2/19/96
18:26	6/7/93
18:35	6/7/93
18:36	3/19/95
18:37	7/23/95
18:38	2/16/93
18:39	9/8/92

OTHER AGENCIES—TITLE 19

N.J.A.C.	Expiration Date
19:3	5/26/93
19:3A	11/4/96
19:3B	Exempt (N.J.S.A. 13:17-1)
19:4	5/26/93
19:4A	6/20/93
19:6	5/6/96
19:8	7/5/93
19:9	10/17/93
19:10	9/5/94
19:11	8/20/95
19:12	7/17/96
19:14	8/20/95
19:16	7/17/96
19:17	6/8/93
19:18	5/21/95
19:20	2/5/95
19:25	10/1/95
19:30	7/23/95
19:31	8/20/95
19:40	8/24/94
19:41	5/12/93
19:42	5/12/93
19:43	4/27/94
19:44	9/29/93
19:45	3/24/93
19:46	4/28/93
19:47	4/28/93
19:48	10/13/93
19:49	3/24/93
19:50	5/12/93
19:51	8/14/96
19:52	9/25/91
19:53	4/28/93
19:54	3/24/93
19:61	7/7/91
19:65	7/7/91
19:75	1/13/94

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

At the bottom of the index listing for each Administrative Code Title is the Transmittal number and date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the October 7, 1991 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to adopt a proposed rule on a timely basis requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(c).

Terms and abbreviations used in this Index:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1991 d.1 means the first rule adopted in 1991.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A series number and supplement date certifying the currency of rules found in each Title of the New Jersey Administrative Code: Rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find the issue of publication of a rule proposal or adoption.

MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: SUPPLEMENT SEPTEMBER 16, 1991

NEXT UPDATE: SUPPLEMENT OCTOBER 21, 1991

Note: If no changes have occurred in a Title during the previous month, no update will be issued for that Title.

N.J.R. CITATION LOCATOR

If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register	If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register
22 N.J.R. 3607 and 3666	December 3, 1990	23 N.J.R. 1855 and 1980	June 17, 1991
22 N.J.R. 3667 and 3896	December 17, 1990	23 N.J.R. 1981 and 2071	July 1, 1991
23 N.J.R. 1 and 144	January 7, 1991	23 N.J.R. 2079 and 2204	July 15, 1991
23 N.J.R. 145 and 248	January 22, 1991	23 N.J.R. 2205 and 2446	August 5, 1991
23 N.J.R. 249 and 332	February 4, 1991	23 N.J.R. 2447 and 2560	August 19, 1991
23 N.J.R. 333 and 636	February 19, 1991	23 N.J.R. 2561 and 2806	September 3, 1991
23 N.J.R. 637 and 798	March 4, 1991	23 N.J.R. 2807 and 2898	September 16, 1991
23 N.J.R. 799 and 924	March 18, 1991	23 N.J.R. 2899 and 3060	October 7, 1991
23 N.J.R. 925 and 1048	April 1, 1991	23 N.J.R. 3061 and 3192	October 21, 1991
23 N.J.R. 1049 and 1226	April 15, 1991	23 N.J.R. 3193 and 3402	November 4, 1991
23 N.J.R. 1227 and 1482	May 6, 1991	23 N.J.R. 3403 and 3548	November 18, 1991
23 N.J.R. 1483 and 1722	May 20, 1991	23 N.J.R. 3549 and 3678	December 2, 1991
23 N.J.R. 1723 and 1854	June 3, 1991		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:1-3.3	Return of contested cases: failure of party to appear at hearing	23 N.J.R. 1728(a)	R.1991 d.513	23 N.J.R. 3133(a)
1:1-18.1	Initial decision in contested cases	23 N.J.R. 3406(a)		
1:5	Council on Affordable Housing hearings	23 N.J.R. 2082(a)	R.1991 d.499	23 N.J.R. 2998(a)
1:5	Council on Affordable Housing hearings: extension of comment period	23 N.J.R. 2497(a)		
1:10B	Medical Assistance and Health Services hearings	23 N.J.R. 2083(b)	R.1991 d.500	23 N.J.R. 2998(b)
1:13A-18.2	Lemon Law hearings: exception to initial decision	23 N.J.R. 2208(a)		
1:14	Board of Public Utility hearings: administrative change	———	———	23 N.J.R. 3647(a)
1:14-14.1, 14.4	Board of Public Utility hearings: prefiled testimony; interlocutory review	23 N.J.R. 2083(c)	R.1991 d.501	23 N.J.R. 2998(c)
1:31-3	Discipline of administrative law judges	23 N.J.R. 2901(a)		
1:31-3	Discipline of administrative law judges: extension of comment period	23 N.J.R. 3179(a)		

Most recent update to Title 1: TRANSMITTAL 1991-4 (supplement July 15, 1991)

AGRICULTURE—TITLE 2

Most recent update to Title 2: TRANSMITTAL 1991-6 (supplement August 19, 1991)

BANKING—TITLE 3				
3:1-2.17	Closing of branch offices	23 N.J.R. 2208(b)	R.1991 d.523	23 N.J.R. 3133(b)
3:1-16	Mortgage processing rules	23 N.J.R. 2613(b)		
3:1-19	Consumer checking accounts: preproposed new rules	23 N.J.R. 2617(a)		
3:3-2.1	Department records designated nonpublic	23 N.J.R. 1858(a)	R.1991 d.525	23 N.J.R. 3133(c)
3:6-4.5, 4.6	Banks and savings banks: reporting of crimes	23 N.J.R. 2903(a)		
3:13	Bank holding companies and interstate acquisitions	23 N.J.R. 2904(a)		
3:18-10.3	Licensure of secondary mortgage lenders	23 N.J.R. 2210(a)	R.1991 d.524	23 N.J.R. 3134(a)
3:21-1	Low-income credit unions	23 N.J.R. 2905(a)		
3:21-1	Low-income credit unions: correction to comment period deadline	23 N.J.R. 3196(a)		
3:26-3.1, 3.2	Savings and loan associations: reporting of crimes	23 N.J.R. 2903(a)		
3:38-1.1, 1.9, 4.1, 5	Mortgage financing activities and real estate licensees	23 N.J.R. 3406(b)		
3:38-1.2, 1.4, 1.9, 2.1	Mortgage banker and broker net worth standards	23 N.J.R. 2450(a)		
3:38-1.3	Licensure of mortgage lenders	23 N.J.R. 2210(a)	R.1991 d.524	23 N.J.R. 3134(a)

Most recent update to Title 3: TRANSMITTAL 1991-7 (supplement August 19, 1991)

CIVIL SERVICE—TITLE 4

Most recent update to Title 4: TRANSMITTAL 1990-3 (supplement July 16, 1990)

PERSONNEL—TITLE 4A				
4A:2-2.13	Expungement from personnel files of references to disciplinary action	23 N.J.R. 2906(a)		
4A:4-2.11	Enforcement of residency requirements	23 N.J.R. 1984(a)	R.1991 d.498	23 N.J.R. 2999(a)
4A:4-2.16	Inspection of examination scoring keys	23 N.J.R. 2906(b)		
4A:4-7.10, 7.12	Reinstatement following disability retirement	23 N.J.R. 2907(a)		
4A:4-7.11	Retention of rights by transferred employees	23 N.J.R. 1984(b)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
4A:6-1.6	Sick Leave Injury (SLI): State service	23 N.J.R. 2907(b)		
4A:6-1.6	Sick Leave Injury (SLI): withdrawal of proposal	23 N.J.R. 3093(a)		

Most recent update to Title 4A: TRANSMITTAL 1991-2 (supplement August 19, 1991)

COMMUNITY AFFAIRS—TITLE 5

5:12-2.1	Homelessness Prevention Program: eligibility	23 N.J.R. 3439(a)		
5:14-1.1–1.6, 2.1, 2.2, 2.3, 3.1–3.12, 3A, 4.10, App. A–D	Neighborhood Preservation Balanced Housing Program	23 N.J.R. 1075(a)		
5:18-1.4	Uniform Fire Code: applicability of requirements	23 N.J.R. 2813(a)	R.1991 d.570	23 N.J.R. 3444(a)
5:18-2.4A, 2.4B, 2.4C, 2.4D, 2.7, 2.8	Uniform Fire Code: life hazard uses and permit fees	23 N.J.R. 2234(a)	R.1991 d.504	23 N.J.R. 2999(b)
5:18-2.4A, 2.4B, 2.7	Uniform Fire Code: life hazard uses; permits	23 N.J.R. 2999(a)		
5:18-2.8	Uniform Fire Code life hazard uses and permit fees: administrative correction and extension of comment period	23 N.J.R. 2453(a)		
5:18-2.8	Uniform Fire Code: registration and permit fees	23 N.J.R. 2999(a)	R.1991 d.530	23 N.J.R. 3325(a)
5:18-2.8, 2.20, 3.2, 4.3, 4.19	Uniform Fire Code: smoke detector compliance in one and two-family dwellings	23 N.J.R. 3064(a)		
5:18-2.19	Uniform Fire Code: identifying emblems for structures with truss construction	23 N.J.R. 2618(a)		
5:18A-2.6	Fire Code enforcement: life hazard uses and permit fees	23 N.J.R. 2234(a)	R.1991 d.504	23 N.J.R. 2999(b)
5:18C-4.2	Firefighter I certification	23 N.J.R. 2084(a)		
5:23-2.8, 2.17A, 2.24, 2.32	Uniform Construction Code: approval of completed work	23 N.J.R. 2236(a)	R.1991 d.509	23 N.J.R. 3001(a)
5:23-3.15, 3.21	Uniform Construction Code: plumbing; one and two family dwelling subcodes	23 N.J.R. 2619(a)	R.1991 d.571	23 N.J.R. 3444(b)
5:23-3.21	UCC: one and two family dwelling subcode	23 N.J.R. 3444(b)		
5:23-4.5, 4.19	Uniform Construction Code: electronic reporting by municipal enforcing agencies	23 N.J.R. 3440(a)		
5:23-4.14, 4A.17, 8.18	Uniform Construction Code: pre-proposal regarding private enforcing agencies	23 N.J.R. 1985(a)		
5:23-4.14, 4A.17, 8.18	Uniform Construction Code: preproposal regarding private enforcing agencies	23 N.J.R. 2908(a)		
5:23-5.25	Uniform Construction Code: revocation of licenses and alternative sanctions; review committees	23 N.J.R. 3441(a)		
5:23-7.6A	Barrier-Free Subcode enforcement	23 N.J.R. 2620(a)	R.1991 d.561	23 N.JR.. 3445(a)
5:23-11	Uniform Construction Code: Indoor Air Quality Subcode	23 N.J.R. 1730(b)		
5:23-12.2	Elevator Safety Subcode: referenced standards	23 N.J.R. 2046(a)		
5:33-3	Tenants' Property Tax Rebate Program	23 N.J.R. 2183(a)	R.1991 d.484	23 N.J.R. 3002(a)
5:33-4	Property tax and mortgage escrow account transactions	23 N.J.R. 1903(a)		
5:80-29	Housing and Mortgage Finance Agency: investment of surplus funds	23 N.J.R. 2621(a)		
5:80-31	Housing and Mortgage Finance Agency: attorney services	23 N.J.R. 2622(a)		
5:91-15	Council on Affordable Housing: municipal development fees	23 N.J.R. 2813(b)		
5:91-15	Council on Affordable Housing: public hearing and extension of comment period regarding municipal development fees	23 N.J.R. 3132(a)		
5:92	Council on Affordable Housing: preproposal regarding mandatory developers' fees	23 N.J.R. 646(b)		
5:92-1.3, 1.4, 8.4, 18	Council on Affordable Housing: municipal development fees	23 N.J.R. 2813(b)		
5:92-1.3, 1.4, 8.4, 18	Council on Affordable Housing: public hearing and extension of comment period regarding municipal development fees	23 N.J.R. 3132(a)		
5:92-1.6	Council on Affordable Housing: interim substantive certification	23 N.J.R. 3253(a)		

Most recent update to Title 5: TRANSMITTAL 1991-9 (supplement September 16, 1991)

MILITARY AND VETERANS' AFFAIRS (formerly DEFENSE)—TITLE 5A

5A:3	Military service medals	23 N.J.R. 1490(a)		
5A:3-1, 2	Military service medals: reopening of comment period	23 N.J.R. 3409(a)		
5A:4	Brigadier General William C. Doyle Veterans' Memorial Cemetery	23 N.J.R. 1491(a)		
5A:4	Brigadier General William C. Doyle Veterans' Memorial Cemetery: reopening of comment period	23 N.J.R. 3254(a)		

Most recent update to Title 5A: TRANSMITTAL 1990-2 (supplement June 18, 1990)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
EDUCATION—TITLE 6				
6:8	Thorough and efficient system of schools	23 N.J.R. 2908(b)		
6:8-1.1, 6.1, 6.2, 6.3	Preventive and remedial programs in reading, writing and mathematics	23 N.J.R. 2085(a)		
6:11-6.2	Early childhood instructional certificate	23 N.J.R. 2210(b)		
6:20-2.13, 2A.11, 3.1, 3.3, 3.4, 5.8	Free balance and restricted appropriations; tuition rates for regular public and county schools; excess surplus calculation	23 N.J.R. 2818(a)		

Most recent update to Title 6: TRANSMITTAL 1991-8 (supplement September 16, 1991)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ENVIRONMENTAL PROTECTION AND ENERGY—TITLE 7				
7:1 et al.	Centralized filing of requests for adjudicatory hearings: administrative changes	————	————	23 N.J.R. 3325(b)
7:1-1.3, 1.4	Delegations of authority within the Department	23 N.J.R. 3276(a)		
7:1-2	Third-party appeals of permit decisions	23 N.J.R. 3278(a)		
7:1E-1.6, 1.9, 7, 8, 9, 10	Discharges of petroleum and other hazardous substances: confidentiality of information	23 N.J.R. 2848(a)		
7:1H	County environmental health standards: request for public input concerning amendments to N.J.A.C. 7:1H	23 N.J.R. 2237(a)		
7:1I-3.3	Sanitary Landfill Facility Contingency Fund: suspension of claims	22 N.J.R. 3675(a)	R.1991 d.582	23 N.J.R. 3647(b)
7:2	State Park Service rules	22 N.J.R. 2652(a)	R.1991 d.487	23 N.J.R. 3005(a)
7:2-11.3–11.9, 11.12–11.14	Natural Areas and Natural Areas System	23 N.J.R. 1985(b)		
7:4	New Jersey Register of Historic Places: procedures for listing of historic places	23 N.J.R. 2103(a)		
7:7-4.5, 4.6	Coastal Permit Program: public hearings; final review of applications	23 N.J.R. 3280(a)		
7:7A	Freshwater Wetlands Protection Act rules: water quality certification	23 N.J.R. 338(a)		
7:8-1.1, 1.2, 1.5, 2.2, 2.3, 3.1, 3.4, 3.5, 3.6	Stormwater management: Water Pollution Control Act compliance	23 N.J.R. 1926(a)	R.1991 d.510	23 N.J.R. 3134(b)
7:9-5.8	Water pollution control: minimum treatment requirements	23 N.J.R. 1493(a)		
7:9-6	Ground water quality standards: request for comment on draft revisions	23 N.J.R. 1988(a)		
7:12-1.1, 2.1, 3.2, 4.1, 4.2, 7.1, 9.8, 9.10	Shellfish growing water classification	23 N.J.R. 2993(a)		
7:13	Flood hazard area control: opportunity to comment on draft revisions	23 N.J.R. 1989(a)		
7:13-7.1	Redelineation of Coles Brook in Hackensack and River Edge	23 N.J.R. 647(a)	R.1991 d.567	23 N.J.R. 3445(b)
7:13-7.1	Redelineation of South Branch Raritan River in Hunterdon County	23 N.J.R. 647(b)		
7:13-7.1	Redelineation of Passaic River in Florham Park	23 N.J.R. 648(a)	R.1991 d.568	23 N.J.R. 3446(a)
7:13-7.1	Redelineation of Lawrence and Heathcote Brooks in South Brunswick	23 N.J.R. 649(a)	R.1991 d.569	23 N.J.R. 3446(b)
7:14-8.2, 8.5	Clean Water Enforcement Act: civil administrative penalties and reporting requirements	23 N.J.R. 2238(a)		
7:14-8.13	Water Pollution Control Act: request for public input regarding economic benefit derived from noncompliance and determination of civil administrative penalties	23 N.J.R. 2241(a)		
7:14A-1.9, 3.10	Clean Water Enforcement Act: civil administrative penalties and reporting requirements	23 N.J.R. 2238(a)		
7:14A-15	Industrial wastewater pretreatment: preproposed rules	23 N.J.R. 149(a)		
7:14B-4.5, 9.1, 13.20	Underground storage tank systems	23 N.J.R. 2854(a)		
7:22	Financial assistance programs for wastewater treatment facilities	23 N.J.R. 3282(a)		
7:25-6	1992-93 Fish Code	23 N.J.R. 2115(a)	R.1991 d.572	23 N.J.R. 3446(c)
7:25-18.1	Taking of Atlantic sturgeon: preproposed amendment	23 N.J.R. 1111(a)		
7:25-18.1, 18.12, 18.13	Weakfish management program	23 N.J.R. 1989(b)		
7:26-1.2, 1.4, 8.2, 8.13, 9.1, 9.4, 9.5, 9.7, 9.10, 10.4, 10.7, 10.8, 11.5, 12.1, 12.2, 12.4, 12.5, 12.9, 17.4	Hazardous waste management	23 N.J.R. 2453(b)		
7:26-2.4	Small scale solid waste facility permits: request for comment on draft revisions to N.J.A.C. 7:26-2.4	23 N.J.R. 2458(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:26-3A.17, 5.4	Medical waste exemptions; penalties for violations of Solid Waste Management Act: administrative corrections	————	————	23 N.J.R. 3138(a)
7:26-4A.3	Fee schedule for hazardous waste generators, facilities, and transporters: correction to proposal	23 N.J.R. 1113(a)		
7:26-4A.3, 4A.5	Fee schedule for hazardous waste generators, facilities, and transporters	23 N.J.R. 814(a)		
7:26-7.7, 8.2, 8.3, 8.4, 8.20, 9.1	PCB hazardous waste	23 N.J.R. 2855(a)		
7:26-8.2	Hazardous waste exclusions: household waste	23 N.J.R. 3410(a)		
7:26-8.16	Hazardous constituents in waste streams	23 N.J.R. 3093(b)		
7:26-9.2, 10.6, 10.8, 11.3, 11.4, 12.2, 12.4	Hazardous waste management	22 N.J.R. 3186(a)	R.1991 d.562	23 N.J.R. 3450(a)
7:26-9.2, 10.6, 10.8, 11.3, 11.4, 12.2, 12.4	Hazardous waste management: extension of comment period	22 N.J.R. 3431(a)		
7:26A	Solid waste recycling	22 N.J.R. 3088(a)	R.1991 d.529	23 N.J.R. 3452(a)
7:27-8.1, 8.2, 8.11, 16, 17.1, 17.3–17.9, 23.2, 23.3, 23.5, 23.6, 25.2	Air pollution by volatile organic compounds	23 N.J.R. 1858(b)		
7:27-16.5	Air pollution by volatile organic compounds: corrections to proposal and addresses for inspection of copies	23 N.J.R. 2119(a)		
7:27-25.1, 25.2, 25.5, 25.7, 25.8	Vehicular fuel air pollution: extension of time to inspect copies of proposed amendments and new rules	23 N.J.R. 261(a)		
7:27A-3.2, 3.10, 3.11	Air pollution by volatile organic compounds: civil administrative penalties	23 N.J.R. 1858(b)		
7:27B-3.1, 3.2, 3.4–3.12, 3.14, 3.15, 3.17, 3.18	Air pollution by volatile organic comounds: sampling and analytical procedures	23 N.J.R. 1858(b)		
7:27B-3.10	Air pollution by volatile organic compounds: corrections to proposal and addresses for inspection of copies	23 N.J.R. 2119(a)		
7:28-1.4, 20	Particle accelerators for industrial and research use	23 N.J.R. 1401(c)		
7:50-2.11, 4.61–4.70, 5.27, 5.28, 5.30, 5.32, 6.13	Pinelands Comprehensive Management Plan: waivers of strict compliance	23 N.J.R. 2458(b)		
7:60-1	Low-level radioactive waste disposal facility: assessment of generators for cost of siting and developing	23 N.J.R. 3410(b)		

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8:21A	Good drug manufacturing practices: reopening of comment period	23 N.J.R. 1252(a)		
8:24-13.9, 13.11	Sanitation in community residences and bed and breakfast establishments	23 N.J.R. 2088(a)	R.1991 d.507	23 N.J.R. 3026(a)
8:31A-1.1, 2.6, 7.4, 7.5, App. A, D	SHARE Manual: patient day add-on; EDR and OPPM cost centers	23 N.J.R. 2242(a)	R.1991 d.580	23 N.J.R. 3648(a)
8:31B	Hospital rate setting	23 N.J.R. 3097(a)		
8:31B-3.65, 3.71	Hospital reimbursement: Schedule of Rates adjustments and reconciliation	Emergency (expires 11-15-91)	R.1991 d.506	23 N.J.R. 3042(a)
8:31B-3.73	Hospital rate setting: correction to proposed amendment and extension of comment period	23 N.J.R. 3442(a)		
8:31B-5.3	Hospital reimbursement: Diagnosis Related Groups	23 N.J.R. 3114(a)		
8:31C-1.21, App. A	Residential alcoholism treatment facilities: patient day add-on	23 N.J.R. 2243(a)	R.1991 d.579	23 N.J.R. 3650(a)
8:33-5.1	Certificate of Need moratorium	23 N.J.R. 2881(a)	R.1991 d.566	23 N.J.R. 3512(a)
8:33I	Megavoltage radiation oncology units	23 N.J.R. 1906(a)		
8:33J-1.1, 1.2, 1.3, 1.6	Magnetic Resonance Imaging (MRI) services	23 N.J.R. 1906(b)		
8:33M-1.6	Adult comprehensive rehabilitation services: bed need methodology	23 N.J.R. 1908(a)		
8:40	Licensure of invalid coach and ambulance services: waiver of expiration provision of Executive Order No. 66(1978)	23 N.J.R. 2245(a)		
8:40	Invalid coach and ambulance services	23 N.J.R. 2566(a)		
8:41A	Emergency medical technician-defibrillation programs: certification and operation	23 N.J.R. 1254(a)		
8:42-1.1, 6.1, 6.2, 11.2	Home health agency standards: patient advance directives	23 N.J.R. 3254(b)		

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8:43E-3.10, 3.15	Adult closed acute psychiatric beds: liaison participation and discharge planning	23 N.J.R. 3128(a)		
8:43G-4.1, 5.2, 5.3, 5.5, 5.7, 5.9, 5.12, 5.16, 5.18, 7.5, 7.16, 7.22, 7.23, 7.24, 7.26, 7.28, 7.32, 7.33, 7.34, 7.37, 7.40, 8.4, 8.7, 8.11, 9.7, 9.14, 9.19, 10.1, 10.4, 11.5, 12.2, 12.3, 12.7, 12.10, 13.4, 13.13, 14.1, 14.9, 15.2, 15.3, 16.1, 16.2, 16.6, 16.7, 18.4–18.7, 19.2, 19.5, 19.13, 19.14, 19.15, 19.17, 19.18, 19.22, 19.23, 19.33, 20.1, 20.2, 22.2, 22.3, 22.12, 22.17, 22.20, 23.1, 23.2, 23.6, 24.9, 24.13, 25.1, 26.2, 26.3, 26.9, 28.1, 28.8, 28.10, 29.13, 29.17, 30.1, 30.2, 30.3, 30.5, 30.6, 30.8, 30.11, 32.3, 32.5, 32.9, 32.12, 33.6, 35.2	Hospital licensing standards	23 N.J.R. 2590(a)		
8:43G-5.1, 5.2, 5.9, 15.2	Hospital licensing standards: patient advance directives	23 N.J.R. 3256(a)		
8:52	Local boards of health: activities and standards	23 N.J.R. 2825(a)		
8:57-2.2, 2.4, 2.6, 2.7	Reporting of HIV infection with identifiers	23 N.J.R. 2089(a)	R.1991 d.516	23 N.J.R. 3138(b)
8:61	AIDS prevention and control	23 N.J.R. 2245(b)	R.1991 d.538	23 N.J.R. 3332(a)
8:61	AIDS prevention and control: extension of comment period	23 N.J.R. 2882(e)		
8:61-2.1, 2.2, 2.3, 2.6	Participation in AIDS Drug Distribution Program	23 N.J.R. 2247(a)	R.1991 d.539	23 N.J.R. 3334(a)
8:61-2	Participation in AIDS Drug Distribution Program: extension of comment period	23 N.J.R. 2883(a)		
8:65-2.4, 2.5, 6.6, 6.13, 6.16	Controlled dangerous substances: handling of carfentanil, etorphine hydrochloride, and diprenorphine	23 N.J.R. 1911(a)		
8:66	Alcohol countermeasures: waiver of expiration provision of Executive Order No. 66(1978)	23 N.J.R. 177(a)		
8:71	Interchangeable drug products (see 23 N.J.R. 1670(a), 2136(a), 2783(a))	23 N.J.R. 178(a)	R.1991 d.560	23 N.J.R. 3337(a)
8:71	Interchangeable drug products	23 N.J.R. 1509(a)	R.1991 d.559	23 N.J.R. 3336(a)
8:71	Interchangeable drug products	23 N.J.R. 2610(a)	R.1991 d.558	23 N.J.R. 3334(b)
8:71	Interchangeable drug products	23 N.J.R. 3258(a)		

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9:4	County community colleges	23 N.J.R. 2467(a)	R.1991 d.517	23 N.J.R. 3143(a)
9:4-1.12	Capital projects at county colleges	23 N.J.R. 3196(b)		
9:4-3.12	Noncredit courses at county community colleges	23 N.J.R. 1056(a)		
9:7-4.2	Garden State Scholarships: academic requirements	23 N.J.R. 2211(a)		
9:9-7	New Jersey College Loans to Assist State Students (NJCLASS): loan interest rates	————	————	23 N.J.R. 3180(c)
9:9-7.7	New Jersey College Loans to Assist State Students (NJCLASS) Program: repayment of loan	23 N.J.R. 2212(a)	R.1991 d.515	23 N.J.R. 3143(b)
9:11-1.5	Educational Opportunity Fund: financial eligibility for undergraduate grants	23 N.J.R. 1739(a)		

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10:2	State and County Human Services Advisory Councils	23 N.J.R. 3259(a)		
10:3-3	Contract administration: Request for Proposal (RFP) process	23 N.J.R. 957(a)	R.1991 d.554	23 N.J.R. 3356(a)
10:7	Role of county adjuster	23 N.J.R. 2953(a)		
10:12-3	Referral of handicapped students for adult educational services	23 N.J.R. 2959(a)		

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10:15, 15A, 15B, 15C	Child Care Services: provision, eligibility for programs, co-payments and procedures	23 N.J.R. 2960(a)		
10:16	Child Death and Critical Incident Review Board concerning children under DYFS supervision	23 N.J.R. 3417(a)		
10:51 et al.	Bundled drug services reimbursement: public hearing	23 N.J.R. 1310(a)		
10:51-1.1, 1.14, 3.3, 3.12	Bundled drug services	23 N.J.R. 281(a)		
10:51-5.6	PAAD: income eligibility limits	23 N.J.R. 2623(a)	R.1991 d.563	23 N.J.R. 3514(a)
10:52-1.1, 1.22	Bundled drug services	23 N.J.R. 281(a)		
10:53-1.1, 1.17	Bundled drug services	23 N.J.R. 281(a)		
10:54-1.1, 1.16	Bundled drug services	23 N.J.R. 281(a)		
10:56-1.1, 1.4	Bundled drug services	23 N.J.R. 281(a)		
10:57-1.1, 1.18	Bundled drug services	23 N.J.R. 281(a)		
10:60-4.3	Home Care Expansion Program: cost sharing by beneficiaries	23 N.J.R. 2826(a)	R.1991 d.578	23 N.J.R. 3651(a)
10:66-1.2, 1.10	Bundled drug services	23 N.J.R. 281(a)		
10:66-1.6, 1.7, 3.2	Ambulatory surgical center reimbursement	23 N.J.R. 3265(a)		
10:66-1.6, 3	Independent Clinic Services: partial care	23 N.J.R. 2213(a)	R.1991 d.508	23 N.J.R. 3027(a)
10:69-5.1	HAAAD: income eligibility limits	23 N.J.R. 2623(a)	R.1991 d.563	23 N.J.R. 3514(a)
10:69A-1.2, 5.3, 5.6, 6.2, 6.10	PAAD: income eligibility limits	23 N.J.R. 2623(a)	R.1991 d.563	23 N.J.R. 3514(a)
10:69B-4.2	Lifeline Credit Program: income eligibility limits	23 N.J.R. 2623(a)	R.1991 d.563	23 N.J.R. 3514(a)
10:69B-4.8	Lifeline Programs: submission date for utility assistance eligibility applications	23 N.J.R. 3267(a)		
10:72-1.1, 4.1	Medicaid eligibility: pregnant women and children	23 N.J.R. 2543(a)	R.1991 d.526	23 N.J.R. 3144(a)
10:72-2.5, 3.4	Extended Medicaid eligibility for newborns	23 N.J.R. 1889(a)	R.1991 d.483	23 N.J.R. 3028(a)
10:72-6.1–6.5	New Jersey Care: presumptive eligibility process for pregnant women	23 N.J.R. 2827(a)		
10:81-3.19, 8.22, 14.8, 14.20	REACH/JOBS Program: Medicaid eligibility	23 N.J.R. 2988(a)		
10:81-14.12, 14.18	Public Assistance Manual: child care payment for AFDC families in REACH/JOBS program	23 N.J.R. 2214(a)	R.1991 d.555	23 N.J.R. 3365(a)
10:81-14.18, 14.18A, 14.18B	REACH child care co-payment	23 N.J.R. 2981(a)		
10:81-15	Child Care Plus Demonstration	23 N.J.R. 8(a)		
10:81-App. C	Public Assistance Manual forms: administrative correction	————	————	23 N.J.R. 3029(a)
10:82-1.1A	AFDC Standard of Need	23 N.J.R. 285(a)		
10:82-1.1A	AFDC Standard of Need: public hearings and extension of comment period	23 N.J.R. 967(a)		
10:82-2.8, 4.4, 5.3	Assistance Standards Handbook: child care payment for AFDC families in REACH/JOBS program	23 N.J.R. 2217(a)	R.1991 d.556	23 N.J.R. 3366(a)
10:82-3.1	Assistance Standards Handbook: bank account resources	23 N.J.R. 2625(a)		
10:82-4.9	Assistance Standards Handbook: DYFS monthly foster care rates	23 N.J.R. 3420(a)		
10:82-5.3	REACH child care voucher rates	23 N.J.R. 2989(a)		
10:82-5.10	AFDC Emergency Assistance	23 N.J.R. 967(b)	R.1991 d.522	23 N.J.R. 3144(b)
10:84-1	Efficiency and effectiveness of program operations	23 N.J.R. 1740(a)		
10:84-1	Efficiency and effectiveness of program operations: public hearing and extension of comment period	23 N.J.R. 2220(b)		
10:85-1.1, 1.2, 1.3, 2.1, 2.2, 2.5, 2.6, 3.2, 3.3, 3.5, 3.6, 4.2, 4.3, 5.3, 6.1–6.9, 7.2, 9.4, 12.1, 12.2	General Assistance Program	23 N.J.R. 1741(a)	R.1991 d.521	23 N.J.R. 3155(a)
10:85-4.1	General Assistance Program: Standard of Need	23 N.J.R. 286(a)		
10:85-4.1	General Assistance Standard of Need: public hearings and extension of comment period	23 N.J.R. 967(a)		
10:87-12	Food Stamp Program: income eligibility, deductions, coupon allotments	————	————	23 N.J.R. 3030(a)
10:97-1.3, 1.4, 2.1–2.6, 3.1, 3.2, 3.4, 3.5, 4.1, 4.2, 4.6, 4.7, 4.8, 4.14, 4.15, 5.1, 5.3, 5.4, 6.1, 6.3, 6.4, 6.5, 7.1–7.4, 8.1, 8.2, 8.3, 9.1	Commission for Blind and Visually Impaired: Business Enterprise Program	23 N.J.R. 1749(a)	R.1991 d.512	23 N.J.R. 3161(a)
10:120-1.2	Youth and Family Services: scope of responsibilities and services	23 N.J.R. 3420(b)		
10:123A	Youth and Family Services: Personal Attendant Services Program	23 N.J.R. 2091(b)		

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10:132	Youth and Family Services: court actions and procedures	23 N.J.R. 2099(a)	R.1991 d.576	23 N.J.R. 3651(b)

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10A:3	Security and control	23 N.J.R. 1259(a)	R.1991 d.503	23 N.J.R. 3031(b)
10A:6-1.3, 2.5	Inmate access to courts: legal material and documents	23 N.J.R. 3268(a)		
10A:10-3	Interstate Corrections Compact	23 N.J.R. 2221(a)		
10A:16-13	Inmate commitment for psychiatric treatment	23 N.J.R. 1890(a)		
10A:17	Inmate social services	23 N.J.R. 3065(a)		
10A:17-7	Inmate marriage	23 N.J.R. 3422(a)		
10A:18-2.9	Identification of inmate outgoing correspondence	23 N.J.R. 2468(a)		
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11:2-17.7	Payment of health insurance claims	23 N.J.R. 3196(c)		
11:2-27	Determination of insurers in hazardous financial condition	23 N.J.R. 3197(a)		
11:2-35	Relief from insurer obligations under FAIR Act	23 N.J.R. 660(a)	R.1991 d.519	23 N.J.R. 3166(a)
11:3-10.5	Automobile damage repair confirmation and reporting	22 N.J.R. 3442(b)	Expired	
11:3-16.5, 16.8, 16.10, 16.11, App.	Private passenger automobile insurance: rate filing requirements	23 N.J.R. 3199(a)		
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11:3-41	Association Producer Voluntary Placement Plan	23 N.J.R. 2275(a)		
11:3-42	Association Producer Assignment Program	23 N.J.R. 2297(a)		
11:3-43	Private passenger automobile insurance: personal lines rating plans	23 N.J.R. 3221(a)		
11:4-14.1, 15.1, 16.2, 19.2, 28.3, 36	BASIC Health Care Coverage	23 N.J.R. 3066(a)		
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11:5-1.13	Real Estate Commission: preservation of brokers' files	23 N.J.R. 3428(a)		
11:5-1.38–1.42	Real Estate Commission: dual agency for dual compensation practices; kickbacks for referrals; written disclosures; exclusion of outside mortgage lenders	23 N.J.R. 3424(b)		
11:12	Legal services insurance	23 N.J.R. 2304(a)	R.1991 d.520	23 N.J.R. 3170(a)
11:16-3	Automobile damage repair confirmation and reporting	22 N.J.R. 3442(b)	Expired	
11:16-4	Automobile insurance: fraud and theft prevention/detection plans	23 N.J.R. 3236(a)		
11:17A-1.3	Licensure of insurance producers and limited insurance representatives	23 N.J.R. 1912(a)		

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12:51	Vocational Rehabilitation Services: waiver of expiration provision of Executive Order No. 66(1978)	23 N.J.R. 1893(a)		
12:51	Vocational Rehabilitation Services	23 N.J.R. 2927(a)		
12:55	Wage payments	23 N.J.R. 2939(a)		
12:56-1.2–1.6	Wage and hour violations, administrative penalties and fees, hearings, and employer offenses	23 N.J.R. 2942(a)		
12:58-5	Child labor violations and administrative penalties	23 N.J.R. 2944(a)		
12:60-2.1, 6.1	Public works employers: inspection of payroll records	23 N.J.R. 2945(a)		
12:60-9	Prevailing wages for public works: violations, penalties, and fees	23 N.J.R. 2945(b)		
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12:195-1.9	Carnival-amusement rides: annual inspection fees	23 N.J.R. 2950(a)		
12:210-1	Apparel industry registration	23 N.J.R. 2951(a)		
12:235-1.6	Workers' Compensation: 1992 maximum rates	23 N.J.R. 2612(a)		

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12A:12-3.4	Tourism Matching Grants: application deadline	________	________	23 N.J.R. 3032(a)
12A:31-1, 3	Direct Loan Program for small, minority, and women's businesses	23 N.J.R. 2626(a)		
12A:31-2.3, 2.7	Loan Guarantee Program for small, minority, and women's businesses: financial statements	23 N.J.R. 2627(a)		
12A:121-1.2, 2	Urban Enterprise Zone program: extension of 50 percent sales tax exemption to qualified municipalities	23 N.J.R. 1893(b)		
12A:121-1.2, 2	Urban Enterprise Zone program: public hearing and reopening of comment period regarding extension of 50 percent sales tax exemption to qualified municipalities	23 N.J.R. 2885(a)		
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13:18-11.3, 11.4, 11.5	Access to Division of Motor Vehicles records	23 N.J.R. 2857(a)	R.1991 d.575	23 N.J.R. 3520(a)
13:20-41	Persian Gulf War commemorative license plates	23 N.J.R. 2916(a)		
13:27-6.2–6.5	Certified landscape architects: site planning services	23 N.J.R. 1516(a)	R.1991 d.550	23 N.J.R. 3337(b)
13:30-8.4	Announcement of practice in special area of dentistry	23 N.J.R. 3429(a)		
13:31-1	Board of Examiners of Electrical Contractors: administration and procedure	23 N.J.R. 2917(a)		
13:31-1.4	Exempt electrical work and use of qualified journeyman electrician	23 N.J.R. 979(a)		
13:32-1.3	Master plumbers licensing examination	23 N.J.R. 288(a)	R.1991 d.482	23 N.J.R. 3032(b)
13:32-1.8	Licensed master plumber: scope of practice	23 N.J.R. 1062(a)		
13:35-2.5	Medical standards for screening and diagnostic testing offices	23 N.J.R. 2858(a)		
13:35-3.6	Bioanalytical laboratories: acceptance by director of requests for test of human material	23 N.J.R. 23(a)	R.1991 d.565	23 N.J.R. 3520(b)
13:35-6.4, 6.16, 6.17	Corporate medical practices and Medical Board licensees	23 N.J.R. 161(a)		
13:35-6.4, 6.16, 6.17	Corporate medical practices and Medical Board licensees: public hearing	23 N.J.R. 1063(a)		
13:35-6.7	Practice of medicine: prescribing of amphetamines and sympathomimetic amine drugs	23 N.J.R. 2248(a)		
13:36-7	Board of Mortuary Science: practice regarding persons who died of infectious or contagious disease	23 N.J.R. 1517(a)		
13:36-10	Mortuary science licensees: continuing education	23 N.J.R. 1277(a)		
13:38-1.2, 1.3	Practice of optometry: permissible advertising	23 N.J.R. 2002(a)		
13:39-5.8	Prescriptions and medication orders transmitted by technological devices	23 N.J.R. 2469(a)		
13:40-7.2–7.5	Certified landscape architects: site planning services	23 N.J.R. 1516(a)	R.1991 d.550	23 N.J.R. 3337(b)
13:40A	Board of Real Estate Appraisers rules	23 N.J.R. 2628(a)		
13:41-4.2–4.5	Certified landscape architects: site planning services	23 N.J.R. 1516(a)	R.1991 d.550	23 N.J.R. 3337(b)
13:44E-1.1	Scope of chiropractic practice	23 N.J.R. 2100(a)		
13:44E-2.3	Chiropractic practice: insurance claim forms	23 N.J.R. 1279(b)		
13:44E-2.6	Chiropractic practice identification	23 N.J.R. 1896(a)		
13:45B	Employment and personnel services	23 N.J.R. 2470(a)		
13:45B	Employment and personnel services: extension of comment period	23 N.J.R. 2919(a)		
13:51	Chemical breath testing	23 N.J.R. 2248(b)	R.1991 d.505	23 N.J.R. 3032(c)
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