

NEW JERSEY



REGISTER

IN THIS ISSUE "INDEX OF PROPOSED RULES"

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RULE PROPOSALS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules of Practice Jurisdiction of the Office of Administrative Law

Proposed New Rule: N.J.A.C. 1:2-2

Authorized By: Howard H. Kestin, Director, Office of Administrative Law.

Authority: N.J.S.A. 51:14F-5e, f and g.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Steven L. Lefelt, Deputy Director
Office of Administrative Law
185 Washington Street
Newark, NJ 07102

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

This proposal is known as PRN 1983-34.

The agency proposal follows:

Summary

The OAL is proposing a six month summary proceedings experiment to test the feasibility of conducting certain Civil Service contested case hearings as "conference" hearings. If successful, these summary proceedings will be made permanent for Civil Service cases and may be extended to other appropriate cases. These rules were developed in consultation with the Department of Civil Service and public employee union representatives.

The purpose of the proposed conference hearing rules is to make the process for these cases speedier, simpler and less formal than the existing plenary hearing procedures in N.J.A.C. 1:1-1. The summary procedure eliminates pre-hearing conferences, streamlines discovery activities, eliminates post-hearing briefs, and minimizes motion practice. The rules make the evidentiary hearing more flexible and less formal. The rules also clarify that, in these summary proceedings, qualified non-lawyers may accompany and assist parties, speak for parties, present evidence, and conduct examination and cross-examination of witnesses. At the close of the hearing, the judge may render an oral decision, either before the parties or afterwards. An oral decision will contain all of the essential elements of a written decision and will be transcribed and sent to the Department of Civil Service and the parties.

The proposed rules provide that the less complex and serious Civil Service cases may routinely be scheduled as conference hearings, while the more complex and serious cases may be scheduled as conference hearings at the request of the employee who is the subject of the case. In any case, a conference hearing may be converted into a plenary hearing at the request of a party or the OAL. During the experiment, the OAL intends to schedule some cases under the new conference procedure and some under the existing plenary procedure, so as to comparatively test the methods.

Social Impact

The conference hearing procedure should speed up the resolution of these cases, and should thereby help remove a source of lingering hardship and/or anxiety for employees and a source of continuing on-the-job conflict and ill will between employees and employers.

The conference hearing procedure is also less formal, and should thereby help make the process less confusing and onerous for pro se parties. Permitting certain non-lawyers, essentially union representatives or personnel directors, to appear in these cases should also remove some burdens from the pro se employee or employer, and lead to better presentations at the hearing of these types of cases. However, attorneys remain the only persons who may represent parties, and who may appear at proceedings without their clients. In the absence of an attorney, a party must personally appear at the hearing.

Economic Impact

The conference hearing procedure should speed up the hearing process, and should save the parties and the OAL considerable time and money, while working no inconvenience to the Department of Civil Service.

NEW JERSEY REGISTER

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The NEW JERSEY ADMINISTRATIVE CODE is published on a continuing basis by Administrative Publications of the Office of Administrative Law. Subscription rates for this 31-volume, regularly updated set of all State administrative rules are available on request. The Code is sold either in the full set or in one to three volumes depending on the Department coverage desired.

Currently, the major expenditures of time in resolving a Civil Service case occur at four steps: (1) transmitting the case to OAL by the Department; (2) scheduling of the case for hearing by OAL; (3) writing the initial decision by the ALJ; and (4) rendering the final decision by the Department. Because, under these proposed rules, the ALJ may render an oral decision, the third step of the process should be much quicker. Whereas it currently takes up to 45 days to issue a written initial decision, it hopefully will take no more than 15 days to issue a transcribed oral decision, thus saving a month. In turn, because the rendering of initial decisions is quicker, the scheduling of these cases by the OAL (step 2 of the process) should be much quicker, and more cases should be handled within a given period of time. Given the current level of OAL case filings, the backlog of Civil Service cases at OAL, which expands and contracts over time, should be substantially reduced and hopefully eliminated.

Currently, the major expenditures of money in resolving Civil Service cases result from three factors: (1) buildup of potential back-pay liability for the appointing authority in termination cases due to the length of the plenary hearing process; (2) buildup of legal fees and related costs for all parties, and especially for the appointing authority where it has to pay the employee's legal costs, due to the pre-hearing and post-hearing motions, discovery, briefs and other plenary procedures; and (3) cost of ALJ and OAL staff time due to preparation of written initial decisions. Each of these three factors should be substantially reduced in those cases conducted under these new rules, thereby reducing the cost of the hearing process for all concerned.

Full text of the proposed new rule follows.

SUBCHAPTER 2. CONFERENCE HEARING

1:2-2.1 Applicability; scope

These rules for the conduct of conference hearings shall apply on an experimental basis to contested cases from the Civil Service Commission dealing with layoffs, disciplinary actions other than termination from employment, and termination after probationary work period, and, upon request of the employee, to cases dealing with termination from employment.

1:2-2.2 Definition

A conference hearing is a limited proceeding conducted before an administrative law judge, providing the parties with the opportunity to present evidence, to give sworn testimony, to cross-examine witnesses and make arguments. At the opening of a conference hearing, the judge shall attempt to achieve a settlement of the matter between the parties. The judge shall adopt any order or method of proceeding and presentation by the parties best suited under the circumstances to get at the truth and to permit each party to state his/her position.

1:2-2.3 Notice of filing and conference hearing

(a) Along with the notice of filing of the contested case, required by N.J.A.C. 1:1-5.2(d), the OAL shall notify the parties when a case has been scheduled for a conference hearing.

1:2-2.4 Conversion of conference hearing into plenary hearing

(a) At any time after receiving a notice of conference hearing, a party may move to convert the proceeding into a plenary hearing.

(b) At any time, the judge, on his/her own or on motion of a party, may convert a conference hearing into a plenary proceeding in the interests of providing a full and fair hearing considering the circumstances of the case.

(c) When considering the conversion of a conference hearing into a plenary hearing, the OAL may require the parties to indicate or summarize the reasons why conversion is desired.

1:2-2.5 Limitations on pre-hearing motions

(a) Other than motions for emergent relief, discovery or a plenary hearing, a party may not file a motion in advance of the scheduled date of hearing.

1:2-2.6 Limitation on discovery

(a) Any state, county or local agency which is a party to a summary proceeding shall allow examination by the opposing party of the agency's file with respect to that party and the case, and shall provide copies of documents in the file upon request.

(b) The file shall include the employee's personnel file and New Jersey State or local employee's employment record card, and any other documents and records to be used by the appointing authority at the hearing.

(c) The agency may refuse to deliver any document subject to a bona fide claim of privilege.

(d) Any other discovery shall be by motion to the judge, and for good cause shown.

1:2-2.7 Resumption of authenticity

(a) The authentication requirements and criteria in N.J.A.C. 1:1-15.9 shall not apply in a conference hearing.

(b) Any writing offered into evidence which has been disclosed to each other party at least three days prior to the hearing shall be presumed to be authentic.

(c) At the hearing, either party or the judge may raise questions of authenticity.

1:2-2.8 Limitation on briefs and other formal papers

(a) Proposed findings of fact, conclusions of law, briefs and forms of order or other disposition may be offered at the hearing. Such documents may not be accepted thereafter, nor required of the parties at any time, except for purposes of expressing the terms of a settlement.

1:2-2.9 Oral decision

(a) Where the judge determines that the questions of fact and law in the case are sufficiently simple, the judge may render the initial decision orally either on the record at hearing before the parties or after the hearing is closed without the parties.

(b) Within five working days of rendering an oral decision, the decision shall be transcribed, and filed with the agency head and mailed to the parties with an indication of the date of receipt by the agency.

(c) In an oral decision, the judge shall analyze the facts as they relate to the applicable law, and make findings of facts, conclusions of law and an appropriate order or disposition of the case, as required by N.J.A.C. 1:1-16.3(c). The judge shall also explain to the parties that the decision is being forwarded to the agency head for disposition pursuant to N.J.S.A. 52:14B-10, and that exceptions may be addressed to the agency head. The judge need not specifically include in the oral decision the other material required by N.J.A.C. 1:1-16.3(c), as long as it is otherwise contained in the record.

1:2-2.10 Representation and assistance

Any party may be represented by an attorney; or accompanied and assisted by an individual with special knowledge or training in the subject matter of the hearing and in the contested case hearing process, who neither charges nor receives any fee, benefit or other compensation from the party specifically for the assistance in this matter.

1:2-2.11 Expiration date

This subchapter shall expire 180 days from its effective date.

(a)

OFFICE OF ADMINISTRATIVE LAW**Uniform Administrative Procedure Rules of Practice
Jurisdiction of the Office of Administrative Law****Proposed New Rule: N.J.A.C. 1:2-3**

Authorized By: Howard H. Kestin, Director, Office of Administrative Law.

Authority: N.J.S.A. 51:14F-5e, f and g.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Steven L. Lefelt, Deputy Director
Office of Administrative Law
185 Washington Street
Newark, NJ 07102

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

This proposal is known as PRN 1983-33.

The agency proposal follows:

Summary

The OAL is proposing a six month summary proceedings experiment to test the feasibility of conducting certain Division of Motor Vehicle (DMV) contested case hearings as "hearings on the papers." These rules were developed in consultation with the Division of Motor Vehicles.

The purpose of the proposed paper hearing rules is to make the process for these cases speedier, simpler and less formal than the existing plenary hearing procedures in N.J.A.C. 1:1-1. Paper hearings will be conducted for cases dealing with excessive points violations and driving while suspended or revoked. Currently, DMV does not make a personal appearance at a hearing in these cases, and bases its case on documents submitted to the OAL. Currently in these cases, only the ALJ and the licensee appear at the hearing. Under the proposed rules, the necessity for a face-to-face hearing would be eliminated, saving the licensee and the administrative process significant time and money.

Cases involving points violations are currently scheduled for settlement conferences at DMV. These proposed rules incorporate that settlement conference more fully into the OAL hearing process. Under this proposal, the DMV settlement process will be used more fully as a means for satisfying any discovery needs of a licensee and preparing any documents which are necessary for the hearing of cases which are not settled.

The DMV cases involved in this experiment almost invariably involve only two issues, each of which can generally be handled through the submission of documents, and without any face-to-face confrontation. The two issues are: whether the DMV has accurately maintained the licensee's driving record, and whether the DMV's proposed disciplinary action is appropriate. A prima facie case for the accuracy of the DMV records is made by the submission of certified copies of the agency's documents. The accuracy of these records is almost never challenged by a licensee. Generally, the only matter for hearing in these cases is a request by the licensee that extenuating circumstances be considered in assessing an

appropriate penalty. Such a request usually can as well be made in a letter and/or other document as in person. The proposed rules set forth time limits for the submission of letters or other papers to the OAL. Under the proposed rules, a licensee would have the option, at any time before a decision is issued, of requesting a face-to-face hearing or other procedures where necessary in the interests of fairness. For example, if a licensee cannot communicate in writing, or if a licensee raises an issue of credibility which can only be resolved by observing the demeanor of a witness, the judge may determine to convert the proceeding into a conference hearing or plenary hearing.

Social Impact

These proposed procedures should significantly decrease the unnecessary delay and backlog in DMV cases at the OAL, and, eventually, could eliminate that delay and backlog. The proposal should result in fairer and more effective law enforcement, in an area where delay is particularly harmful. Under the case law in New Jersey, DMV disciplinary actions must be remedial and not punitive, in character. The remedial effect, and even the character, of an action may be significantly affected by the speediness of its implementation.

The time saved in the process of hearing these cases on the papers should significantly increase the speediness of their disposition. Time will be saved because ALJs will no longer have to travel around the State to conduct these DMV hearings in the licensees' localities. Time will also be saved in the conduct of the hearing, as reviewing papers is generally quicker than taking oral testimony.

Speedier resolution of these matters, and of other cases at the OAL, should also result from the greater flexibility in ALJ scheduling which these procedures make possible.

These proposed rules should eliminate some of the procedures, consumption of time, and possibilities for delay involved with the scheduling and notification of face-to-face hearings. These cases can be assigned to ALJs at any time after the close of the period for the submission of documents. This greater flexibility in the scheduling of these cases should facilitate the scheduling of other cases and of judges' time for the hearing of cases and the writing of decisions.

Economic Impact

These proposed rules should significantly reduce the cost of hearing these cases to both the licensee and the government. The licensee will be saved the time and expense of appearing at a face-to-face hearing. The government will be saved the time and cost of sending an ALJ to a face-to-face hearing. In turn, the time and money saved by the government on these hearings can be used to handle other cases more expeditiously.

Full text of the proposed new rule follows.

SUBCHAPTER 3. HEARING ON THE PAPERS**1:2-3.1 Applicability; scope**

These rules for the conduct of hearings on the papers shall apply on an experimental basis to contested cases from the Division of Motor Vehicles dealing with disciplinary actions, other than license revocations, due to accumulating excessive points and to driving while suspended or revoked.

1:2-3.2 Definition

A hearing on the papers is a summary proceeding conducted without any personal appearance or confrontation of the parties before the judge. The hearing is conducted through the submission of pleadings, affidavits, records and other documents to the Office of Administrative Law (OAL), for a decision by an administrative law judge.

1:2-3.3 Settlement conference

(a) In a case dealing with excessive points, a hearing on the papers shall occur following a settlement conference between the licensee and the Division, conducted by the Division.

(b) If settlement is not reached, the parties shall use the conference to prepare the issues and evidence for the hearing, including:

1. Ascertaining whether the licensee disputes any facts recorded on the licensee's driving record abstract issued by the Division, and, if so, which facts and on what basis;

2. Ascertaining whether the licensee disputes the severity of the sanction proposed by the Division, and, if so, on what basis; and

3. Ascertaining any discovery needs of the licensee.

(c) At or forthwith after the conference, the Division shall supply the licensee with any material requested pursuant to N.J.A.C. 1:2-3.6 (Discovery), or any other appropriate documents.

1:2-3.4 Notice of filing and of hearing on the papers

(a) Along with the notice of filing of the contested case, required by N.J.A.C. 1:1-5.2(d), the Clerk of the OAL shall notify the parties when a case has been scheduled as a hearing on the papers.

(b) In the notice, the OAL shall request the licensee to respond in writing to the Clerk of the OAL, with a copy to the Division, within 20 days of the date of the notice.

1:2-3.5 Response to notice of hearing on the papers; conversion to conference or plenary hearing

(a) As part of the response to the OAL, the licensee:

1. Shall indicate whether he/she disputes the facts recorded on the licensee's driving record abstract issued by the Division or disputes the severity of the sanction proposed by the Division, or both, or wants to raise any other relevant issue;

2. Shall submit any affidavits, records or other documents which supplement the initial papers or pleadings in the case, and which the party wants the judge to consider in determining the accuracy of the abstract, the appropriate penalty, or any other relevant issue. Upon request, the OAL shall grant the licensee an additional 20 days to submit supplemental documents for consideration as part of the hearing record. In the interests of justice, the OAL may grant a request for more than 20 additional days.

3. May request that the hearing be converted into a conference hearing, under N.J.A.C. 1:2-2 or a plenary hearing, under N.J.A.C. 1:1-1. As part of such request, the licensee shall explain his/her reasons for the request, pursuant to N.J.A.C. 1:2-3.7 (Conversion).

(b) If the licensee does not respond in writing to the notice within 20 days, the licensee shall be deemed to have agreed to a hearing based on his/her initial hearing request plus any documents submitted by the Division.

1:2-3.6 Discovery

(a) Discovery shall consist solely of the records of the Division with respect to the case. The records shall include any police or other report or document which forms a basis for the Division's action, a certified copy of the licensee's driving record abstract and other relevant record and a copy of any summons or record of conviction relevant to the case.

(b) Upon request, the Division shall supply the licensee with a copy of its records in the case.

(c) The licensee may make any discovery request either as part of the licensee's request to the Division for a hearing or at any settlement conference conducted by the Division.

1:1-3.7 Conversion to conference hearing or plenary hearing

(a) In the interests of providing a full and fair hearing, considering the circumstances of the case, the OAL may, on its own or on the request of a party, convert a case scheduled as a hearing on the papers into a conference hearing or plenary hearing.

(b) Reasons for such conversion include:

1. Discovery disputes or a bona fide need for more extensive discovery;

2. Request for emergency relief;

3. Inability of a party to adequately communicate in writing;

4. Proofs on a disputed material fact which require oral presentation by a party or a party's witness;

5. Other bona fide need for a personal appearance or more extensive procedure.

1:2-3.8 Conduct of hearing on the papers

(a) At the conclusion of the time allotted for the submission of responses and any supplemental documents (N.J.A.C. 1:2-3.4), the record in the case shall be closed.

(b) At any time prior to issuance of the initial decision in the case, the licensee may in writing request the OAL to reopen the record. Such motion shall be granted only for extraordinary reasons.

(c) Upon closing the record, the OAL shall assign the record for review and determination by an administrative law judge. The judge shall issue an initial decision no later than 45 days after he/she reviews the record of the case.

(d) There shall be a presumption of authenticity for any writing offered as part of the record.

AGRICULTURE

(a)

DIVISION OF MARKETS

New Jersey Sire Stakes Program
New Jersey Sire Stakes Rules

Proposed New Rule: N.J.A.C. 2:32-2

Authorized By: Arthur R. Brown, Jr., Secretary,
Department of Agriculture.
Authority: N.J.S.A. 5:5-91.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

R. Donald Bechamps, Secretary
New Jersey Sire Stakes
CN 330
Trenton, NJ 08625

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

This proposal is known as PRN 1983-27.

The agency proposal follows:

Summary

The New Jersey Sire Stakes is an 11 year program which has given the State of New Jersey prominence in Standardbred race horse breeding. The State is currently ranked in the top three states or provinces in North America for breeding Standardbred race horses. The effect of the proposed rules do not change the prior procedures or conditions under which the Sire Stakes programs operate. The proposal is designed to increase the Sire Stakes purse which in turn encourages Standardbred owners to establish breeding farms in New Jersey. The program has also resulted in preserving open land space in New Jersey as a result of increasing horse farms. The proposal attempts to insure that top quality horses are involved in the program. The proposal also provides for fees to

be charged program participants and sanctions for violation of the procedures and rules.

Social Impact

The proposal will affect owners, trainers and drivers of New Jersey Sire Stakes' eligible horses. They number in excess of 5,000 persons, many of whom make their livings racing New Jersey bred horses.

Economic Impact

The proposed rules will have a positive economic impact upon horseowners, trainers and drivers. The program has resulted in an increase in purses from \$474,000 in 1972 to an estimated \$6 million in 1983. The increasing purse sizes have resulted in owners expanding their horsefarms. Moreover, the increased purses have resulted in increased payments for trainers and drivers. The money winners have been able to increase their annual revenues by 133 percent since the program commenced in 1972. Since the procedures of the program have not changed, the required fees remain the same and will have no adverse economic impact upon the affected groups. For the same reason, the Department of Agriculture will not be affected.

Full text of the proposed new rule follows.

**SUBCHAPTER 2. NEW JERSEY SIRE STAKES
CONDITIONS**

2:32-2.1 Conditions

The New Jersey Sire Stakes Program operates under the conditions found in this subchapter.

2:32-2.2 Certificate of mating

When a mare is bred to a New Jersey registered stallion, the stallion owner must supply the New Jersey Standardbred Breeders and Owners Association, the New Jersey Department of Agriculture, and the United States Trotting Association a certificate of mating, stating that the mare has been bred to said stallion. The certificate is to be supplied by August 15 of the breeding season and must include the name and address of the owner of the mare that was bred.

2:32-2.3 Certificate of Good Health

A registered New Jersey stallion, whose owner wishes to breed him to mares for the purpose of dropping foals eligible for the New Jersey Sire Stakes Program, must have a currently valid Certificate of Good Health from the New Jersey Department of Agriculture's Division of Animal Health. A copy of this certificate will be filed with the Standardbred Breeders and Owners Association of New Jersey and the New Jersey Department of Agriculture. The physical examination must be conducted by a licensed New Jersey veterinarian. The physical examination must be conducted between October 1 and December 31 of each year.

2:32-2.4 Registration; deadlines

All Standardbred horses, to be eligible to compete in the New Jersey Sire Stakes Program, must be bred in the State of New Jersey and be the product of a registered New Jersey stallion. The stallion must be registered with the Standardbred Breeders and Owners Association of New Jersey as such and listed in their registry books no later than November 1 of each year. The stallions must be standing on their respective stud farms by January 1 of the following year.

2:32-2.5 Adoption of bylaws

The bylaws of the New Jersey Sire Stakes Board of Trustees are hereby adopted as follows:

(a) There is hereby established in the State of New Jersey a Sire Stakes Program for Standardbred horses, bred in the State of New

Jersey and to be the product of a registered New Jersey stallion, registered with the Standardbred Breeders and Owners Association of New Jersey as such and listed in their registry books.

(b) Those horses eligible to race under said Sire Stakes Program shall be any foal of any registered New Jersey stallion standing at a New Jersey breeding farm and either owned by a resident of the State of New Jersey or leased by a resident thereof for a period of not less than 10 years to stand the full season on a New Jersey breeding farm. A copy of any such lease shall be filed with the United States Trotting Association, the Standardbred Breeders and Owners Association of New Jersey, and the New Jersey Racing Commission.

(c) Said Sire Stakes Program shall be administered by a Board of Trustees consisting of five members, four appointed by the Governor, two of whom shall be members of the Standardbred Breeders and Owners Association of New Jersey, two representatives of racing interests generally, and the Secretary of Agriculture ex-officio. Of the members first appointed, the Breeders and Owners Association shall be two years, the other appointee number of such association shall be one year, the term of office of one appointee representing racing interests generally shall be for two years and the other appointee representing racing interests generally shall be for a term of one year. Thereafter, appointment shall be for terms of two years.

(d) No member of the Board of Trustees shall be compensated for his services; however, reasonable travel and other expenses incurred in connection with duties as members of the Board may be reimbursed.

(e) The Board of Trustees is authorized to do all that is necessary for the proper administration of the said Sire Stakes Program and shall prepare, issue, and promulgate rules and regulations providing for:

1. Classes and divisions of races, eligibility of horses and owners therefor, and prizes and awards to be awarded;
2. Nominating, sustaining, and entry fees for horses and races;
3. Such temporary programs including eligibility of horses, breeding, and other matters as may be necessary to make the Sire Stakes Program operable as soon as possible;
4. Registration and certification of New Jersey stallions, mares bred to such stallions, and foals produced thereby; and
5. Such other matters as the Board determines to be necessary and appropriate for the proper administration and implementation of the Sire Stakes Program.

(f) The funds for the Sire Stakes Program pursuant to section 46 of P.L. 1940 c.17, and the nominating, sustaining, and entry fees provided for herein, shall be administered by the New Jersey Department of Agriculture by deposit in a trust account entitled Sire Stakes Fund.

(g) All disbursements therefrom for the payment of purses and awards, cost of administration, reimbursement of expenses of members of the Board of Trustees, and any other appropriate expenses, shall be made by the Secretary of Agriculture or his designee.

(h) A report shall be prepared and filed annually by the Secretary with the Racing Commission setting forth an itemization of all deposits to and expenditures from said fund.

(i) Sire Stakes Races shall be run at all licensed harness tracks in the State of New Jersey. Said races and purses and awards awarded therefor shall be pursuant to the rules and regulations of the Board of Trustees hereunder, the New Jersey Racing Commission, and the United States Trotting Association.

(j) The five-man Board of Trustees shall elect a chairman and vice-chairman at the annual meeting in June of each year.

(k) The secretary of the Sire Stakes Board of Trustees need not be a member of the Board and shall be appointed each year by the New Jersey Secretary of Agriculture.

(l) The Sire Stakes Board of Trustees shall meet each month of the year. The date, time, and place will be selected by the chairman, and the secretary shall notify all Board members by letter 10 days

prior to each meeting.

(m) In order for the Board of Trustees to conduct any official business at special monthly meetings, a quorum must be present. A quorum is defined as consisting of at least three of the five members.

(n) The chairman is authorized to call special meetings when necessary by instructing the secretary to give each member 10 days notice in writing.

(o) The Board of Trustees bylaws can be amended by a four-out-of-five vote of the membership of the Board of Trustees.

2:32-2.6 Record of registration

The Office of the Standardbred Breeders and Owners Association of New Jersey is hereby authorized to record the yearly registration of stallions eligible to the New Jersey Sire Stakes Program.

2:32-2.7 Closing of yearling nominations

The date for the closing of nominations of yearlings to the Pari-mutuel and Fair Divisions shall be May 15 of each year, in accordance with the United States Trotting Association regulations, with no exceptions. A copy of the horse's United States Trotting Association's Certificate of Registration must accompany the yearling nomination payment. A \$40.00 payment per horse covers the nomination fee to both the Fair and Pari-mutuel Divisions. Thereafter, each division will have separate sustaining payments with separate due dates. In addition, beginning in 1983, for foals of 1982, the yearling nomination payment form will also include the nomination to the New Jersey Pacing Classic at \$15.00 or the Charles I. Smith Memorial Trotting Classic at \$15.00. If one chooses to nominate to either of these events, the yearling nomination payment will be a total of \$55.00 and be due on or before May 15 of each year.

2:32-2.8 Eligibility

A stallion, in order for his foals to be eligible for the New Jersey Sire Stakes Program, must stand for breeding purposes the full season, extending from January 1 through December 31, on a farm in New Jersey, and shall not be moved from the farm without the permission of the Sire Stakes Board of Trustees. A stallion shall not be permitted to race during a registered breeding year, that is, January 1 through December 31.

2:32-2.9 Continuing eligibility

In order for Sire Stakes eligible two-year-old horses to remain eligible as three-year-olds, their owners must have made the yearling nomination and the first two-year-old sustaining payment. In order for eligible three-year-old horses to remain eligible as four-year-olds, their owners must also have made the first three-year-old sustaining payment as well as the nomination and the first two-year-old sustaining payment.

2:32-2.10 Guaranteed purse

A purse added money will be guaranteed for each Sire Stakes Race at each Fair for two-, three-, and four-year-old trotters and pacers.

2:32-2.11 Allocation of Sire Stakes purse money

(a) After deduction of the Fair Division portion of the Sire Stakes purse money is made, the Pari-mutuel Division of the Sire Stakes purse money will be allocated as follows:

- 1. 40 percent of all remaining monies for 2 year olds;
- 2. 50 percent of all remaining monies for 3 year olds;
- 3. 10 percent of all remaining monies for 4 year olds.

2:32-2.12 Starting fees

Only the starting fees will be added to the basic purse. Beginning with the 1983 program, the starting fees will be:

Pari-mutuel Division	Fair Division
2 year olds...\$400.00	2 year olds...\$75.00

3 year olds...\$400.00
4 year olds...\$200.00

3 year olds...\$75.00
4 year olds...\$75.00

2:32-2.13 Division of purse monies

All Sire Stakes purse monies, excluding fees, are to be divided 50 percent to trotters and 50 percent to pacers.

2:32-2.14 Minimum races

A minimum of seven Sire Stakes Races per division will be conducted each year. The minimum total of seven includes both Fair and Pari-mutuel Division races.

2:32-2.15 Fees

All horsemen's fees are to follow a horse by sex and gait and the fees are to remain in the respective pools.

2:32-2.16 Entry fee deadline

Beginning with yearlings nominated in 1983, all Sire Stakes Race entry fees must be paid at the time of the race or the horse will not be allowed to start.

2:32-2.17 Qualifying conditions

(a) All starters in the New Jersey Sire Stakes Pari-mutuel Division must meet the following qualifying conditions for the 1983 racing season:

1. Two-year-old pacers, three-year-old pacers, and three-year-old trotters must meet the current raceway standard for that age and gait or they will not be allowed to start in either a wagering or non-wagering event. The qualifying standards of the raceway, with respect to time, breaks, gate performance and the New Jersey 30-day rule, are to be determined by the racing officials of the Pari-mutuel track at which the race is to be contested.

2. Two-year-old trotters are allowed two seconds over the raceway standard for that age and gait, but must comply with all other qualifying standards of the raceway at which the race is to be contested.

i. A two year-old pacer, a three-year-old pacer, and a three-year-old trotter must meet qualifying time (two-year-old trotters are allowed two seconds over the track qualifying time) in a betting or non-betting race within 30 days of declaration, and, in addition, show no breaks and have satisfactory gate performance prior to the Sire Stakes event.

ii. If a horse initially makes qualifying time but then fails to meet qualifying time in a subsequent event, it must then re-qualify to meet the standards of the raceway at which the race is to be contested.

iii. Official workouts are not acceptable as a substitute for a qualifying racing line.

3. Four-year-old pacers and trotters must show one satisfactory racing line within 30 days of declaration. For the purposes of the New Jersey Sire Stakes Program, a satisfactory line for four-year-old pacers and trotters is any race line, betting or non-betting, with no breaks and satisfactory gate performance. Official workouts are not acceptable as a substitute for a racing line. In 1984, four-year olds will be required to meet qualifying time standards for that age and gait. All starters in the New Jersey Sire Stakes Fair Division must meet the following condition for the 1983 racing season:

i. All horses, two-, three-, and four-year-olds, must have a racing line (of any sort) at time of declaration.

2:32-2.18 One mile dash

Each race is to be a one mile dash; however, if it becomes necessary to split an event, the Board reserves the right to adopt one of the methods of division racing then current, including elimination dashes.

2:32-2.19 Registration with U.S. Trotting Association

All foals must be named and registered with the United States Trotting Association at the time of nomination. In the event of a

change of name or ownership, the New Jersey Sire Stakes Office must be notified immediately.

2:32-2.20 Purse distribution

- (a) The purse will be distributed as follows:
 1. 50-25-12-8-5 if 5 starters or more
 2. 50-25-15-10 if only 4 starters
 3. 60-30-10 if only 3 starters
 4. 65-35 if only 2 starters
 5. 100 in case of walk over

2:32-2.21 Starters declare in time

Starters declare in at the same time as in practice for overnight events at the raceway where Sire Stakes Races will be contested.

2:32-2.22 Entry and fee forms

All entry blanks and fee forms must specify as to gait to be contested for age, sex, trainer, owner, preference date, and location of eligibility papers, if they are not in the race office at time of declaration. Under no circumstances will late entries be taken.

2:32-2.23 Fee schedule

Beginning with horses nominated May 15, 1979, and applicable to all subsequent nominees, the sustaining fee schedule will be:

PARI-MUTUEL DIVISION			
Age	First Sustaining Fee	Second Sustaining Fee	
2	\$200.00 (Feb. 15)	\$400.00	(Apr. 15)
3	\$250.00 (Feb. 15)	\$500.00	(Apr. 15)
4	\$150.00 (Jan. 15)	\$300.00	(Mar. 15)

FAIR DIVISION			
Age	First Sustaining Fee	Second Sustaining Fee	
2	\$ 50.00 (Jan. 15)	\$100.00	(Mar. 15)
3	\$ 50.00 (Jan. 15)	\$100.00	(Mar. 15)
4	\$ 50.00 (Jan. 15)	\$100.00	(Mar. 15)

2:32-2.24 Transfer of race

If it becomes impossible to race a Sire Stakes event at a given track, the Board of Trustees reserves the right to transfer the event to another track.

2:32-2.25 Heats

In all Fair Sire Stakes, unless they are conducted on a Pari-mutuel track, an event will be split into heats if there are more than eight horses in a field. At Johnson Park, Fiore C Farm, and Scenic View Acres, no more than seven starters will be allowed per dash. At these three tracks, five horses will race in the front tier, and two horses will race in the second tier as trailers.

2:32-2.26 Eligibility at post time

In any case where a horse is entered to race and his eligibility papers are not available at post time, said horse will be ordered scratched by the presiding judge. If, however, the New Jersey Sire Stakes Race Secretary or a New Jersey Sire Stakes Official has signed for and accepted the trainer's eligibility papers, and they are subsequently lost, said horse may be allowed to start.

2:32-2.27 Maximum number of horses per heat

No more than eight horses will be permitted to race in a heat at a fair meet; no more than 10 horses will be permitted to race in a heat on a half-mile track; and no more than 12 horses will be permitted to race in a heat on a five-eighth's or on a mile track.

2:32-2.28 Event split into divisions

In the event a Sire Stakes event is split into divisions, such Sire Stake event shall be divided and each division shall race for an equal

share of the total purse. All Sire Stakes events shall be advertised added, divided.

2:32-2.29 Sustaining payment deadline

The first sustaining payment on a two- or three-year-old must be made on or before February 15 of a year and the second sustaining payment on a two- or three-year-old must be made on or before April 15 of a year in order to remain eligible in that year. In the case of four-year-olds, the first sustaining payment must be made on or before January 15 of a year, and the second sustaining payment on or before March 15 of a year in order to remain eligible in that year. In the Fair Division, the first sustaining payment on a two-, three-, or four-year-old must be made on or before January 15 of a year and the second sustaining payment on a two- or three-year-old must be made on or before March 15 of a year in order to remain eligible in that year.

2:32-2.30 Refund request

All requests for refunds on sustaining or nominating payments must be made by registered letter to the Board Secretary prior to the 15th of the month in which the payment is due.

2:32-2.31 Split races; four-year-old division

If the four-year-old division(s) split with more than 10 entries in a Pari-mutuel race and more than eight entries in a Fair Division race, the split races will be segregated by sex when possible and applicable.

2:32-2.32 Baby Races

All Baby Races shall consist of no more than eight starters per heat regardless of the size of the track. There must be at least four horses entered in a division in order to conduct a heat solely for that division. If less than four horses are entered in a division, the remaining horses shall be seeded into other divisions. The New Jersey Sire Stakes representative shall be permitted to seed horses in Baby Races according to owners, trainers, money earned, sex.

2:32-2.33 Final Race eligibility monies

Total monies accumulated towards Final Race eligibility in the Pari-mutuel Division shall include only Pari-mutuel Division earnings, and not Baby Race earnings. Only Fair Division race earnings count toward the Fair Final eligibility, which will include the top eight money winners in each division.

2:32-2.34 Program continuation

The four-year-old New Jersey Sire Stakes Program scheduled to expire in 1977 will be continued in 1978 and thereafter.

2:32-2.35 Notification of change of horses's name, gait or driver

Owners, trainers, drivers, or Stake Services shall notify the New Jersey Sire Stakes Program of a name, gait, or driver change of a horse by the time of declaration to a race, or the entry will not be accepted for that race.

2:32-2.36 Establishment of "Final" race

There will be a two- and three-year-old "Final" race in each division with a minimum purse of \$50,000 as well as a "Final" race in the four-year-old divisions with a minimum purse of \$25,000 at both Freehold and the Meadowlands raceways. There will be a \$20,000 Fair "Final" race in each division. There will be no entry fees for these events and each is open to the top 10 New Jersey Sire Stakes money winners at the Meadowlands and the top eight New Jersey Sire Stakes money winners at Freehold in each division. This applies to yearlings nominated in 1982. The two-, three-, and four-year-old Finals at Freehold in 1982 will consist of 10 starters, the three- and four-year-old Finals in 1983 will consist of 10 starters, and the four-year-old Finals in 1984 will consist of 10 starters. In the event that one or more of the top 10 money earners cannot start,

the ninth, 10th, 11th, and 12th, etc., horse(s) will move up. In addition, two "Also Eligibles" will be carried in each division. Two-year-old "Baby Race" earnings will not be considered as points toward the "Finals" in either the Fair or Pari-mutuel Divisions.

2:32-2.37 Supervising Race Secretary

A member of the New Jersey Sire Stakes staff will be appointed Supervising Race Secretary at all future Fair meets. Furthermore, the New Jersey Sire Stakes Board Secretary is responsible for the complete supervision of the New Jersey Sire Stakes Program as it pertains to the Fairs.

2:32-2.38 Dress requirements

Racing colors, helmet, and white pants will be required to be worn by any person warming-up a horse on a New Jersey fair track. Violators will be subject to a fine or suspension.

2:32-2.39 Dishonored checks

A check for either a sustaining payment, a nomination payment, or an entry fee which is dishonored by the bank without a valid reason, can result in the disqualification of a horse from future eligibility to the New Jersey Sire Stakes Program. The Board of Trustees shall decide the merits of a case involving a dishonored check.

2:32-2.40 Separate Fair Division

A separate New Jersey Sire Stakes Fair Division, with a separate payment schedule, will begin with yearlings nominated in 1980.

2:32-2.41 Fund policy

The New Jersey Sire Stakes Program collects its 49 percent of one percent at the Meadowlands and its 56 percent of one percent of the total Standardbred Pari-mutuel handle in one calendar year and races for these funds in the following calendar year. The interest on these funds is also kept in the program. This policy began on April 1, 1971.

2:32-2.42 Qualification for Fairs' Universal Driver's Rating Award

In order to qualify for the Fairs' Universal Driver's Rating Award of \$1,000, a driver must have driven in a minimum of 10 percent of the total heats contested in both the New Jersey Sire Stakes and Garden State Fair Stakes Events at the 10 Fairs. Drives in the Fair Finals do not count.

2:32-2.43 No cash payment or partial payment

Beginning in 1983, the New Jersey Sire Stakes Program will accept no cash payment or partial payment on individual horses.

2:32-2.44 Qualification for the New Jersey Sire Stakes

In order to qualify for the New Jersey Sire Stakes, a foal must be the product of the mating of a mare with a New Jersey registered and resident stallion. The mare to be bred must either be a resident at the farm on which the stallion stands or be shipped to the farm on which the stallion stands when impregnated. The shipping or mailing of a New Jersey registered stallion's semen to a broodmare is strictly prohibited.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Extension of Public Comment Period Standards and Procedures for Establishing Privileges to Divert Water and for Obtaining Water Usage Certifications for Agricultural or Horticultural Purposes

Proposed New Rule: N.J.A.C. 7:20A

Robert E. Hughey, Commissioner of the Department of Environmental Protection, hereby extends the public comment period concerning the above mentioned proposal for the Water Usage Certification regulations for agricultural or horticultural water diverters as set forth in the proposal at 14 N.J.R. 1249(a) from December 15, 1982 **until January 31, 1983.**

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before January 31, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

William Whipple, Administrator
Water Supply and Watershed
Management Administration
Division of Water Resources
CN 029
Trenton, NJ 08625

Copies of the proposal may also be obtained from the address above.

The Department of Environmental Protection publishes this notice as a matter of public information.

HIGHER EDUCATION

(b)

BOARD OF HIGHER EDUCATION

Tuition Policies for Senior Citizens

Proposed New Rule: N.J.A.C. 9:5-1.5

Authorized By: Board of Higher Education, T. Edward Hollander, Chancellor and Secretary.
Authority: N.J.S.A. 18A:62-3 and P.L. 1980 c.137.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Eric M. Perkins, Esq.
 Administrative Practice Officer
 Department of Higher Education
 CN 542
 225 West State Street
 Trenton, NJ 08625

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

This proposal is known as PRN 1983-24.

The agency proposal follows:

Summary

The proposal specifies the circumstances under which public colleges may receive State funding for senior citizens enrolled in college courses pursuant to the provisions of P.L. 1979 c.31 as amended by P.L. 1982 c. 137.

Senior citizens may enroll in credit or non-credit courses without having to pay tuition for such courses as long as tuition paying students make up the minimum number of students required for the course to be offered. A public college or university will be eligible to receive State funding for senior citizens enrolled in credit courses but no reimbursement will be allowed for non-credit courses.

Social Impact

The proposal does not limit the number of senior citizens who may enroll in college courses pursuant to the law. The proposal, however, may reduce the number of courses offered to senior citizens by colleges if colleges are currently using State monies to provide such courses and cannot identify alternate financing.

Economic Impact

The proposal limits State funding for senior citizens enrolled in college courses without payment of tuition, in accordance with the statute. Absent the regulation, some colleges had sought State support for such students.

Full text of the proposed new rule follows.

9:5-1.5 Senior citizens

(a) Public colleges and universities may enroll senior citizens in regularly scheduled credit or non-credit courses without payment of tuition, on a space available basis, provided that tuition paying students constitute the minimum number required for the course.

(b) Public colleges and universities may include credit hours earned by non-tuition-paying enrolled senior citizens up to one percent of total undergraduate enrollment in the annual State appropriation request. To be eligible to be included in the State appropriation request, senior citizens must be enrolled in credit bearing courses and actively pursuing an initial college associate or baccalaureate degree program. A senior citizen must successfully complete six credit hours per semester within a defined program to be considered actively pursuing a degree program. Requests for State aid for senior citizen enrollments shall be separately compiled and submitted along with the institution's annual enrollment report. No State support shall be paid for senior citizen enrollments in non-credit courses.

LABOR

(a)

DIVISION OF UNEMPLOYMENT AND TEMPORARY DISABILITY INSURANCE

Repayment of Unemployment Benefits

**Proposed Amendment: N.J.A.C. 12:17-10.3
 Proposed Repeal: N.J.A.C. 12:17-10.4**

Authorized By: Roger A. Bodman, Commissioner,
 Department of Labor.

Authority: N.J.S.A. 43:21-1 et seq. and P.L. 1981 c.239.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Frederick C. Kniesler
 Assistant Commissioner
 Office of Income Security
 New Jersey Department of Labor
 Room 602
 Trenton, NJ 08625

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

This proposal is known as PRN 1983-25.

The agency proposal follows:

Summary

The proposal clarifies the Department's options in recovering overpayments of unemployment benefits. N.J.A.C. 12:17-10.3 is being amended to specify that the Division of Unemployment and Temporary Disability Insurance may use any means of collection allowed by law to collect overpayments of unemployment benefits. Offsets permitted, but not limited to, N.J.S.A. 54A:9-8.1 may be utilized. The remaining substantive provisions of the rule remain the same. For purposes of clarity and understandability, the current text of N.J.A.C. 12:17-10.3 has been deleted and the new rule encompasses the retained provisions and the new text as mentioned above.

Social Impact

This proposal will affect anyone who receives an overpayment of unemployment benefits. Such overpayments will be recouped through offsets against other monetary entitlements. This proposal will also insure that the Department has the ability to use any legal means available to recover overpayments of unemployment benefits including offsets against homestead rebates and income tax refunds which are permitted under P.L. 1981, Chapter 239.

Economic Impact

New Jersey currently owes \$521 million to the Federal government for unemployment insurance monies borrowed during the 1975-78 recessionary period. This proposal will enhance overpayment recovery efforts and will favorably impact on the unemployment trust fund. Of course, anyone who receives an overpayment will be affected by this proposal because he or she will now be subject to repayment through an offset.

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

12:17-10.3 Repayment of unemployment benefits

[All overpayments for which waiver or recovery is not granted pursuant to N.J.A.C. 12:17-10.2 must be repaid in full; provided that any claimant whose overpayment is determined to be the result of Agency error or who did not misrepresent or withhold any material fact in obtaining benefits will be given the additional option of having such overpayment offset by future benefits. Upon written request by the claimant, any such offset shall be limited to 50 percent of the claimant's weekly benefit rate for each week of benefits subsequently claimed.]

All overpayments for which waiver or recovery is not granted pursuant to N.J.A.C. 12:17-10.2 must be repaid in full. The Division may use any means of collection provided by law to satisfy the debt including, but not limited to, offsets permitted under P.L. 1981, Chapter 239, N.J.S.A. 54A:9-8.1 and 8.2. Any individual with an outstanding overpayment who subsequently becomes entitled to benefits shall have such benefits offset by the debt until the debt is repaid in its entirety. However, for any claimant whose overpayment is determined to be the result of Agency error, the offset amount shall be limited to 50 percent of the claimant's weekly benefit rate for each week of benefits subsequently claimed.

12:17-10.4 [Certificate of Debt] (Reserved)

[A certificate of debt will be filed in all cases where the amount of overpayment exceeds \$200.00, except those cases where overpayment was caused by Agency error or where the claimant did not misrepresent or withhold any material fact pursuant to N.J.S.A. 43:21-16(d).]

LAW AND PUBLIC SAFETY

(a)

BOARD OF MEDICAL EXAMINERS

Standards for Out-of-State Medical School Clinical Training

Proposed New Rule: N.J.A.C. 13:35-11

Authorized By: Board of Medical Examiners, Edwin H. Albano, M.D., President.
Authority: N.J.S.A. 45:9-2 and 18A:68-12.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Edwin H. Albano, M.D.
President, Board of Medical Examiners
28 West State Street
Trenton, NJ 08608

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

This proposal is known as PRN 1983-32.

The agency proposal follows:

Summary

The proposed rules require that any medical school not accredited by an organization recognized by the New Jersey State Board of Medical Examiners, and desiring to conduct clinical training programs within the State shall secure the prior approval of the State Board of Medical Examiners. The rule establishes a procedure for making application to the Board, for demonstrating satisfaction of minimum requirements of academic resources, personnel and eligibility of students, for fair review of each proposal, and for public access to program evaluations. This proposal supersedes earlier proposals published in the July 9, 1981 register at 13 N.J.R. 443(b) and June 7, 1982 register at 14 N.J.R. 548(a).

Social Impact

An essential portion of medical education is clinical training generally provided in hospitals during the final portion of the students' studies. The excellence of such training in American hospitals makes student placement therein highly competitive. Such places are sought after not only by students at American schools but also by students attending out-of-country medical schools. According to the Congressional General Accounting Office, some 10 to 11,000 Americans are presently studying medicine abroad. See: "Policies on U.S. Citizens Studying Medicine Abroad Need Review and Reappraisal," Report to the Congress, G.A.O., November 21, 1980. New Jersey residents are believed to comprise a substantial number of these students who, upon graduation, are desirous of returning to this State for licensure and establishment of practice. While graduates of U.S.-accredited medical schools can become licensed in this State via endorsement of certain respected U.S. examinations, that examination route is not, as of yet, available to graduates of foreign medical schools, and those persons are therefore required to take the FLEX licensure exam given here and available to everyone. Indeed, out of 350 applicants for the New Jersey licensure examination in 1980, 94 percent were graduates of foreign medical schools. It appears, however, that many of the foreign medical schools most populated by American students lack adequate clinical facilities. The students therefore tend to leave the school campus after completion of their instructive course work and to seek out New Jersey hospitals for their clinical training, fully expecting that their distant schools will recognize the New Jersey activities and grant academic credit for it toward the diploma degree. The G.A.O. report and other information available to the Board suggests that the reliability of a medical degree founded upon what may have been unsupervised work in New Jersey is open to question, and may not satisfy the statutory requirement of four full years of medical course work. By establishing a rule regulating such clinical programs, the Board is facilitating all of the following: satisfying its mandate to regulate medical schools operating in the State; providing worthy students access to qualified New Jersey hospitals for superior training; promoting thorough medical education in those school years for which the student will be receiving academic credit; encouraging highly-trained graduates to remain in or settle in this State for subsequent service to our residents. The most significant difference between the present proposal and prior proposals is that the Department of Higher Education will be expected to conduct on behalf of and in conjunction with the Board of Medical Examiners an academic review of the particular medical school to determine that it provides for appropriate clinical training in this State, and will also assess and then advise the Board whether the prior academic and clinical preparation which a student has received from its foreign medical school or clinical programs taken in other states have adequately prepared the student to enter upon hands-on medical training on patients in New Jersey hospitals.

Economic Impact

The rule is formulated to be self-supporting, with costs of implementation being borne directly by the schools availing themselves of its benefits. The factors noted in the social impact

statement have economic import as well. A survey of New Jersey hospitals by the Board demonstrates that at least 17 have a strong interest in conducting training programs and would do so as soon as legal and appropriate mechanisms were approved. As the proposed programs would be self-supporting, more hospitals could undertake to become "teaching hospitals," which is generally regarded as a strong indicator of high quality care for patients. Medical students, including those with New Jersey roots, will be enabled to return here and to make their high skills available to our population. They may also be protected against possible abuses regarding large monetary demands made on American students by certain foreign schools for the privilege of returning "home" for part of their training, even though the school was providing few or no services to the students during such time away from campus. Based on the survey and on the number of inquiries made to the Board by individual foreign schools as well as students, several hundred medical students would be expected to come to New Jersey for their clinical training, at no cost to the taxpayers and bringing with them the tangible and intangible benefits of a professionally educated population. The current proposal varies from the prior proposal by making clear that the costs involved in evaluating the proposal whether performed directly by the Board or performed by the Department of Higher Education for the Board, will be payable by the applicant school, as those costs are incurred by the pertinent agency.

Full text of the proposed new rule follows:

SUBCHAPTER 11. STANDARDS FOR NEW JERSEY CLINICAL TRAINING PROGRAMS SPONSORED BY MEDICAL SCHOOLS NOT APPROVED BY THE L.C.M.E., THE A.O.A. OR OTHER AGENCY RECOGNIZED BY THE NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

13:35-11.1 Definitions and principles of responsibility

(a) For the purpose of this subchapter, the term medical school or parent medical school shall mean a medical school approved by its country of domicile and listed in a current World Health Organization Directory, but which medical school is not currently approved by the Liaison Committee on Medical Education, the American Osteopathic Association or other group or agency recognized by the New Jersey State Board of Medical Examiners.

1. The term affiliate institution shall mean a licensed hospital in the State of New Jersey approved by the Accreditation Council on Graduate Medical Education, the American Osteopathic Association, or any other equivalent group or agency recognized by the New Jersey State Board of Medical Examiners, for the purpose of conducting therein one or more postgraduate training programs in specific medical specialties.

(b) A medical school offering or conducting a clinical training program in the State of New Jersey shall secure the prior approval of such program by the New Jersey State Board of Medical Examiners. Following receipt of approval for a specific program, the medical school (referred to hereinafter sometimes as the parent medical school) shall be responsible for the education, clinical training program and faculty performance at the affiliate institution in the State of New Jersey. The affiliate institution must have a current accredited postgraduate training program in the subject matter of the clinical training proposed for the program.

(c) The clinical programs as well as adequate supervision of the students assigned to such programs shall be planned and evaluated by the parent medical school and administered in close cooperation with representatives of the affiliate institution. Supervision shall include periodic on-site inspection by a member of the parent medical school's central administration.

13:35-11.2 Administration of the clinical training program

(a) A qualified director of the clinical medical education program at and acceptable to the affiliate hospital shall be appointed by and be responsible to the administrative head of the parent medical school. The position of program director shall be half-time or more, proportionate to the number of students approved by the Board and sufficient to assure comprehensive planning and supervision of the program.

(b) The clinical program of the affiliate institution with respect to instruction and faculty assignments shall be coordinated with the overall educational program of the parent medical school.

(c) The parent medical school shall file with the New Jersey State Board of Medical Examiners a certified copy of the written agreement between the parent and affiliate institution(s) establishing responsibility for the planning, financing, conduct and monitoring of the clinical program at the affiliate(s).

(d) Financial provision shall be made by the parent medical school to assure completion of each semester program at the affiliate hospital.

13:35-11.3 Faculty

(a) The director of the clinical program shall appoint, subject to the approval of the Board, clinical faculty at the affiliate institution who possess academic credentials and experience sufficient to assure competent performance of the instructional assignment.

(b) The program director shall be responsible for filing with the Board a syllabus for each course of instruction.

13:35-11.4 Educational program

(a) Student eligibility for participation in the program shall be subject to the following:

1. The parent medical school shall establish academic eligibility criteria for student participation in the clinical training program. The criteria shall include minimum academic performance as demonstrated by maintenance of no less than a passing grade for all academic course work preceding entry into the clinical program, as shown on a certified copy of the transcript submitted directly by the medical school to the director of the clinical program at the affiliate institution.

2. In addition, the academic eligibility requirement for those students participating in clinical training programs shall include proof that each student has successfully completed clinical training equivalent to the fifth and sixth semesters or third year of a United States medical school curriculum through a program in a licensed teaching hospital outside the State of New Jersey. Such record of prior clinical training shall include a certificate issued by the director of the clinical program to each student, noting the dates and describing the type and length of each service and the date issued. The record of prior clinical training shall also include proof of the program's supervision by the parent medical school and proof that the teaching hospital has been approved by the ACGME, the AOA or another equivalent organization recognized by the New Jersey State Board of Medical Examiners for the conduct of one or more postgraduate training programs in specific medical specialties. If the teaching hospital in which the prior clinical training took place is outside of the geographical jurisdiction of the above said accrediting organizations, the record of prior clinical training must include proof that the hospital and training program have been approved by the parent medical school.

3. Preparedness of each student applying for the clinical training program shall in addition be demonstrated by achievement of any one of the following:

- i. A passing grade on Part I of the National Board of Medical Examiners Examination; or
- ii. A grade on the Medical Science Knowledge Profile Examination (MSKP) which grade shall be determined by the New Jersey State Board of Medical Examiners as the equivalent of the aforesaid Part I National Board grade; or
- iii. A passing grade on a similar examination acceptable to the New Jersey State Board of Medical Examiners.

4. Students who have satisfied (a)1, 2 and 3 above and who are permanent residents of the State of New Jersey shall be given preference in placement in New Jersey affiliate institutions, insofar as is practicable.

(b) Educational criteria for the program follows:

1. The clinical training program shall be limited to students entering a level of education equivalent to the final two semesters or the equivalent of the final year of clinical experience in a United States medical school curriculum.

2. The parent medical school must be approved by the State Board of Medical Examiners for the purpose of placing students in New Jersey hospitals for clinical training through an academic review of the parent medical school conducted on behalf of and in conjunction with the Board of Medical Examiners by the New Jersey Department of Higher Education.

3. Clinical training programs may be established for a specified period of time, subject to approval of the Board, in any of the following subjects: medicine, surgery, obstetrics and gynecology, pediatrics, radiology, laboratory (pathology), psychiatry and neurology.

4. The student-faculty ratio of the program at each affiliate institution shall bear a reasonable relationship to the availability of service of the program director, the budget proposed, faculty, and facilities available, all subject to final approval of the Board.

5. A certificate shall be issued by the director of the clinical training program to each enrolled student recording the dates, type and length of each service and an evaluation of the student's accomplishment, and the date the certificate was issued.

13:35-11.5 Facilities

(a) For the purpose of clinical training, the parent medical school shall propose an affiliate institution which must be a licensed hospital approved by the Accreditation Council on Graduate Medical Education, the American Osteopathic Association or other group acceptable to the Board for postgraduate training in subject area(s) of the proposed clinical training program, or which institution is part of such a program through affiliation(s) approved by the above bodies. The affiliate shall provide to the Board a certified copy of the approval(s).

(b) No hospital accredited for postgraduate training programs shall be under any obligation by virtue of these regulations to accept medical students in clinical programs, and any medical school or hospital accredited for postgraduate training programs may impose standards for admission to the clinical programs which exceed the standards set forth in this regulation.

13:35-11.6 Request for approval

(a) At least six months prior to the anticipated start of the clinical program, two copies of a detailed outline of the entire proposed program shall be submitted to the Board on a form provided by the Board. The application shall include the certified copies of hospital approvals described in N.J.A.C. 13:35-11.5(a) and shall be signed by the administrative heads of both the parent medical school and the affiliate institution.

(b) The original application for Board approval as well as any request for renewal thereof shall be accompanied by an agreement signed by a school representative duly authorized to do so, consenting to financial responsibility for all reasonable costs incurred by the Board in performing the administrative review and monitoring of the program.

1. The application shall include a certified check for \$10,000 drawn on a United States bank payable to the New Jersey State Board of Medical Examiners, which sum shall serve as a deposit for costs incurred by the Board and the Department of Higher Education for review of the program and also for subsequent inspections to assure compliance during such period as the Board has authorized the program to function. If the school's application is denied, the Board shall deliver a statement of account and shall arrange to refund to the school in United States dollars any sum

received in excess of the amount due. If the application is approved, with or without conditions, and the school elects to proceed with the program as approved, the Board shall deliver a statement of account to the school from time to time, and shall arrange to refund to the school at the conclusion of Board monitoring of the program any sum received in excess of the amount due, in United States dollars. Should the statement of account at any time show a balance due and payable, the school shall promptly remit the payment due in United States dollars.

(c) An on-site inspection shall be required at the affiliate institution during the review period. The parent medical school shall agree in advance to be responsible for all reasonable out-of-pocket expenses incurred by the Board and the Department of Higher Education and an inspection team appointed by the Board in conjunction with the Department of Higher Education.

(d) Following review of the program and on-site inspection visit, if any, the Department of Higher Education shall submit a report to the Board, a copy of which shall be provided to the parent medical school and the proposed affiliate institution. The report may evaluate program strengths and weaknesses, if any, suggestions for improvement, if any, and shall make recommendations respecting approval.

(e) The parent medical school and/or affiliate shall have 30 days to comment in writing on the report, if desired.

(f) Following review of the report and written comments, if any, the Board shall attempt to issue notice of its decision no later than three months before the anticipated start of the program.

- (g) The Board's decision may provide for any of the following:
1. Approval for a period of two years;
 2. Probationary approval for a specified period, with status-reporting requirements;
 3. Denial of approval, with reasons;
 4. Revocation of prior approval, with reasons;
 5. Reapproval of prior approved program following review of status report updating all the elements of prior application.

(h) Subsequent to notice of program approval and prior to the start of any clinical program in this State, the medical school shall provide to the Board a list identifying each student participating in the clinical program, the affiliate institution(s) to which such person is assigned, and dates for such program participation. The school shall bring such records up to date as necessary.

13:35-11.7 Public record

A list of currently approved schools and affiliates together with the final Board determination on the status of their programs shall be maintained at the office of the New Jersey State Board of Medical Examiners and shall be available on request.

13:35-11.8 Termination of program approval

(a) A program approved by the Board shall be deemed to have continuing approval for the time set forth in the Board decision unless and until:

1. A notice of revocation is sent by the Board to the parent medical school which may then request hearing on the matter; or
2. Any substantial change is made by either the parent medical school or affiliate institution in the program respecting general subject matter of the program, length of course components or topics, credentials or number of faculty assigned to the instruction, number of students per program, financial security of the program, program facilities at the affiliate institution or management thereof; or
3. A notice of termination is sent to the Board by either the parent medical school or the affiliate institution.

13:35-11.9 Violations

Violation of the above requirements for establishing a clinical education program in this State, or maintaining or participating in an unapproved program whether as student or faculty, may be regarded as engaging in the unlicensed practice of medicine or

aiding and assisting in the unlicensed practice, pursuant to the residual or other general powers of the Medical Practice Act, N.J.S.A. 45:9-1 et seq. and also, in particular, N.J.S.A. 18A:68-12 et seq., N.J.S.A. 45:9-6, 45:9-8, 45:9-18, 45:9-22, and 45:1-21(e) and 45:1-23. Violators shall be subject to the monetary penalties and/or other disciplinary sanctions authorized by law.

13:35-11.10 Severability

If any provision of this rule or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provisions or applications of the rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

13:35-11.11 Effective date and limited waiver provision

This rule shall apply to all clinical training programs, as defined in N.J.A.C. 13:35-11.1 above, taking place in New Jersey on or after January 1, 1983. However, the Board recognizes that, prior to the adoption of this rule, it has granted to a number of foreign medical schools permission to sponsor modest clinical programs which were not required to meet the explicit standards now set forth herein, and which permission reserved all rights of the Board respecting the ultimate evaluation of the adequacy of any such program. Those limited programs on file with the Board may proceed, but shall be completed no later than December 31, 1983.

(a)

BOARD OF PHARMACY

General Provisions; Fee Schedules Increase in Fees

Proposed Amendment: N.J.A.C. 13:39-9.16

Authorized By: State Board of Pharmacy, Sheldon Moed, President.

Authority: N.J.S.A. 45:14-3, 45:14-3.1, 45:14-26.2 and 45:1-3.2.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Sheldon Moed, President
Board of Pharmacy
1100 Raymond Boulevard, Room 325
Newark, NJ 07102

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

This proposal is known as PRN 1983-29.

The agency proposal follows:

Summary

N.J.A.C. 13:39-9.16(a) is being amended to increase the fees charged to pharmacists and pharmacy owners for reinstatement and reciprocal registration of pharmacist licenses and for initial or renewed pharmacy permits and changes in permits. The increased fees will cover the actual expenses of the Board of Pharmacy in administering and regulating the profession. A proposal increasing the fee charged for examination by adding the cost of the National Association of Boards of Pharmacy examination appeared in the New Jersey Register at 14 N.J.R. 1280(a). That increase in examination fees is not reflected in the current proposal.

Social Impact

The proposed fee structure including the previously proposed increase in examination fees found at 14 N.J.R. 1280(a) will enable the Board of Pharmacy to replace two pharmacy inspectors whose services were terminated because of insufficient revenues. An augmented inspection staff will enable the Board to conduct additional pharmacy inspections which will benefit the profession and protect the consuming public by increasing the Board's ability to monitor the professional services provided by pharmacists and ensure that safe standards of practice are enforced.

Economic Impact

The fees currently charged by the Board of Pharmacy have remained unchanged since 1975, despite continuous inflationary pressures. As a result, Pharmacy Board income has not kept pace with expenses, thus leaving the Board to operate at a deficit. The Board is mandated by statute to eliminate the deficit and become self-supporting. The proposed fee structure, including the previous proposal increasing examination fees, is devised to balance income with the anticipated budget in an equitable manner by spreading the increased fees among all licensees and permit holders.

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

13:39-9.16 Fee schedules

(a) The following fees shall be charged by the Board:

1. Examination—\$50.00;

i. Repeat of law examination only—\$25.00.

2. Reciprocal registration—[\$100.00;] \$125.00;

3. Reinstatement of licensure—\$50.00 plus [25.00] **\$50.00** for each lapsed year;

4. Pharmacy permits:

i. New—[\$150.00;] \$200.00;

ii. Change of ownership—[\$150.00;] \$200.00;

iii. Change of location—[\$150.00;] \$200.00;

iv. Renewal—[\$35.00;] \$85.00;

5. Registered pharmacist renewal—\$40.00;

6. Transfer of grades—\$50.00.

(b)

BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Examination Fees

Proposed Amendment: N.J.A.C. 13:40-6.1

Authorized By: New Jersey Board of Professional Engineers and Land Surveyors, Robert C. Kirkpatrick, President.

Authority: N.J.S.A. 45:1-3.2.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Ruth Weisman, Executive Secretary
State Board of Professional
Engineers and Land Surveyors
1100 Raymond Boulevard, Room 319
Newark, NJ 07102

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

This proposal is known as PRN 1983-30.

The agency proposal follows:

Summary

The proposed increase of examination fees will defray increases in costs to the State of New Jersey in administering engineering licensing examinations, due to a change over to an exam prepared by the National Council of Engineering Examiners (NCEE). This national exam will fully satisfy State licensing requirements while affording licensees more mobility by making their New Jersey licenses more compatible with the majority of other States. Additionally, the examination for a land surveyors' license is being expanded from eight hours to 16 hours over two days in a continuing effort to upgrade the professionalism of New Jersey land surveyors. Increased fees are needed to cover the added expense of this expanded exam.

Social Impact

This proposal will have an impact on persons who undertake examinations for land surveyors' licenses. The impact is expected to be minimal as the moderate increase in examination fees should not deter candidates from taking the examination. The new engineering and land surveyors examinations should benefit the public by increasing the level of skill among licensees and conforming New Jersey's practices more with other states which will encourage mobility and the free flow of commerce.

Economic Impact

Each candidate for the specialized portion of the engineering exam prepared by NCEE will pay \$15.00 more per examination. Each candidate for the expanded land surveyor exam will pay an additional \$45.00 per examination. This is a one-time payment for most candidates and should have minimal impact on them.

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

13:40-6.1 Fee schedule

- (a) The following fees shall be charged by the Board:
 - 1. (No change.)
 - 2. Examination fees are based upon the nature of the certificate or license for which the applicant has applied, and will be billed prior to the examination, as follows:
 - i. (No change.)
 - ii. Professional engineer:
 - (1) (No change.)
 - (2) Specialized training [\$15.00] **\$30.00.**
 - iii. Land surveyor, **Two parts** [\$15.00] **\$60.00.**
 - 3. Reexamination fees, each part:
 - i. (No change.)
 - ii. Professional engineering specialized training [\$15.00] **\$30.00;**
 - iii. Land surveying, **Each part** [\$15.00] **\$30.00.**
- 4.-7. (No change.)

(a)

BOARD OF PROFESSIONAL PLANNERS

Examination Fees

Proposed Amendment: N.J.A.C. 13:41-3.2

Authorized By: New Jersey Board of Professional Planners,
Dean K. Boorman, President.
Authority: N.J.S.A. 45:1-3.2.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Ruth Weisman, Executive Secretary
State Board of Professional Planners
1100 Raymond Boulevard, Room 319
Newark, NJ 07102

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

This proposal is known as PRN 1983-28.

The agency proposal follows:

Summary

This proposal will increase the fees charged for administering professional planning examinations. The proposed increase in examination fees will defray increases in costs to the State of administering the examinations. The Board has elected to adopt an examination prepared by a national organization, the American Institute of Certified Planners (A.I.C.P.) as part of its licensure requirements. The new examination is expected to benefit applicants by being nationally recognized and more compatible with the requirements of other states, should they elect to license planners. The A.I.C.P. is charging the State a higher fee, which accounts for the entire proposed increase in fees to applicants.

Social Impact

This proposal will impact on persons who anticipate taking professional planning examinations. The Board believes that the moderate increase in examination fees should not deter candidates from taking the examination.

Economic Impact

Each candidate for the portion of the exam prepared by the A.I.C.P. will pay \$50.00 more per examination. This is a one-time payment for most candidates and is anticipated to have minimal impact on them.

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

13:41-3.2 [Annual] Registration fees

(a) The [annual] registration fees charged by the State Board of Professional Planners shall be:

- [1. Application Fee, Professional Planner \$60.00]
- 1. Application/Examination Fees:**
 - i. Combined National and State Examinations \$110.00;**
 - ii. State Examination only \$60.00;**
 - iii. Licensure in accordance with N.J.S.A. 45:14A-11 \$60.00.**
- [2. Application for Certificate of Registration, Planner in Training \$25.00]
- 2. Re-Examination Fees:**
 - i. Combined National and State Examinations \$110.00;**
 - ii. National Examination \$110.00;**
 - iii. State Examination \$25.00.**
- 3. [Duplicate] Replacement License Certificate \$10.00.
- 4.-7. (No change.)

(a)

BOARD OF SHORTHAND REPORTING

**Certified Shorthand Reporting
Failure to Disclose Title and License Number**

Proposed New Rule: N.J.A.C. 13:43-3.3

Authorized By: New Jersey State Board of Certified Shorthand Reporting, Louis S. Finkel, President.
Authority: N.J.S.A. 45:1-21, 45:1-22 and 45:15B-1 et seq.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

John J. Meade, Executive Secretary
State Board of Certified Shorthand Reporting
1100 Raymond Boulevard, Room 507-A
Newark, NJ 07102

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

This proposal is known as PRN 1983-31.

The agency proposal follows:

Summary

This proposal requires all licensees of the Board of Certified Shorthand Reporting to indicate the title "C.S.R." on all documents which they have prepared, and prevents those who are not certified shorthand reporters from utilizing misleading titles indicating that they are certified in this State.

Social Impact

The proposal will aid all persons reading a transcript in determining whether the transcript was completed by a certified shorthand reporter or a noncertified shorthand reporter. The proposal insures that a person will immediately know by reading a certification page whether a certified shorthand reporter has completed the transcript and, accordingly, complements the statutory language contained in N.J.S.A. 45:15B-2 evidencing a Legislative intent to prevent unlicensed individuals from claiming titles or descriptions designed to create the deceptive appearance that the individual is duly licensed as a shorthand reporter.

Economic Impact

The proposal will impose no economic burdens on the licensee, the public or the Board because it is strictly a measure to clarify certain portions of the Certified Shorthand Reporting Act.

Full text of the proposed new rule follows.

13:43-3.3 Disclosure of title and license number; the use of misleading titles and abbreviations

(a) A Certified Shorthand Reporter shall indicate his or her title in the form of the abbreviation "C.S.R." and license number on all official documents he or she has prepared, including, but not limited to, all transcripts, invoices, business cards, advertising and any other document containing reported and/or recorded information.

(b) A person who is not a Certified Shorthand Reporter of New Jersey shall not use misleading titles or abbreviations such as:

C.S.R., Shorthand Reporter of the State of New Jersey, Court Reporter, or S.R.

TREASURY-GENERAL

(b)

DIVISION OF PENSIONS

**General Administration
Interest Charges; Delinquent Transmittals**

Proposed Amendment: N.J.A.C. 17:1-1.5

Authorized By: William J. Joseph, Director, Division of Pensions.
Authority: N.J.S.A. 52:18A-96.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

William J. Joseph, Director
Division of Pensions
20 West Front Street
CN 295
Trenton, NJ 08625

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

This proposal is known as PRN 1983-23.

The agency proposal follows:

Summary

The proposed amendment is intended to clarify the procedures concerning delinquent transmittals and the interest charged for such delinquencies. If the employer is delinquent in forwarding any of the contributions or charges, including pension contributions, health benefits charges and similar monies affecting its public employees, interest will be charged upon such delinquencies. The intent is to motivate public employers to make timely reports and payments in order to protect the potential benefits accruing to the public employees involved.

Social Impact

The proposed amendment may affect all public employers, and indirectly all of their covered public employees, who are required to submit timely reports and payments to the Division of Pensions.

Economic Impact

The proposed amendment may adversely affect those public employers who are delinquent in submitting timely reports or payments to the Division of Pensions. Such employers will now be charged interest on such delinquencies. The proposed amendment will have no adverse economic effect upon public employees or their benefits.

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

17:1-1.5 Interest charges; delinquent transmittals

(a) If payment in full, representing the monthly transmittal and report of [employee] contributions **or charges** is not made within 15 days of the due dates for such transmittals and reports, interest

at the rate of six percent per annum shall commence to run against the total transmittal of [employee] contributions or charges for the period on the first day after such 15th day.

(b) (No change.)

(a)

DIVISION OF PENSIONS

**Supplemental Annuity Collective Trust
Suspended Deductions; Withdrawal or
Retirement**

**Proposed Amendments: N.J.A.C. 17:8-2.6
and 3.3**

Authorized By: William J. Joseph, Secretary, Supplemental Annuity Council.
Authority: N.J.S.A. 52:18A-111.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

William J. Joseph, Secretary
Supplemental Annuity Council
Division of Pensions
20 West Front Street
CN 295
Trenton, NJ 08625

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

This proposal is known as PRN 1983-21.

The agency proposal follows:

Summary

The proposed amendments provide that once payroll deductions to the Supplemental Annuity Collective Trust program have been suspended by the participant, such payroll deductions cannot be resumed for a period of three months after 30 days notice has been given to the Division of Pensions. The proposed amendments also clarify that withdrawal and retirement from SACT will be treated alike and, in the case of deferred retirement, no distribution will be forthcoming until the effective date of retirement or the member withdraws the account before the retirement date. If the member returns to service, the account will be reestablished.

Social Impact

Current and future participants in the various SACT programs who withdraw, retire or elect deferred retirement may be affected by this proposal. These amendments will assure the fiscal integrity of the programs which impacts on all current and future members.

Economic Impact

The proposed amendments have no adverse, economic effect upon SACT participants and merely clarify current policies and procedures which are designed to keep the programs fiscally sound.

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

17:8-2.6 Contribution change
(a)-(b) (No change.)

(c) If payroll deductions to the SACT program have been suspended by the participant, such payroll deductions may be resumed by giving at least 30 days' written notice to the Division of Pensions, but the resumption of such payroll deductions shall not occur within three months of the date on which the payroll deductions were suspended.

17:8-3.3 Withdrawal or retirement; effective date and form

(a) A participant's completed application for withdrawal or retirement from the basic retirement system, including the certification of the employer, will be deemed as a withdrawal or retirement from the Supplemental Annuity Collective Trust.

(b) The withdrawal or retirement value of the participant's account shall be determined as of the close of the month in which the completed withdrawal or retirement application is received by the Division of Pensions or the date of termination of employment covered by the basic retirement system, whichever is later. However, the filing of a proper withdrawal or retirement form with the Trust is required.

(c) In the event that an eligible participant elects a lump sum payment of his or her account and the determination of the unit value is delayed past the normal valuation date, the participant will be advised that an amount up to 75 percent of his or her last computed equity may be paid initially and the balance paid, once the unit value has been established.

(d) In the event of deferred retirement in the basic retirement system, no distribution can be made until the retirement becomes effective or the member withdraws his or her account before such retirement date. If the member returns to covered service, his or her account in the Trust will be reestablished on an active basis. During deferred retirement, his or her account shall continue to participate in earnings or losses.

(b)

DIVISION OF PENSIONS

**State Health Benefits Program
HMO Elections**

Proposed Amendment: N.J.A.C. 17:9-2.10

Authorized By: William J. Joseph, Secretary, State Health Benefits Commission.
Authority: N.J.S.A. 52:14-17.27.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 16, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

William J. Joseph, Secretary
State Health Benefit Commission
Division of Pensions
20 West Front Street
CN 295
Trenton, NJ 08625

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

This proposal is known as PRN 1983-22.

The agency proposal follows:

Summary

The proposed amendment permits an employee who is covered by a particular Health Maintenance Organization (HMO) to elect

within 30 days, one of three options if such employee moves out of the area serviced by the HMO. These options include remaining in the same HMO program, transferring to a HMO program in the new area, if one is available there, or transferring to the traditional program.

Social Impact

This proposal will affect all current and future participants in the HMO programs who subsequently move their residences from the area currently served by their present HMO program.

Economic Impact

The proposal will have no adverse economic effect upon any of the persons that may be affected by this amendment.

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

17:9-2.10 HMO; elections [; same employer]

(a) Employees who locate in an area serviced by a participating HMO will have a 30-day period for the selection of coverage during which period their former coverage will be continued. The status of employees who have no HMO election to make will be the same as that described for employees who transfer. (See N.J.A.C. 17:9-2.9(a).)

(b) **Employees who are participating in an eligible HMO but who move out of the area serviced by that HMO will have a 30-day period to select one of the following options:**

- 1. Continue participation in the former HMO; or**
- 2. Transfer participation to an eligible HMO in the new area, if such is available in the new area; or**
- 3. Transfer coverage into the traditional program.**

RULE ADOPTIONS

CIVIL SERVICE

(a)

CIVIL SERVICE COMMISSION

Noncompetitive and Labor Titles Appointments, Promotions, Allocation and Reallocation

Adopted New Rules: N.J.A.C. 4:1-10.1, 10.2,
10.3, 10.5

Adopted Repeals: N.J.A.C. 4:1-10.1, 10.2,
10.3, 4:2-6.8, 10.1, 10.2, and 4:3-6.9

Proposed: November 1, 1982 at 14 N.J.R. 1186(a).

Adopted: December 21, 1982 by Civil Service Commission,
Eugene J. McCaffrey Sr., President.

Filed: December 29, 1982 as R.1982 d.496, with
substantive changes not requiring additional public
notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 11:7-1, 7-2, 7-11; 22-4, 22-45, 22-
48.

Effective Date: January 17, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978):
December 7, 1986.

Summary of Public Comments and Agency Responses:

The above rules were published for comment in the November 1, 1982 issue of the New Jersey Register. No comments were received. In the interim, an Act abolishing the title Chief Examiner and Secretary was passed by the Legislature P.L.1982 c.181. In compliance with this Act, references to the Chief Examiner and Secretary have been replaced with "the President of the Civil Service Commission."

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

SUBCHAPTER 10. NONCOMPETITIVE AND LABOR APPOINTMENTS

4:1-10.1 Allocation and reallocation of titles

(a) The ***Civil Service*** Commission may allocate or reallocate titles between the competitive and noncompetitive divisions. The following factors shall be considered in determining such allocations:

1.-6. (No change from proposal.)

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

4:1-10.2 Appointments and promotions

(a) The ***[Civil Examiner and Secretary]* *President of the Civil Service Commission*** may authorize an appointing authority to

appoint a qualified applicant to a title in the labor or noncompetitive division without examination.

(b) The ***[Chief Examiner and Secretary]* *President of the Civil Service Commission*** may order that a noncompetitive examination be held to determine the qualification of applicants for noncompetitive and labor division titles. Such examinations may be held after due notice. Public advertising shall not be required.

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

(e) At the discretion of the ***[Chief Examiner and Secretary]*, *President of the Civil Service Commission*** an employee may be promoted from the labor or noncompetitive division to a related entry level title in the competitive division through normal promotional examination procedures provided that s/he meets the open competitive requirements.

COMMUNITY AFFAIRS

(b)

DIVISION OF HOUSING

Relocation

Administrative Hearings

Adopted Amendment: N.J.A.C. 5:11-9.2

Proposed: November 1, 1982 at 14 N.J.R. 1188(a).

Adopted: December 20, 1982 by John P. Renna,
Commissioner, Department of Community Affairs.

Filed: December 23, 1982 as R.1982, d.487, with
substantive changes not requiring additional public
notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 52:31B-8, 52:31B-10 and 20:4-10.

Effective Date: January 17, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978):
April 1, 1984.

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

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

5:11-9.2 Right of hearing and time for filing

(a) Any person aggrieved by a final determination by a displacing agency other than a State agency may appeal such determination to the Bureau of Housing Services, which shall thoroughly review the matter and ***[make a decision]* *issue its findings*** as to the merits of the claim for relocation payments or benefits. Such appeal shall be made within 15 days of receipt of written notice of the determination.

(b) The Division of Housing shall provide an administrative hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., to any person aggrieved either by a final determination of a displacing agency which is a State agency or by

[a decision made] ***findings issued*** by the Bureau of Housing Services pursuant to (a) above. Such hearing shall be conducted under the auspices of the Office of Administrative Law and the final decision shall be made by the ***[Director of the Division of Housing]* *Commissioner***. Any request for a hearing shall be made within 15 days of receipt of written notice of the State agency determination or ***[decision]* *findings*** of the Bureau of Housing Services, as the case may be.

(c) **The parties to any hearing before the Office of Administrative Law shall be the displacing agency and the person aggrieved by the final determination of such agency.**

1. Representatives of the Bureau of Housing Services may appear at any such hearing to testify as to *[their]* *the*** findings ***[and the decision]*** of the Bureau.**

2. (No change from proposal.)

(a)

DIVISION OF HOUSING

**Uniform Construction Code
Departmental Periodic Reinspection Fees**

Notice of Correction: N.J.A.C. 5:23-4.20

Take Notice that the effective date for the adopted amendments to N.J.A.C. 5:23-4.20 concerning departmental periodic reinspection fees and appearing by notice of adoption in the January 3, 1983 Register at 15 N.J.R. 32(a) is **January 3, 1983**.

(b)

DIVISION OF HOUSING

**Rooming and Boarding Houses
Fire Drills in Rooming Houses**

Adopted Amendment: N.J.A.C. 5:27-5.1

Proposed: November 15, 1982 at 14 N.J.R. 1248(a).
Adopted: December 27, 1982 by John P. Renna,
Commissioner, Department of Community Affairs.
Filed: December 28, 1982 as R.1982 d.490, **without change.**

Authority: N.J.S.A. 55:13B-4.

Effective Date: January 17, 1983.
Expiration Date pursuant to Executive Order No. 66 (1978):
July 1, 1985.

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

EDUCATION

(c)

STATE BOARD OF EDUCATION

**Certification; Athletics Personnel
School Nurse and Athletic Coach Substitutes**

**Adopted Amendments: N.J.A.C. 6:11-3.12,
4.7 and 6:29-6.3**

Proposed: September 20, 1982 at 14 N.J.R. 1010(a).
Adopted: December 1, 1982 by State Board of Education,
Saul Cooperman, Secretary.
Filed: December 23, 1982 as R.1982 d.486, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 18A:4-15, 18A:6-38 and 18A:35-5.

Effective Date: January 17, 1983.
Expiration Date pursuant to Executive Order No. 66 (1978):
N.J.A.C. 6:11-3.12, January 1, 1986; 6:11-4.7,
November 1, 1983; 6:29-6.3, May 1, 1984.

Summary of Public Comments and Agency Responses:

Seventeen letters were received. In regard to the school nurse proposal, one school nurse association and nine nurses opposed the change. One professional association and a public school director of personnel supported the change.

Those opposed indicated that:

1. School nurse rules should not be lowered;
2. Registered nurses do not have the background or knowledge of public school problems.

The reactions of the Department of Education to these comments were that:

1. No change was contemplated in the requirement for school nurse;
2. A registered nurse would be more desirable as a substitute for a school nurse than the holder of a county substitute certificate, which requires 60 college credits but no knowledge of nursing.

Regarding the athletic coach change, one professional association, a director of personnel, and three athletic directors wrote in support of the proposal.

One professional association opposed the change and noted:

1. The education validity of the proposed rules;
2. Asked for a study of the scope and cause of the problem;
3. Pointed out other options which might increase the applicant pool of certified personnel to coach.

The Department of Education responded that:

1. The present proposal expires in November, 1983;
2. Some relief is provided to public schools this academic year;
3. Efforts will be made to enlarge the pool of applicants who hold regular certification by use of a job locator and increased advertising of vacant coaching positions.

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

6:11-3.12 Athletic coaches

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

(f) The holder of a county substitute certificate is authorized also to serve as an athletic coach in the district in which he or

she is employed. The 20-day limitation noted in N.J.A.C. 6:11-4.7(c) *[above]* shall not apply to such coaching situations.

1. (No change from proposal.)
- i.-iii. (No change from proposal.)

6:29-6.3 Athletics personnel

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

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

1. (No change from proposal.)
- i.-iii. (No change from proposal.)

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

New Jersey Pollutant Discharge Elimination System Fee Schedule for Permittees

Adopted Amendments: N.J.A.C. 7:14A-1.8, 1.9 and 2.1

Proposed: July 6, 1982 at 14 N.J.R. 684(a).

Adopted: December 23, 1982 by Robert E. Hughey,
Commissioner, Department of Environmental
Protection.

Filed: December 29, 1982 as R.1982 d.495, **with technical
and substantive changes** not requiring additional
public notice and comment.

Authority: N.J.S.A. 58:10A-1 et seq., specifically 58:10A-
2, 4 and 9.

Effective Date: January 17, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978):
June 30, 1983.

Summary of Public Comments and Agency Responses:

Technical and substantive changes were made in the adopted rules to reflect public comments received on the proposed amendments to the rules. Important changes concerning user fees (NJPDES permit fees) for use of the waters of the State are as follows: the use, when available, of sources of funding in addition to the permit fee to support the NJPDES permit program; the assessment of a fee for permit denials; the use of an auditor to review Department NJPDES records; the synchronization of the NJPDES fiscal year with the State fiscal year; an adjustment in the amount of staff necessary to administer the NJPDES/Discharge to Groundwater program; the assessment of a fee by the Department after permit application; the issuance of an interim NJPDES permit prior to formal application, where sufficient information is available to the Department; the assessment of a fee for land application of sludge and septage based upon the cost of issuing, monitoring, and administering the NJPDES permit, which is related to reflect heavy metal impact; the annual assessment of fees for commercial/industrial subsurface sewage disposal systems based on similar methods of land disposal; and an increase in the fees for landfills; a proposal for a more detailed method for assessment of landfill fees; and an assessment of a fee for emergency permits.

A complete explanation and full text of the summary of public comments and agency responses and the adopted regulations, may be obtained from:

Ellen Radow, Chief
Office of Permits Administration
Department of Environmental Protection
CN 029
Trenton, NJ 08625; or

Office of Administrative Law
Administrative Filings
88 East State Street
CN 301
Trenton, NJ 08625

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

7:14A-1.8 Fee schedule for NJPDES permittees

(a) (No change from proposal.)

(b) Annual evaluation of fees:

1. (No change from proposal.)

2. Thirty days prior to the holding of the hearing, the Department shall ***use best efforts to*** mail notice of the hearing to each ***known*** discharger with a DSW, SIU, IWWMF or DGW permit and any applicant for a DGW, SIU, IWWMF, or ***[DWS]* *DSW*** permit. Such notice shall include a copy of the fee schedule report, and the permittee's ***proposed*** fee for the following year.

3. The fee schedule report shall be prepared annually by the Department and shall include the following:

i. (No change from proposal.)

ii. A detailed financial statement of the previous year's expenditures including a breakdown by account titles, breakdown by totals for types of discharges, actual amount of fees collected ***[and]* ****, any surplus which can be credited ***[to the next year's costs]* ***, **or any deficit which must be assessed when determining next year's fees***;

iii. A report on the previous year's activities including the following:

(1) (No change from proposal.)

(2) The number of compliance sampling inspections (24 hour monitoring) undertaken, the facilities inspected and ***a summary of*** the results thereof;

(3)-(6) (No change from proposal.)

iv. (No change from proposal.)

(c) Annual fee for discharges to surface waters (DSW) and to groundwaters (DGW) ***[by land disposal]***:

***1. Any person who submits a NJPDES permit application, received a NJPDES permit prior to the adoption of these regulations, or is issued a NJPDES permit based upon information available to the Department pursuant to N.J.A.C. 7:14A-2.1(c), shall be assessed a fee in accordance with (e), (i) and (j) below. Such fee shall be assessed as follows:**

i. **The fee shall be based upon information submitted to the Department in the application available to the Department, in accordance with (f) below. Failure of an applicant to submit information necessary to calculate the fee or to pay the fee within 30 days of assessment will result in return of the application, and may result in permit denial and/or appropriate enforcement action.**

ii. **The fee assessment shall be prorated based upon the date of application submittal and the number of remaining days in the fee year minus 120 days.**

iii. **The next year's fee shall be adjusted based upon the facility's actual performance and the date the final NJPDES permit is issued.**

iv. **Neither the prorated fee nor adjustment shall result in payment of a fee less than minimum. If a final permit has not**

been issued in the first fee year, a credit for the number of days in excess of 120 which remained in the first fee year shall be applied to the next year's fee.

v. Any delay in review of the application caused by the applicant not submitting a complete application or additional information, as required by N.J.A.C. 7:14A-2.1(c) and 7.3(b) shall not be eligible for credit purposes in determining the next year's fee. The period of delay shall be based upon the date of request to the date of receipt of the information.

vi. Whenever a NJPDES permit denial is issued, the permit fee shall be retained and any re-application within one year will not result in assessment of a fee.

2. All fees are payable within 30 days of assessment.

[1.] *3.* The yearly fee for a DSW and a DGW by land disposal (when used in this section, "a discharge to groundwater by land disposal" means the application of wastewater onto or into the land, **including, but not limited to, discharges by spray irrigation, infiltration-percolation lagoons, and industrial/commercial facilities into individual subsurface sewage disposal systems,** exclusive of sanitary landfills, surface impoundments, land application of septage and sludge, and **community onsite subsurface sewage disposal systems** *infiltration-percolation lagoons*) shall be based on the following parameters as reported to the Department by the permittee:

[2.] *i.* For domestic treatment works which **have** *are* DSWs and/or DGWs by land disposal, the average daily biochemical oxygen demand (BOD₅);

[3.] *ii.* For dischargers of industrial pollutants which **have** *are* DSWs and/or DGWs by land disposal, the average daily quantity of one of the following pollutants (as expressed in kilograms per day), whichever pollutant is discharged in the largest amount:

[i.] *(1)* Aluminum (Al);

[ii.] *(2)* Cadmium (Cd);

[iii.] *(3)* Cobalt (Co);

[iv.] *(4)* Lead (Pb);

[v.] *(5)* Nickel (Ni);

[vi.] *(6)* Arsenic (As);

[vii.] *(7)* Silver (Ag);

[viii.] *(8)* Chromium (Cr);

[ix.] *(9)* Copper (Cu);

[x.] *(10)* Mercury (Hg);

[xi.] *(11)* Biochemical Oxygen Demand (BOD₅);

[xii.] *(12)* Chemical Oxygen Demand (COD);

[xiii.] *(13)* Total Organic Carbon (TOC);

[xiv.] *(14)* Total Dissolved Carbon (TDC);

[xv.] *(15)* Cyanide *(CN)* *Cyn)*;

[xvi.] *(16)* Total Suspended Solids *(T*SS); **and**

[xvii.] *(17)* Total Dissolved Solids (TDS).

[3.] *iii.* To determine the quantities of pollutants for *(c)2* *(c)3ii* above, the Department shall calculate the average daily quantity of those pollutants which are limited in the permittee's NJPDES permit, and if the *permittee's NJPDES* permit has no limits, then the average daily quantity of those pollutants for which the permittee monitors **on a regular periodic basis**, as required by **his** *the* NJPDES permit. The quantity may be determined on a net basis provided this has been authorized pursuant to N.J.A.C. 7:14A-3.14(h).

[4.] *iv.* For non-contract cooling water, the heat loading.

(d) Monitoring:

1. All DSW **and SIU** dischargers shall report on Discharge Monitoring Reports (DMRs) and on Monitoring Report Forms (MRF*s*). The data for the appropriate parameters shall be submitted as frequently as required by the discharger's NJPDES permit. **Temperature shall be reported in degrees Celsius (°C)*.**

2. For all DGWs **by land disposal**, the dischargers shall report **groundwater monitoring data** to the Department in accordance with the discharger's NJPDES permit on **the** Monitoring Report Forms (MRF*s*) **which can be obtained by writing to:** * * *

3. Monitoring Report Forms may be obtained from:

Assistant Director
Water Quality Management
NJPDES Permit Administration
Division of Water Resources
CN 029
Trenton, New Jersey 08625

[3. In addition, DGWs by land disposal shall report their groundwater monitoring data in accordance with their NJPDES permit on forms provided by the Department.]

4. Wastewater flows shall be reported in millions of gallons per day (mgd). BOD₅ and the other pollutants listed in *(c)2* *(c)3i and ii* above shall be reported in milligrams per liter (mg/l) or kilograms per day, as required by the discharger's NJPDES permit. Temperature shall be reported in degrees Celsius (°C).

5. (No change from proposal.)

6. Industrial and commercial dischargers, except for those dischargers covered by (d)8 below, shall report monthly the average daily flow (Q) and the amount discharged for that month of any of the pollutants listed in *(c)2* *(c)3ii* above.

7. **Starting with the effective date of these amendments, permittees** **Permittees** with discharges consisting solely of non-contact cooling water shall report monthly on MRFs the average temperature (T_d) upstream from the point of discharge. This point should be located outside the influence of the thermal plume. Where the intake water source is the receiving stream, intake water temperature shall be used instead of upstream water temperature. Where the average daily ambient temperature is not provided by the permittee, the values in Appendix A shall be used for computing the annual fee. For the purposes of computing the thermal fees for the billing year beginning March 6, 1982, if the discharger's permit gives only winter and/or summer limitations, and unless monitoring data shows otherwise, for winter the ambient water temperature shall be considered to be 5.57°C (November - April) and for summer it shall be considered to be 18.87°C (May -October).

8.-9. (No change from proposal.)

10. **For** **Only for** the purposes of **this section** **fee calculation**, average daily discharge rate, BOD₅ mass loading, the average daily mass loading of the other pollutants listed in *(c)2* *(c)3ii* above, and average daily heat loading shall be computed as follows:

i. The reported average daily BOD₅ or the concentration of the discharge of the other pollutants listed in *(c)2* *(c)3ii* above, as submitted to the Department on MRFs or DMRs, shall be multiplied by the average daily discharge flow rate and the appropriate unit conversion factors to yield the average daily mass loading of each pollutant for the reporting period as specified in the permittee's NJPDES permit. If the average daily loading is reported to the Department, this figure will be used. The reported average daily ambient temperature T_a shall be subtracted from the reported average daily discharge temperature T_d, and the result shall be multiplied by the reported average daily discharge flow rate and the appropriate unit conversion factors to yield the average daily thermal loading for the reporting period.

ii. The average daily mass loading of each pollutant or the average daily thermal loadings computed in *(d)9* *(d)10i* above shall be summed for the reporting year. **The reporting year means the year ending with the period for which the most recent MRF or DMR submitted prior to the beginning of the billing year is available.]***

iii. The appropriate sum of the average daily loadings computed in (d)10ii above shall be divided by the sum of the reporting periods to obtain a daily average for the year. For the purposes of fee calculation, this daily average shall be interpreted as the average mass loading of BOD₅ or the other pollutants listed in *(c)2* *(c)3ii* above per day or as the average heat loading per day for the discharge. These daily averages shall be summed by type of pollutant over all the discharges for the facility to yield the average daily mass loading of BOD₅ or the other pollutants listed in *(c)2* *(c)3ii* above or average daily heat loading to be used in the fee

calculation.

iv. (No change from proposal.)

11. The reporting year means the year ending with the period for which the most recent MRF or DMR submitted prior to the date of the fee proposal is available on the Department's data management system.

(e) Fee calculation:

1. For domestic treatment works which ***[are]* *have*** DSWs and/or DGWs by land disposal, except for those covered by (e)5 or 6 below, the annual fee F_m in U.S. dollars is given by (where K-BOD is the average daily BOD₅ mass loading in kilograms computed according to the procedures described in (d)10 above; the minimum annual fee shall be \$200.00).

i. (No change from proposal.)

2. For discharge^rs of industrial pollutants which ***[are]* *have*** DSWs and/or DGWs by land disposal, except for those covered by (e)4 or 7 below, the annual fee F_i in U.S. dollars is given by (where K-PAR is the average daily mass loading in kilograms of the pollutant which is highest in quantity of all of the pollutants listed in ***[(c)2]* *(c)3ii*** above and computed according to the procedure described in (d)10 above; the minimum annual fee shall be \$200.00):

i. (No change from proposal.)

3. For discharge^rs of non-contact cooling water, the annual fee F_c in U.S. dollars is given by (where H_m is the average daily heat load expressed as million ***[BTU's]* *BTUs*** (British Thermal Units) per hour computed according to the procedure described in (d)10 above and divided by 24; the minimum annual fee shall be \$200.00):

i. (No change from proposal.)

ii. In addition to the fee assessed in accordance with (e)3 above, an additional fee shall be assessed against a discharger of non-contact cooling water for the processing ***and administering*** of the discharger's Section 316 variance request. Said fee shall be based upon the proposed budget for the following year. The discharger's ***[subsequent]* *current*** year's fee may be debited or credited in line with the Department's actual expenses for processing ***and administering*** the variance request.

4. For nonprocess, nonthermal discharges of groundwater from dewatering operations of which quality is not worse than the ambient surface water quality standards for the receiving waters, there shall be no annual fee assessed. In order to qualify for this exception, a facility must submit a written request ***within 30 days of receipt of the initial bill***, which will be subject to the approval of the Department. Such a request must be accompanied by sampling data showing that the discharge is of the required quality.

5. (No change from proposal.)

6. Permittees whose only discharges are storm sewers or combined sewers ***(STR)*** will be assessed a minimum fee of \$200.00 in U.S. dollars.

7. Discharges from oil/water separators ***(OWS)*** of stormwater will be assessed a minimum fee F_s of \$200.00 in U.S. dollars.

8. (No change from proposal.)

***[(f)]** Any existing source or any new source which commences discharge between March 6, 1981 and the effective date of these amendments, which is a DSW or a DGW by land disposal, and which does not have a NJPDES permit shall be assessed a fee in accordance with (e) above based on the information submitted to the Department in the discharger's NJPDES permit application. The fee shall be assessed on a prorated basis with an assumed operational starting date as of the effective date of these amendments or 120 days from the date that the discharger's NJPDES permit application was filed, whichever is later. The fee shall be submitted with the application for the NJPDES permit. This fee shall be refunded if the permit is denied. The discharger's following year fee shall be adjusted based upon the facility's actual performance and the date the final NJPDES permit is issued.]*

***[(g)]** Any new source which is a DSW or a DGW by land disposal, whether permitted or not, and which begins to discharge after the

effective date of these amendments shall be assessed a fee in accordance with (e) above on a prorated basis with an assumed operational starting date for fee purposes the same as 120 days from the date that the discharger's NJPDES permit application was filed. The fee shall be based upon appropriate parameters in the NJPDES permit and the projected flow. The fee shall be submitted with the application for the NJPDES permit. This fee shall be refunded if the permit is denied. The discharger's following year fee shall be adjusted based upon the facility's actual performance and the date the final NJPDES permit is issued.]*

[(h)]* *(f) [For any discharger who commences discharge after the effective date of these amendments and who appeals the effluent limitations in his draft NJPDES permit, unless the discharger can document otherwise to the satisfaction of the Department, the Department will assess a fee based upon the following values for fee calculation in accordance with (e) above:]*
For the purpose of assessing a fee based upon a new application, the Department will use the fee formula for the appropriate category of discharge. In order to insert the appropriate variables the Department will use information submitted in the application, any available discharge data, or other information available to the Department. The Department will use the following assumed values, where applicable:

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

[(j)]* *(g) If a discharger believes that the Department has made an error in computation or that the fee is based on incorrect data in the discharger's DMR or MRF, the discharger must request an adjustment of the fee in writing ***and provide documentation or some other reliable basis for such request*** within 30 days of receipt of the ***initial*** bill. ***The fee remains payable on the date due. A rebate will be issued to reflect any adjustment which has been approved by the Department.***

[(i)]* *(h) Where a facility has separate or combined discharges of industrial pollutants and/or domestic wastes with non-contact cooling water, a fee shall be assessed for each.

[(k)]* *(i) Annual permit fees for discharges to ground water other than by land disposal:

1. Fees for discharges from sanitary landfills^r: ***[will be assessed on a yearly basis. The operational starting date shall be assumed to be the date that the discharger's NJPDES permit application is filed plus 120 days or the effective date of these amendments, whichever is later. The initial fee is due when the discharger's NJPDES permit application is submitted to the Department.]*** The annual fee F_{sl} in U.S. dollars is given by (where AC is the total number of acres to be permitted of the landfill):

i. $F_{sl} = [639.7 + 62.2(AC)^{1/3}] * \$542.2 + 112.0(AC)^{1/2}$; the minimum annual fee shall be ***[\$640.00]* *\$690.00***.

[2. The discharger's following year fee shall be adjusted based upon the facility's actual permitted acreage and the date the final NJPDES permit is issued. The fee shall be refunded if the permit is denied.]

[3.]* *2. Fees for discharges by surface impoundments^r: ***[or infiltration-percolation lagoons shall be assessed on a yearly basis. The operational starting date shall be assumed to be the date that the discharger's NJPDES permit application is filed plus 120 days or the effective date of these amendments, whichever is later. The initial fee is due when the discharger's NJPDES permit application is submitted to the Department.]*** The annual fee F_{si} in U.S. dollars is given by (where AC is the total number of acres to be permitted and covered by the surface impoundment(s) ***[or the infiltration-percolation lagoon(s)].]* ***):

i. (No change from proposal.)

[4. The discharger's following year fee shall be adjusted based upon the facility's actual permitted acreage and the date the final NJPDES permit is issued. The fee shall be refunded if the permit is denied.]

[5.]* *3. Fees for the land application of sludge and septage^r: ***[shall be assessed on a yearly basis. The starting date shall be**

assumed to be the date that the discharge's NJPDES application is filed plus 120 days or the effective date of these amendments, whichever is later. The initial fee is due when the discharger's NJPDES permit application is submitted to the Department. The annual fee F_{1a} in U.S. dollars is given by (where TAN is the total available nitrogen being applied to the site): ***The annual fee F_{1a} in U.S. dollars is derived as follows: TAN is the total available nitrogen applied to the site in kilograms per hectare multiplied by the total hectares to which sludge may be applied. TME is the total metal equivalent derived from the weighted average concentration of the heavy metals cadmium, copper, nickel, lead, and zinc in milligrams per kilogram of sludge applied or proposed to be applied per year, on a dry weight basis, multiplied by the relative toxicity value of that metal as follows:**

$TME = 10.0[Cd] + 0.4[Cu] + 1.0[Ni] + 1.0[Pb] + 0.2[Zn]$
 i. For sludge from domestic treatment works and septage, $F_{1a} = [-236.3 + 308.4 (TAN)^{1/3}] * -4218 + 308.4 TAN^{1/3} + TME$, the minimum annual fee shall be \$350.00*.*.*

(1) If multiple sludges are applied under a single NJPDES permit, the weighted average of the heavy metals concentration of all sludges applied to the site will be used in the TME equation.

(2) For those NJPDES applications for which sludge quality cannot be determined, the sludge quality shall be assumed to be the mean level. In terms of TME, a value of 1099 shall be assumed. (Source: Municipal Sludge Management Environmental Factors, EPA. 430/9-77-004 October 1977).

ii.-iii. (No change from proposal.)

[6. The fee shall be refunded if the permit is denied. The discharger's following year fee shall be adjusted based upon the date the final NJPDES permit is issued.]

[7.] ***4.*** Fees for discharges from ***community*** onsite subsurface disposal systems shall be assessed on a one time only basis. ***[The fee is due when the discharger's NJPDES permit application is submitted to the Department.]*** No fee shall be charged for a NJPDES onsite subsurface disposal system permit renewal. The fee shall be assessed as follows:

[i. For all subsurface sewage disposal systems serving industrial or commercial facilities, a fee based on the formula: $Fee = -63 + 2047 (K-BOD)^{1/3}$]

[(1) Where the fee is in U.S. dollars and K-BOD represents the onsite subsurface disposal system daily BOD₅ loading in kilograms per day. In no case however will the fee be less than \$400.00.]

[ii.] ***i.*** For all community subsurface sewage disposal systems ***[which receive more than 2,000 gallons per day]***, a fee based on the formula: $Fee = -972 + 220(Q)^{1/3}$

(1) ***[Where the]* *The*** fee is in U.S. dollars and Q represents the onsite subsurface disposal system design flow in gallons per day.

[8. The fee shall be refunded if the permit is denied.]

[(l)] ***(j)*** Annual permit fees for discharges to domestic treatment works:

1. Fees for discharges to domestic treatment works by significant industrial users ***, as defined,*** ***[shall be assessed on a yearly basis. The operational starting date shall be assumed to be the date that the discharger's NJPDES permit application is filed plus 120 days or the effective date of these amendments, whichever is later. The initial fee is due when the discharger's NJPDES permit application is submitted to the Department. The fees]*** shall be assessed as follows:

i. (No change from proposal.)

ii. For all dischargers of leachate from sanitary landfills or of ***[contaminated]* *polluted*** groundwater, a minimum fee of \$1000 per year in U.S. dollars.

[iii. The discharger's following year fee shall be adjusted based upon the date the final NJPDES permit is issued. The fee shall be refunded if the permit is denied.]

[(m)] ***(k)*** For the purposes of this section, the billing year shall run from March 6, 1982 to ***[March 6, 1983]* *June 30,**

1983* and ***[to March 6]* *from July 1 to June 30*** for each consecutive year thereafter.

[(n) The minimum fees stated in (e)1 through 7, (h) and (l) above shall not be prorated or adjusted.]

(l) Emergency permit: The Department shall assess a fee for emergency permits. The fees shall be determined based upon the fee formula for the appropriate category and prorated for the term of the permit; but in no case shall the fee be less than the minimum for that category. Failure to submit the fee as required by the Department shall result in automatic termination of the permit.

7:14A-1.9 Definitions

... ***"Community onsite subsurface disposal system" means an onsite subsurface disposal system which serves five or more realty improvements as defined in N.J.S.A. 58:11-23 et seq. or any onsite subsurface disposal system receiving domestic waste and serving one or more realty improvements where the design flow is greater than 2,000 gpd.***

... **"Section 316 variance request" means a request by a discharger for the relaxation of an effluent limitation in accordance with Section 316 of the Federal Act.**

OFFICE OF ADMINISTRATIVE LAW NOTE: N.J.A.C. 7:14A-2.1 was not included in the original proposal, but is now being amended to conform with the changes adopted in N.J.A.C. 7:14A-1.8 and 1.9.

7:14A-2.1 Application for a NJPDES permit

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

(c) The Department shall not issue a permit before receiving a complete application, with the exception of an emergency permit issued pursuant to N.J.A.C. 7:14A-2.2 ***or when the Department issues an interim NJPDES permit based upon information the Department possesses, which may include applications previously filed with State, Federal or local agencies***. An application for a permit is complete when the Department receives all of the information required on the application form and any information substantially related to the permit and determines the application has been satisfactorily completed. The completeness of each application for any type of discharge permit shall be judged independently of the status of any other permit application or permit for the same facility or activity. An applicant is required to submit the applicable information in N.J.A.C. 7:14A-1.7(b), 2.1, 3.2, 4.4, 5.8, and subchapters 6 and 10. The Department shall not make a final determination on any application until such time as the applicant has supplied any missing information and corrected any deficiencies.

(d)-(j) (No change.)

(a)

DIVISION OF ENVIRONMENTAL QUALITY

Hazardous Waste Management Listing of Waste Oil as a Hazardous Waste, and Manifest Rules for Waste Oil

Adopted Amendments: N.J.A.C. 7:26-7.4, 7.5, 7.7, 8.13 and 8.15

Proposed: January 4, 1982 at 14 N.J.R. 20(a).

Adopted: December 16, 1982 by Robert E. Hughey,
Commissioner, Department of Environmental
Protection.

Filed: December 29, 1982 as R.1982 d.494, with
substantive changes not requiring additional public
notice and comment.

Authority: N.J.S.A. 13:1-E-1 et seq. and N.J.A.C. 7:26-
8.8.

Effective Date: January 17, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978):
August 6, 1986.

Summary of Public Comments and Agency Responses:

The New Jersey Department of Environmental Protection proposed to list certain classes of waste oils as hazardous wastes, thereby regulating waste oil management through the New Jersey Hazardous Waste Management Regulations. The proposal was published in the New Jersey Register on January 4, 1982 and a public hearing on the proposed regulation was held on February 5, 1982. Twenty-four commentors provided written and oral testimony on the proposal, and the Department carefully reviewed and considered these comments in the preparation of these final regulations.

Evaluation of Testimony

1. Twelve commentors suggested incorporation of a small generator exclusion for generators of waste oil. N.J.A.C. 7:26-7.7(b), as adopted, incorporates this exclusion.

2. Six comments were received requesting a clearer definition of the exemption for service stations. The adopted rule, N.J.A.C. 7:26-7.7(c), clearly defines this exemption.

3. Eleven comments were received regarding the classification of oil spill residue as hazardous waste. The adopted rule, N.J.A.C. 7:26-8.13(b)5, significantly narrows the scope of the regulation.

4. Seven commentors suggested that the rules would discourage recycling of waste oil. In response, the adopted rules contain several provisions which enable recycling of waste oil to occur and be encouraged. The Department has not noted significant discouragement of waste oil recycling through the previous regulation of the waste oil industry.

5. One commentor questioned whether good fuel, removed from heating oil tanks, would be regulated through this regulation. This fuel oil would become regulated only when the oil meets the statutory definition of hazardous waste. Until that time, however, the oil is not regulated by these regulations.

6. Three comments were received regarding listing of the waste oils on the list of N.J.A.C. 7:26-8.15 as inappropriate. The rule was revised with the listings being promulgated in N.J.A.C. 7:26-8.13.

7. Two commentors questioned the Department's intent to drop language from N.J.A.C. 7:26-8.15. The proposal inadvertently removed this language. The adopted rule contains the language.

8. Four commentors suggested that the Department need only track waste oil to attain proper management. However, DEP believes that the rules promulgated here allow the necessary controls while also offering reasonable impact on the regulated community.

9. Three comments were received stating that the practice of adulterating waste oil is widespread in the waste oil industry. These comments echo the Department's concern and form part of the basis for this regulation.

10. Three comments suggested that the language of sections N.J.A.C. 7:26-7.4 and 7.5 was unclear. The adopted rules clearly delineate responsibilities under this subchapter in the regulations.

11. Two commentors requested that the Department carefully consider the public comment and not rush promulgation. In preparing the final rules, the Department did carefully weigh all public comment.

12. Three comments were received requesting an exemption for on-site recycling of waste oil. The Department is presently considering exempting all on-site recycling activities, and should DEP adopt this exemption, on-site recycling of waste oil also would be exempt.

13. Four commentors suggested that the on-site burning of waste oil should be exempt from regulation. This exemption is presently in place in N.J.A.C. 7:26-9.1(c)9.

14. Four comments were received regarding exemptions from permit requirements for certain aspects of waste oil management. DEP is considering these comments, but they are outside the scope of this regulation.

15. Three comments stated that the proposed listing of X726 is too broad in scope. The listings in the final rule were narrowed in scope, as contained in N.J.A.C. 7:26-8.13(b).

16. Two commentors suggested that DEP consider adopting any rules promulgated by EPA regarding management of waste oil. DEP will consider EPA rules and will insure program equivalence.

17. Two commentors stated that these rules were duplicative of existing regulations. However, DEP does not consider the rules duplicative, but rather a necessary component to regulating waste oil.

18. Two comments were received stating that most industries properly manage waste oil. The Department recognizes that the majority of industry properly manages waste oil and believes that they will not be significantly impacted by these regulations.

19. One commentor questioned whether oil soaked wipers would be regulated by these rules. The rules do not list these materials. They would, however, be regulated should they meet any of the hazardous characteristics in N.J.A.C. 7:26-8.9 through 8.12.

20. Three commentors expressed support for the regulation of waste oil and suggested stronger controls on the end uses of waste oil.

A copy of the full record of the opportunity to be heard is available at the Division of Waste Management, 32 East Hanover Street, Trenton, New Jersey.

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

7:26-7.4 Hazardous waste generator responsibilities

(a) General requirements for generators not exempted pursuant to N.J.A.C. 7:26-8.1 are as follows:

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

3. A generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage or disposal must prepare a manifest before transporting the waste offsite.

[i. In lieu of the requirement of (a)3 above generators of waste crank-case and lubricating oils from automotive service and gasoline stations, truck terminals, and garages, and waste oil from residential fuel oil tank cleanouts shall comply with the requirements of N.J.A.C. 7:26-7.5(b).]

4.-8. (No change.)

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

7:26-7.5 Hazardous waste hauler responsibilities

(a) (No change from proposal.)

(b) A hauler of hazardous waste must also comply with N.J.A.C. 7:26-7.4 if the hauler:

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

3. Accepts *[waste crankcase and lubricating oils from automotive service and gasoline stations, truck terminals, and garages, and waste oil from residential fuel oil tank cleanouts.]*** ***hazardous waste with hazardous waste numbers X721, X722, X723, X724, X726, or X727 from generators exempted by N.J.A.C. 7:26-7.7(b) or (c).*****

i. A hauler of hazardous waste who accepts *[waste oil from****

automotive service and gasoline stations, truck terminals, and garages, and waste oil from heating oil tank cleanouts]* * hazardous waste with hazardous waste numbers X721, X722, X723, X724, X726 or X727 from generators exempted by N.J.A.C. 7:26-7.7(b) or (c)* shall compile a list of sites * corresponding to each manifested shipment* at which the hauler accepts *[waste oil]* *these hazardous wastes*.

ii. The list of sites at which the hauler accepts *[waste oil]* * hazardous waste with hazardous waste numbers X721, X722, X723, X724, X726, or X727 from generators exempted by N.J.A.C. 7:26-7.7(b) or (c)* shall contain the *[site]* *waste* owner's name and address, the address of the site, the quantity of waste *[oil]* accepted at the site, and the identification numbers of the manifest corresponding to the list.

iii. The hauler shall attach a copy of the site list to the copy of the manifest and forward these to the Department in compliance with N.J.A.C. 7:26-7.4. *The hauler shall also retain a copy of this list on file for a period of three years and shall make this list available, upon request, to representatives of the New Jersey Department of Environmental Protection.*

iv. The hauler shall obtain a signed receipt from each site at which he accepts *[waste oil]* *hazardous waste with hazardous waste numbers X721, X722, X723, X724, X726, or X727 from generators exempted by N.J.A.C. 7:26-7.7(b) or (c)*, retain a copy of these receipts on file for a period of three years, and shall make these receipts available to the Department upon request.

7:26-7.7 Exemption from manifest rules

(a) Rules governing the use of the manifest system do not apply to on-site (as defined in N.J.A.C. 7:26-1.4) transportation of hazardous waste by generators or by owners or operators of permitted hazardous waste facilities.

(b) Generators who only generate less than 1001 gallons/month of hazardous waste with hazardous waste numbers X721, X722, X723, X724, X726, or X727 are exempted from the generator requirements as contained in N.J.A.C. 7:26-7.4 provided they comply with (d) below.

(c) Automotive service stations which generate only hazardous waste with hazardous waste numbers X721, X722, X723, X724, X726, or X727 are exempted from the generator requirements as contained in N.J.A.C. 7:26-7.4 provided they comply with (d) below.

(d) A generator exempted according to (b) or (c) above shall offer this waste only to waste haulers who are registered with the New Jersey Department of Environmental Protection as transporters of hazardous waste; and shall obtain a written receipt from the hazardous waste hauler when the waste is transported off-site, and shall retain these receipts on file for a period of three years and make them available, upon request, to representatives of the New Jersey Department of Environmental Protection.

7:26-8.13 Hazardous waste from non-specific sources

(a) Industry: EPA Hazardous Waste Number; Hazardous Waste; Hazard Code.

(No change in text of list.)

(b) **N.I. Hazardous Waste Number: Hazardous waste (hazard code).**

1. X721: Waste automotive crankcase and lubricating oils from automotive service and gasoline stations, truck terminals, and garages (T);

2. X722: Waste oil and bottom sludge generated from tank cleanouts from residential/commercial fuel oil tanks (T);

3. X723: Waste oils and bottom sludge generated by gasoline stations when gasoline and oil tanks are tested, cleaned, or replaced (T);

4. X724: Waste petroleum oil generated when tank trucks are cleaned (T);

5. X725: Oil spill cleanup residue which: A. is contaminated

beyond saturation; or B. the generator fails to demonstrate that the spilled material was not one of the listed hazardous waste oils (T);

6. X726: The following used and unused waste oils; metal working oils; turbine lubricating oils; diesel lubricating oils; and quenching oils (T);

7. X727: Waste oils from the draining, cleaning or disposal of electric transformers (T);

8. X728: Bottom sludge generated from the processing, blending, and treatment of waste oil in waste oil processing facilities (T).*

7:26-8.15 Discarded commercial chemical products, off-specification species, containers and spill residues thereof

The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded:

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

(g) The following commercial chemical products or manufacturing *chemicals* intermediates, referred to in (a), (b) and (d) above, are identified as toxic wastes (T) unless otherwise designated. These wastes and their corresponding NJDEP hazardous waste numbers are:

Editor's Note: The New Jersey Department of Environmental Protection is studying additional wastes to be included in this subsection.

*[1. X721: Waste crankcase and lubricating oils from automotive service and gasoline stations, truck terminals and garages (T);

2. X722: Waste oil from tank cleanouts primarily from residential/commercial fuel oil tanks (T);

3. X723: Waste oils and gasoline generated by gasoline stations when tank cleaning companies test, clean out, and replace their gasoline storage tanks (T);

4. X724: Waste oil generated by trucking facilities in the cleaning out of tank truck (T);

5. X725: Oil spill cleanup residue (T);

6. X726: Miscellaneous gasoline/oil/petroleum products, including used industrial oils, unused waste oils, and transformer oils, N.O.S.]*

HEALTH

(a)

DRUG UTILIZATION REVIEW COUNCIL

Interchangeable Drug Products

Adopted Amendment: N.J.A.C. 8:71

Proposed: August 16, 1982 at 14 N.J.R. 888(a).

Adopted: December 22, 1982 by the Drug Utilization Review Council, Robert G. Kowalski, Chairman.

Filed: December 27, 1982 as R.1982 d.488, **with portions of the proposal not adopted and portions not adopted but still pending.**

Authority: N.J.S.A. 24:6E-6b.

Effective Date: January 17, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978): March 6, 1984.

Summary of Public Comments and Agency Responses:

ADOPTIONS

HIGHER EDUCATION

Regarding Chlorthalidone:

Dr. Leon Shargel, representing Danbury, argued that the differences between Danbury's product and Hygroton in AUC and C-max were less than 20 percent, a difference which would not be of therapeutic significance.

The council responds that the degree of difference which would be therapeutically meaningful has not yet been determined. Further clinical data will be considered.

Regarding Dipyridamole:

The Boehringer Ingelheim Company opposed adding Chelsea's dipyridamole tablets to the formulary for the following reasons: (1) Chelsea does not meet FDA's general standards for bioavailability, which the Drug Utilization Council, in its regulations, requires; (2) Chelsea hasn't received official FDA approval for Chelsea's dissolution data; (3) the 50 and 75 mg strengths have no bioequivalency data; and (4) technical inadequacies in Chelsea's AUC calculations.

The Council notes that Chelsea now has specific, written FDA approval of its bioequivalency and dissolution data and the 50 mg and 75 mg strengths are exact multiples of the 25 mg product's composition, thus minimizing the possibility that the two higher strengths will be bioequivalent to Persantine.

The following products and their respective manufacturers were adopted:

- Acetaminophen/codeine tabs 15, 30, 60 mg Chelsea
- Acetaminophen/codeine tabs 60 mg Barr
- Dipyridamole tabs 25, 50, 75 mg Chelsea
- Diphenoxylate/Atropine tabs MD
- Ergoloid mesylates oral tabs 1 mg Bolar
- Hydroxyzine pamoate caps 25, 50, 100 mg Chelsea
- Potassium chloride powder 20 mEq Upsher-Smith
- Silver sulfadiazine cream 1% Paco
- Sulfinpyrazone tabs 100 mg Danbury
- Tolbutamide tabs 500 mg Cord

The following products and their respective manufacturers were not adopted:

- Liothyronine sodium 25, 50 mcg Bolar
- Medroxyprogesterone acetate tabs 10 mg Graham
- Methyclothiazide tabs 2.5, 5 mg Zenith
- Metronidazole tabs 250 mg Chelsea
- Phenylbutazone tabs 100 mg Cord
- Potassium chloride powder 15 mEq Upsher-Smith

The following products are still pending:

- Chlorthalidone tabs 25, 50 mg Danbury
- Spironolactone tabs 25 mg Cord
- Spironolactone 25 mg/Hydrochlorothiazide 25 mg Cord
- Sulfinpyrazone tabs 100 mg Zenith

(a)

DRUG UTILIZATION REVIEW COUNCIL

Interchangeable Drug Products

Adopted Amendment: N.J.A.C. 8:71

Proposed: July 6, 1982 at 14 N.J.R. 690(a).
Adopted: December 22, 1982 by the Drug Utilization Review Council, Robert G. Kowalski, Chairman.
Filed: December 27, 1982 as R.1982 d.489, with portions

of the proposal **not adopted** and portions **not adopted but still pending.**

Authority: N.J.S.A. 24:6E-6b.

Effective Date: January 17, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978):
March 6, 1984.

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

The following products and their respective manufacturers were adopted:

- Furosemide tabs 20, 40 mg Chelsea
- Hydrochlorothiazide tabs 25, 50 mg Purepac
- Procainamide HCL caps 250, 375, 500 mg Chelsea
- Sulfisoxazole tabs 500 mg Purepac

The following product, with its manufacturer, is still pending:

- Chlorthalidone tabs 25, 50 mg Chelsea

HIGHER EDUCATION

(b)

BOARD OF HIGHER EDUCATION

State Colleges

Auxiliary Organization Regulations

Adopted New Rules: N.J.A.C. 9:2-13.1 through 13.12

Proposed: October 18, 1982 at 14 N.J.R. 1141(a).

Adopted: December 17, 1982 by the Board of Higher Education, T. Edward Hollander, Chancellor and Secretary.

Filed: December 28, 1982 as R.1982 d.493, with **substantive changes** not requiring additional public notice and comment.

Authority: N.J.S.A. 18A:64-26-18A:64-44 (P.L. 1982 c.16).

Effective Date: January 17, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978):
November 21, 1984.

Summary of Public Comments and Agency Responses:

Two comments were received in response to the New Jersey Register publication and distribution of the notice of the proposal. The Department of Civil Service questioned whether the language of proposed N.J.A.C. 9:2-13.9 exceeded the statutory authority of the Board of Higher Education. The Board responded by deleting the questionable language. The Montclair State College Student-Faculty Cooperative questioned the reserve requirements of proposed N.J.A.C. 9:2-12.7. The Board amended this section to clarify the reserve requirement.

The Cooperative also suggested the addition of language specifying auditing requirements. The Board found that the statutory language adequately dealt with the auditing requirements and did not change the proposal.

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

9:2-13.7 Reserve accounts

Each auxiliary organization shall create and maintain *[a capital reserve and replacement account equivalent to]* ***an accumulated equity account at an amount not less than the total of*** two percent of the original acquisition cost of the organization's property and equipment*[, Each auxiliary organization shall also create and maintain a current operating reserve equivalent to one months payroll.]* *** , and the value of its highest expected monthly payroll(s) in the next 12 months***.

9:2-13.9 Organization personnel

Employees of auxiliary organizations are within the unclassified service of the State Civil Service system. The Department of Civil Service shall establish job titles and salary schedules for such employees *[, provided, however, that individual who was an employee of college auxiliary organization prior to the date of the enabling legislation shall be reduced in salary as a result of such classification]*.

HUMAN SERVICES

(a)

DIVISION OF PUBLIC WELFARE

Public Assistance Manual
Amendments Required by the Omnibus Budget
Reconciliation Act of 1981

Adopted Amendments: N.J.A.C. 10:81-2.6,
2.17, 2.18, 3.1, 3.5, 3.11, 3.13, 3.18, 8.23,
8.24 and 8.25

Proposed: October 4, 1982 at 14 N.J.R. 1078(a).
Adopted: December 14, 1982 by George J. Albanese,
Commissioner, Department of Human Services.
Filed: December 21, 1982 as R.1982 d.482, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 44:7-6 and 44:10-3.

Effective Date: January 17, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978):
N.J.A.C. 10:81-2 and -3, June 8, 1983; 10:81-8, June 14, 1984.

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

Full text of the changes between proposal and adoption follows (deletions from proposal shown in brackets with asterisks *thus*).

10:81-8.25 College students and Medicaid Special
(a)-(c) (No change from proposal.)
(d) See [section 24 of this subchapter] **N.J.A.C. 10:81-8.24 *[of this subchapter]*** for other factors relating to eligibility.

(b)

DIVISION OF PUBLIC WELFARE

General Assistance Manual
Local Assistance Board Appointments

Adopted Amendment: N.J.A.C. 10:85-2.2

Proposed: October 18, 1982 at 14 N.J.R. 1144(a).
Adopted: December 22, 1982 by George J. Albanese,
Commissioner, Department of Human Services.
Filed: December 28, 1982 as R.1982 d.492, **without change.**

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

Effective Date: January 17, 1983.
Expiration Date pursuant to Executive Order No. 66 (1978):
June 1, 1983.

Summary of Public Comments and Agency Responses:

Two comments were received: One from a municipal welfare agency director expressing agreement with the proposed amendment as well as urging that further authority be delegated to local agencies and another from a countywide organization of municipal directors requesting that the proposal be withdrawn and the Division of Public Welfare (DPW) retain its authority to approve or disapprove the continuation in office of a local assistance board member when a replacement has not been appointed within 30 days. In response to this comment, the Department observes, in reliance on advice from the Office of the Attorney General noted in the proposal Summary statement, that DPW has no such statutory authority.

(c)

DIVISION OF PUBLIC WELFARE

Home Energy Assistance Handbook
Income Eligibility, Automatic Payments,
Special and Emergency Energy Assistance,
Maximum Benefits, Verification Income,
Notice Requirements, Recoupment

Readopted Amendments: N.J.A.C. 10:89-2.3,
3.1, 3.2, 3.4, 3.5, 3.6, 4.1, 5.2 and 5.3

Proposed: November 15, 1982 at 14 N.J.R. 1311(a).
Adopted: December 27, 1982 by George J. Albanese,
Commissioner, Department of Human Services.
Filed: December 30, 1982 as R.1982 d.497, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 30:4B-2.

Effective Date: December 30, 1982.
Expiration Date pursuant to Executive Order No. 66(1978):
November 10, 1985.

Summary of Public Comments and Agency Responses:

ADOPTIONS

LAW AND PUBLIC SAFETY

No comments received.

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

10:89-3.6 Payment schedule
 (a) (No change from proposal.)
 (b) Schedule B: All other fuel:

HOUSEHOLD SIZE	1 or 2		3 to 5		6 or more	
	Blue	Red	Blue	Red	Blue	Red
Region Designation						
Monthly Income						
\$0-\$417.00	[268] 322	[232] 280	[356] 430	[312] 374	[428] 516	[372] 448
\$417.01-\$667.00	[224] 268	[192] *[324]*358	[296] 312	[260] 430	[356] 374	[312] 374
\$667.01-\$917.00		*234*	[240] 286	[208] 250	[284] 344	[248] 298
\$917.01-\$1167.00			[180] 214	[156] 186	[216] 258	[188] 224
\$1167.01-\$1583.00					[144] 172	[124] 150
Over \$1583.00					86	74

"Blue" means Sussex and Warren counties.
 "Red" means all other counties.

(c) (No change from proposal.)

10:89-5.3 Recoupment of overpayments

(a) Households which receive more than \$750.00 in HEA benefits during any program year, prior to October 1, 1982, or \$900.00 thereafter shall be considered to have been overpaid. Similarly, households which receive benefits that are duplicative, i.e., households receiving more than one full automatic and/or special energy entitlement, shall also be considered to have been overpaid, and will be required to repay the excess benefit. Upon discovery of an overpayment*,* the CWA shall take action in accordance with the procedures in this subsection. The CWA shall seek recovery of all overpayments regardless of fault including overpayments caused by administrative error.

1. The amount of the overpayment shall be the difference between the total HEA benefit paid to the household and \$750.00 or \$900.00 as *[appropriate]* *appropriate*, or the amount determined by the CWA to be duplicative.

2.-6. (No change from proposal.)

LAW AND PUBLIC SAFETY

(a)

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Revision of Application, License, Employee and Reporting Forms; Conformance of Certain Fees to Statute

Adopted Amendments: N.J.A.C. 13:3-1.10, 1.14, 2.2, 3.9 and 4.3
Adopted Repeal: N.J.A.C. 13:3-8.1 through 8.7

Proposed: November 1, 1982 at 14 N.J.R. 1194(a).
 Adopted: December 22, 1982 by John F. Vassallo, Jr.,
 Director, Division of Alcoholic Beverage Control and
 Commissioner, Bureau of Amusement Games Control.
 Filed: December 30, 1982 as R.1982 d.498, **without change.**

Authority: N.J.S.A. 5:8-79, 5:8-79.1, 5:8-98, 5:8-102 and 5:8-105.

Effective Date: January 17, 1983.

Expiration Date pursuant to Executive Order No. 66(1978):
 January 17, 1988.

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

(b)

DIVISION OF MOTOR VEHICLES

Driver Improvement Schools Amount of Fee

Adopted Amendment: N.J.A.C. 13:20-17.3

Proposed: October 18, 1982 at 14 N.J.R. 1145(b).
 Adopted: December 3, 1982 by Clifford W. Snedeker,
 Director of the Division of Motor Vehicles.
 Filed: December 21, 1982 as R.1982 d.485, **without change.**

Authority: N.J.S.A. 39:5-30.4 and P.L. 1982, c.53.

Effective Date: January 17, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978):
 January 17, 1988.

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

(a)

DIVISION OF MOTOR VEHICLES

**Licensing Service
Restoration Fee for Suspended or Revoked
License**

Adopted New Rule: N.J.A.C. 13:21-9.3

Proposed: October 18, 1982 at 14 N.J.R. 1146(a).
Adopted: December 3, 1982 by Clifford W. Snedeker,
Director of the Division of Motor Vehicles.
Filed: December 21, 1982 as R.1982 d.484, **without
change.**

Authority: N.J.S.A. 39:3-10a and P.L. 1982, c.53.

Effective Date: January 17, 1983.
Expiration Date pursuant to Executive Order No. 66 (1978):
January 17, 1988.

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

(b)

**BOARD OF VETERINARY MEDICAL
EXAMINERS**

**Fee Schedule
General Provisions**

Adopted Amendment: N.J.A.C. 13:44-4.1

Proposed: November 15, 1982 at 14 N.J.R. 1281(a).
Adopted: December 28, 1982 by Board of Veterinary
Medical Examiners, David Eisenberg, President, with
the approval of Irwin I. Kimmelman, Attorney General
of New Jersey.
Filed: December 30, 1982 as R.1982 d.502, **without
change.**

Authority: N.J.S.A. 45:1-3.2.

Effective Date: January 17, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
January 17, 1988.

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

TRANSPORTATION

(c)

TRANSPORTATION OPERATIONS

**Speed Limits For State Highways
Route US 130**

Adopted Amendment: N.J.A.C. 16:28-1.69

Proposed: November 1, 1982 at 14 N.J.R. 1197(b).
Adopted: December 17, 1982 by David W. Gwynn, Chief
Engineer, Transportation Operations and Local Aid.
Filed: December 30, 1982 as R.1982 d.499, **without
change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-
139, and 39:4-199.

Effective Date: January 17, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
August 1, 1983.

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

(d)

TRANSPORTATION OPERATIONS

**Restricted Parking and Stopping
Routes US 22, 35 and 15**

**Adopted Amendments: N.J.A.C. 16:28A-1.13,
1.25 and 1.65**

Proposed: November 1, 1982 at 14 N.J.R. 1198(a).
Adopted: December 17, 1982 by David W. Gwynn, Chief
Engineer, Transportation Operations and Local Aid.
Filed: December 30, 1982 as R.1982 d.500, **without
change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-
139 and 39:4-199.

Effective Date: January 17, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
August 1, 1983.

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

(a)

TRANSPORTATION OPERATIONS

**Restricted Parking and Stopping
Route 23 (Temporary) and 35 (Northbound)**

**Adopted Amendments: N.J.A.C. 16:28A-1.15
and 1.25**

Proposed: November 1, 1982 at 14 N.J.R. 1199(a).
Adopted: December 17, 1982 by David W. Gwynn, Chief
Engineer, Transportation Operations and Local Aid.
Filed: December 30, 1982 as R.1982 d.501, **without
change.**

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

Effective Date: January 17, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
August 1, 1983.

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

TREASURY-GENERAL

(b)

DIVISION OF PENSIONS

Administration

**Adopted Amendments: N.J.A.C. 17:1-1.3,
1.8, 1.18, 1.19, 4.6, 4.25, -5 and -7**

Proposed: November 15, 1982 at 14 N.J.R. 1290(a).
Adopted: December 23, 1982 by William J. Joseph,
Director, Division of Pensions.
Filed: December 28, 1982 as R.1982 d.491, **without
change.**

Authority: N.J.S.A. 52:18A-96.

Effective Date: January 17, 1983.
Expiration Date pursuant to Executive Order No. 66 (1978):
May 15, 1983.

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

(c)

DIVISION OF PENSIONS

**Alternate Benefit Program
Life Insurance and Long Term Disability
Insurance**

**Adopted New Rules: N.J.A.C. 17:1-2.22 and
2.23**

Proposed: November 1, 1982 at 14 N.J.R. 1200(b).
Adopted: December 16, 1982 by William J. Joseph,
Director, Division of Pensions.
Filed: December 21, 1982 as R.1982 d.483, **with technical
changes** not requiring additional public notice and
comment.

Authority: N.J.S.A. 18A:66-168 through 18A:66-192.

Effective Date: January 17, 1983.
Expiration Date pursuant to Executive Order No. 66 (1978):
May 15, 1983.

Summary of Public Comments and Agency Responses:

Comments to the proposed rules were submitted by the Burlington County College. The College raised the issue of insurance coverage for participants during the two month summer recess when individual employment contracts have not been entered into until after the school year has commenced. The agency responded by noting that its intention was to establish a guideline for determining whether or not a bona-fide employer-employee relationship exists during summer recess which is necessary for continued insurance coverage for participants. The agency believes that a signed employment contract entered into before the summer is the best standard for determining eligibility. However, where the contract of employment has not been executed before the summer recess, participants may be eligible for coverage during the summer if it can be shown that an agreement existed between the College and the participant and the latter intended to return to the position after the summer recess. Cases such as these would be reviewed on an individual basis to determine whether a contract relationship in fact existed during the summer recess.

The College was also concerned with insurance protection for individuals employed on an eight month instead of a 10 month basis as covered in the proposed rule. The agency responded by saying that it believes the eight month employee would be treated the same as a 10 month employee as long as an employer-employee relationship could be established over the summer recess.

The College also questioned whether a lay off is similar to a discharge. The agency responded that a person who is laid off before the summer recess can not establish a continuing employment relationship.

The agency believed that these responses would allay the College's concerns and substantive changes to the proposed rules would therefore not be necessary.

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

17:1-2.23 Long term disability insurance.

- (a) (No change from proposal.)
- (b) Applications for long term disability insurance benefits are made on forms prescribed by the carrier, the Prudential Insurance

Company and *[supply]* ***supplied*** by the Alternate Benefit Program.

(c) Concerning the long term disability insurance program, in accordance with the New Jersey Attorney General's opinion AA M79-4158 and the provisions of the Federal Civil Rights Act, participants in the Alternate Benefit Program who are on authorized leaves of absence for maternity will not be treated any differently ***[then]* *than*** other participants who are on authorized leaves of absence for personal illness.

(a)

DIVISION OF PENSIONS

Alternate Benefit Program
Transfers; Interest

Adopted New Rule: N.J.A.C. 17:1-2.36

Proposed: November 1, 1982 at 14 N.J.R. 1201(a).

Adopted: December 16, 1982 by William J. Joseph,
Director, Division of Pensions.

Filed: December 17, 1982 as R.1982 d.480, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 18A:66-173 and 18A:66-192.

Effective Date: January 17, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978):
May 15, 1983.

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

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

17:1-2.36 Transfers; interest

Pursuant to the provisions of N.J.S.A. ***[28]* *18*A:** 66-173, when the payment of the transferred member's reserves in the State-administered retirement system is made more than one year after eligibility for such transfer, regular interest shall be added to the reserves being transferred from such system to the carriers of the Alternate Benefit Program.

(b)

DIVISION OF PURCHASE AND
PROPERTYCooperative Purchasing
Subscription Fees

Adopted New Rule: N.J.A.C. 17:12-5.1

Proposed: October 4, 1982 at 14 N.J.R. 1085(b).

Adopted: December 16, 1982 by Peter D. Pizzuto, Assistant
State Treasurer.

Filed: December 21, 1982 as R.1982 d.481, **without change.**

Authority: N.J.S.A. 52:18A-30(d) and N.J.S.A. 52:25-16.1
et seq.

Effective Date: January 17, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978):
March 12, 1984.

Summary of Public Comments and Agency Responses:

The Division received comments from Assemblyman Arthur R. Albohn; the Director of Finance for the Township of Randolph; the Township Manager for the Township of Randolph; the New Jersey County College Purchasing Administrators Association; the Director of Purchasing for the County of Warren; the Government Purchasing Association; the New Jersey Association of County Purchasing Officials; and the President of Video Corporation of America.

Assemblyman Albohn and Video Corp. provided positive comments. They indicated that the subscription fee would potentially encourage improvement in both the material generated and use of the system.

All the remaining comments were opposed to the rule. The negative comments received were with regard to potential heavy cost implications of the subscription fees, general sentiment that the State should defray the expenses, and general sentiment that the quality of the information received might not be worth the subscription fee.

The Division of Purchase and Property responded to each comment by indicating that the subscription fee would be \$125.00 initially and that the Division of Purchase and Property would attempt to improve the quality of the information being disseminated under this system. The fee has been computed to defray the costs enumerated in the rule and is estimated to recover \$115,000 on an annual basis. The computation has been filed with OAL together with the rule and will be provided to participants in the Cooperative Purchasing Program.

OTHER AGENCIES

(c)

ELECTION LAW ENFORCEMENT
COMMISSIONPublic Financing of General Election of
GovernorNotice of Correction in Recodification of
N.J.A.C. 19:25-15.38 and 15.39

An error appeared in the April 9, 1981 Register at 13 N.J.R. 248(b) concerning political action committees. N.J.A.C. 19:25-15.38 and 15.39 should have appeared recodified as N.J.A.C. 19:25-**18.1** and **18.2**.

Subchapter 19 of N.J.A.C. 19:25, which is presently "Reserved", will contain rules concerning the Severability Clause.

EMERGENCY**ADOPTIONS****HUMAN SERVICES**

(a)

DIVISION OF PUBLIC WELFARE**Food Stamp Program
Household Composition, Treatment of
Striker's Income and Revised Standard
Utility Allowances****Adopted Emergency Amendment and
Concurrent Proposal: N.J.A.C. 10:87-2.2,
2.3, 2.21, 3.19, 5.10, 6.14, 6.15 and 12.1**

Emergency Amendment Adopted: December 27, 1982 by
George J. Albanese, Commissioner, Department of
Human Services.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)):
December 30, 1982.

Emergency Amendment Filed: December 30, 1982 as
R.1982 d.503.

Authority: N.J.S.A. 30:4B-2, the Omnibus Budget
Reconciliation Act of 1981 (P.L. 97-35), the Food
Stamp and Commodity Distribution Amendments of
1981 (P.L. 97-98, Title 13), the Omnibus Budget
Reconciliation Act of 1982 (P.L. 97-253) and 7 CFR
Parts 272 and 273.

Emergency Amendment Effective Date: December 30,
1982.

Emergency Amendment Operative Date: January 1, 1983.
Emergency Amendment Expiration Date: February 28,
1983.

Interested persons may submit in writing, data, views or
arguments relevant to the proposal on or before February 16, 1983.
These submissions, and any inquiries about submissions and
responses, should be addressed to:

G. Thomas Riti, Director
Division of Public Welfare
CN 716
Trenton, NJ 08625

The Department of Human Services thereafter may adopt this
proposal without further notice (see: N.J.A.C. 1:30-3.5). The
adoption becomes effective upon acceptance for filing by the Office
of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

This proposal is known as PRN 1983-35.

The agency emergency adoption and concurrent proposal
follows:

Summary

The Department of Human Services is mandated by Federal law
and regulations to implement the following amendments.

N.J.A.C. 10:87-2.2 has been restructured for the purpose of
clarity. Additional language has been added to further define when

separate household status can be extended to parents and children
living together including situations in which at least one parent is
receiving certain Supplemental Security Income, disability or
blindness benefits under other Titles of the Social Security Act in
addition to Title II. The regulation also clarifies that a person who
becomes 60 years of age in the month of application shall be
considered to be 60 years of age at time of application.

N.J.A.C. 10:87-2.3 has also been restructured for the purpose of
clarity. The amendment provides that, with certain exceptions,
boarder status cannot be granted to parents and children living
together and clarifies that boarders are ineligible to participate in
the program as separate households but may participate in the
program as members of the household with whom they board at
such household's request.

Amendments to N.J.A.C. 10:87-2.21 and 6.14 delete reference
to the single standard utility allowance and revise the language to
reflect the two new utility allowances.

At N.J.A.C. 10:87-3.19 language has been added to clarify "pre-
strike income" and eligibility of persons participating in a strike.
The regulations have been amended regarding the income that shall
be counted when determining eligibility and computing benefits for
households containing striking members. Examples of persons who
may be considered non-strikers have been added for clarification.

Amendments to N.J.A.C. 10:87-5.10 and 6.15 extend eligibility
for certain income deductions to persons becoming 60 years of age
in the month of application and to households in which at least one
parent is receiving certain Supplemental Security Income or
disability or blindness payments under other Titles of the Social
Security Act in addition to Title II.

A number of provisions regarding standard utility allowances
have been revised at N.J.A.C. 10:87-5.10. In accordance with new
Federal criteria for entitlement for utility expense deductions, New
Jersey will have two separate utility allowance standards. The
Heating Utility Allowance (HUA) of \$286.00 shall be available
during the heating season only to households which incur heating
costs separate and apart from their rent or mortgages. The HUA
may be used by eligible households during the heating season. All
households which incur utility costs (in addition to telephone,
water, sewerage, and garbage) shall be allowed to use the Standard
Utility Allowance (SUA) of \$112.00 per month year round.

Table I, Income Deductions (10:87-12.1) has been revised to
reflect implementation of the two separate utility allowances, the
Standard Utility Allowance (SUA) of \$112.00 and the Heating
Utility Allowance (HUA) of \$286.00. The Uniform Telephone
Allowance has been revised to reflect the recent increase by New
Jersey Bell in the flat rate for phone service.

Social Impact

The amendments to the household definition, boarder and striker
regulations will allow certain individuals, previously denied
eligibility, to participate in the Food Stamp Program and may
increase allotment levels to such households.

The amendments to the household definition expand the
definition to include households in which at least one parent is
receiving Supplemental Security Income or certain disability or
blindness benefits under the Social Security Act. This revision
provides elderly and disabled persons with special income and
deduction consideration, thus increasing program participation and
benefit levels for this population.

The revised rule clarifies that boarders are ineligible to
participate in the program as separate households but may
participate with the household furnishing board, if such household
so chooses.

Amendments to N.J.A.C. 10:87-3.19(a)7 reflect a change in treatment of striker's income. Under the Federal Interim Rule pre-strike income was added to any current household income including income from strike benefits and/or temporary employment. As a result of this policy previously eligible households could become ineligible even though the striker's income is less than his or her pre-strike wages. This amendment revises that policy to compare the striker's income before the strike and at time of application and use the higher of the two amounts to add to current income of nonstriking household members for determining eligibility and allotment level. This regulation prevents any household containing a striking member from receiving an increase in benefits due to a decrease in income as a result of a strike, while allowing household benefits to be higher or lower due to nonstrike related changes.

The amendments concerning deduction of utility expenses will not impact households directly incurring heating costs. Households which do not incur direct heating costs, due for recertification of eligibility in January and February 1983, may receive some reductions in program benefits dependent on other shelter deductions.

Economic Impact

The amendments regarding household composition will result in a slight increase in program participation and level of benefits for certain disabled or blind persons, boarders and strikers.

The provisions amending the application of the utility allowance will have impact as follows. Those households incurring heating costs will be subject to no reduction of its utility allowance and, therefore, no reduction of benefits. Households which do not incur heating expenses and which are scheduled for recertification in January and February of 1983 may receive reduced food stamp benefits because such households will receive the lower standard utility deduction. Any reduction in benefits is dependent on other household shelter expenses. Therefore, it is not possible to determine the overall loss of benefits. These changes will not impact significantly on administrative costs of State and county welfare agencies. Any increase in Food Stamp benefit costs will be fully met by the Federal government.

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

10:87-2.2 Household defined

(a) A household may be composed of any of the following individuals[,] or groups of individuals[,]; [provided that such individual(s) or groups are not residents of an institution (except as otherwise specified in N.J.A.C. 10:87-2.4) or a licensed commercial boarding home, except that separate household status shall not be extended to a spouse of a member of the household or to children under 18 years of age if under the parental control of a member of the household, to a boarder or to either parents or children who live together, unless at least one parent is 60 years of age or older. The following are considered households for the purposes of the program.]

1.-3. (No change.)

(b) **Individuals or groups of individuals who are residents of an institution (except as otherwise specified in N.J.A.C. 10:87-2.4) or commercial boarding home, or boarders (except as specified in N.J.A.C. 10:87-2.3(b)) may not participate in the program.**

(c) **In no event shall nonhousehold member status or separate household status be granted to:**

1. Either parents or natural or adoptive children or stepchildren who live together unless at least one parent is 60 years of age or older (or becomes 60 in the month of application) or receives Supplemental Security Income (SSI) benefits under Title XVI or disability or blindness benefits under Titles I, II, X, XIV or XVI or the Social Security Act;

2. Children under 18 years of age under the parental control of an adult member of the household; or
3. A spouse of a member of the household.

10:87-2.3 Nonhousehold members and boarders

(a) **Nonhousehold members:** The following individuals residing with a household shall not be considered household members in determining a household's eligibility or allotment. Nonhousehold members who are otherwise eligible may participate in the program as separate households.

1. (No change.)

[2. Boarders: Individuals to whom a household furnishes both lodging and meals with the following restrictions:

i. Spouse, children, or parents: Boarder status shall not be extended to a spouse of a member of the household or to children under 18 years of age if under the parental control of a member of the household, or to either parents or children living together, unless at least one parent is 60 years of age or older. For the purposes of this program the term "spouse" shall include persons recognized by applicable State law as such and persons representing themselves as husband and wife to the community, relatives, friends, neighbors or trades people.

ii. Paying less than a reasonable amount: Boarder status shall not be extended to persons paying less than reasonable monthly payment for meals.

(1) An individual furnished both meals and lodging by the household but paying compensation of less than a reasonable amount will be considered a member of the household which provides the meals and lodging.

(2) When the boarder's payments for room are distinguishable from the payments for meals, only the amount paid for meals will be evaluated to determine if reasonable compensation is being paid.

iii. Reasonable amount defined: The reasonable monthly payment for meals shall be paid in cash. In no event shall food stamps be paid for meals and credited toward the monthly payment. A reasonable monthly payment shall be either of the following:

(1) Boarders whose board arrangement is for more than two meals per day shall pay an amount which equals or exceeds the maximum coupon allotment (MCA) for the appropriate size of the boarder household; or

(2) Boarders whose board arrangement is for two meals or less per day shall pay an amount which equals or exceeds 2/3 of the MCA for the appropriate size of the boarder household.]

Renumber (a)3 through 7 as (a)2 through 6. (No change in text.)

(b) **Boarders: Boarders are defined as individuals or groups of individuals residing with a household and paying reasonable compensation to the household for lodging and meals.**

1. Program participation: Boarders are ineligible to participate in the program independent of the household providing boarder services to them. Boarders may only participate in the program as members of the household providing the boarder services to them, at such household's request. Boarders who are included in the household shall have all income and resources counted in determining the household's eligibility.

2. Spouse, children, or parents: Boarder status shall not be extended to a spouse of a member of the household or to children under 18 years of age if under parental control of an adult member of the household, or to either parents or natural or adoptive children or stepchildren who live together unless at least one parent is 60 years of age or older (or becomes 60 in the month of application), or receives Supplemental Security Income (SSI) Benefits under Title XVI, or disability or blindness benefits under Title I, II, X, XIV or XVI of the Social Security Act.

3. Paying reasonable compensation and boarder status: To determine if an individual qualifies for boarder status, it is necessary to determine if the individual is paying reasonable compensation for meals and lodging. Only that amount paid for

meals shall be used in determining reasonable payment provided that the amount paid for meals is distinguishable from the amount paid for lodging. A reasonable monthly payment shall be either of the following:

i. Boarders whose board arrangement is for more than two meals per day shall pay an amount which equals or exceeds the maximum coupon allotment (MCA) for the appropriate size of the boarder household; or

ii. Boarders whose board arrangement is for two meals or less per day shall pay an amount which equals or exceeds two-thirds the MCA for the appropriate size of the boarder household.

4. Paying less than reasonable compensation: Boarder status shall not be extended to an individual who is furnished both meals and lodging by a household but is paying compensation of less than a reasonable amount (as specified in (b)3 above). Such individual shall be considered a member of the household which provides the meals and lodging and shall have his or her income and resources counted in determining the eligibility and benefits of the household with whom the individual boards.

5. Income and resources of persons having boarder status: None of the income and resources of individuals determined to be boarders and who are not members of the household providing boarder services shall be considered available to such household. However, the amount of the payment that a boarder gives to a household shall be treated as self-employment income to the household in accordance with N.J.A.C. 10:87-5.4(a)2.

10:87-2.21 Mandatory verification

(a) The CWA shall verify the following information prior to certification for households initially applying for food stamp benefits.

1.-2. (No change.)

3. Utility expenses: The CWA shall verify the household's utility expenses if the household wishes to claim expenses in excess of the **appropriate** utility [standard] allowance and the expense would actually result in a deduction. If the household's actual utility expenses cannot be verified before the 30 days allowed to process the application expire, the CWA shall use the [standard] **appropriate** utility allowance, provided the household is entitled to use [the standard] **one of the utility allowances as specified** in N.J.A.C. 10:87-5.10(a) [4iv] 5iv.

i. Unoccupied home: If a household wishes to claim expenses for an unoccupied home, the CWA shall verify the household's actual utility expenses for the unoccupied home in every case and shall not use [the standard] **either of the utility allowances**.

4.-9. (No change.)

10:87-3.19 Additional registration requirements

(a) For the purposes of retaining eligibility for Food Stamp benefits, a nonexempt member of the household, who is registered for work shall be required to comply with the following provisions:

1.-6. (No change.)

7. Strikers: Households with striking member(s) shall be ineligible to participate in the Food Stamp Program unless the household was **(or would have been) eligible for benefits the day prior to the strike and is otherwise eligible at the time of application. Pre-strike eligibility shall be determined by considering the day prior to the strike as the day of application and assuming the strike did not occur.** [These] Such households shall retain their eligibility but shall not receive an increased allotment as a result of a decrease in the income of the striking member(s) of the household. [The CWA shall calculate the household's benefit by using the household's income as it stood immediately prior to the strike. That is, the household's regular monthly earned income attributable to the job on which the strike occurred would be deemed to remain the same during the strike as if the household member(s) were still working. If other changes occur, such as but not limited to, a change in household size or non-strike related employment, the CWA shall take the appropriate action and adjust the benefit level. Strikers shall be subject to the work registration requirements.]

i. The CWA shall determine eligibility by comparing the striking member's income before the strike to the striker's current income and adding the higher of the two figures to the current income of non-striking members during the month of application.

ii. To determine benefits (and eligibility for those households subject to the net income eligibility standard) deductions shall be calculated for the month of application as for any other household. Whether the striker's pre-strike earnings or current income is used, the earnings deduction shall be allowed, if appropriate.

iii. If other changes occur, such as but not limited to, a change in household size or non-strike related employment, the CWA shall take appropriate action and adjust the benefit level.

iv. Strikers shall be subject to work registration criteria.

[i.]v. Striker defined: For the purpose of the Food Stamp Program the term "striker" shall be defined as anyone involved in a strike or concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees. [Any employee whose workplace is closed by an employer (lockout) in order to resist demands of employees shall not be deemed to be a striker.] Additionally, any individual exempt from the work registration requirement, other than those exempt solely on the grounds that they are employed, shall not be deemed to be a striker. **Examples of non-strikers who are eligible to participate in the program include, but are not limited to:**

(1) Employees whose workplace is closed by an employer in order to resist demands of employees (for example, lockout);

(2) Employees unable to work as a result of striking employees (for example, truckdrivers who are not working because striking pressmen prevent newspapers from being printed); or

(3) Employees who are not part of the bargaining unit on strike who do not want to cross the picket line due to fear of personal injury or death.

(b) (No change.)

10:87-5.10 Income deductions

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

1.-2. (No change.)

3. Excess medical deduction: That portion of medical expenses in excess of \$35.00 per month, excluding the cost of special diets, incurred by any household member who is 60 years of age or over **(or who becomes 60 in the month of application)** or who receives Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act or disability **or blindness** benefits under Titles I, II, X, XIV or XVI of the Social Security Act. Spouses or other persons (i.e., essential persons) receiving benefits as dependents of the SSI or disability **or blindness** recipient are not eligible to receive this deduction but persons receiving "emergency" SSI benefits based on presumptive eligibility are eligible for this deduction.

i. (No change.)

4. (No change.)

5. Shelter cost deduction: Monthly shelter costs in excess of 50 percent of the household's income after the deductions in (a)1, 2, 3, and 4 above have been allowed, shall be deducted. However, in no event shall the shelter deduction alone or in combination with the dependent care deduction in (a)4 exceed the amount in N.J.A.C. 10:87-12.1 (Appendix A, Table I) unless the household contains a member who is age 60 or over, **(or who becomes 60 in the month of application)**, or who receives SSI (including emergency benefits based on presumptive eligibility) **under Title XVI**, or disability **or blindness** payments under Titles I, II, X, XIV, or XVI of the Social Security Act. These households shall receive an excess shelter deduction for the monthly cost that exceeds 50 percent of the household's monthly income after all other applicable

deductions. Households receiving Title II disability payments for dependents of a disabled individual are not eligible for the unlimited excess shelter deduction unless the disabled individual is a member of the household.

- i.-iii. (No change.)
- iv. Utility standard: Households which incur certain utility costs separate and apart from their rent or mortgage payments are entitled to claim the [standard] **appropriate** utility allowance (see N.J.A.C. 10:87-12.1, Table I, Appendix A)[. Households which do not incur any separate utility charges or which are billed separately for only telephone costs, water, sewerage, and garbage collection fees shall not be entitled to claim the standard utility allowance. Households must be advised that they are permitted to switch between actual utility costs and the standard utility allowance once in a certification period. Households using the standard allowance shall not be allowed any additional utility costs toward the shelter deduction. Households whose certification periods overlap the seasonal adjustment of the standard shall be advised at the time of certification that the adjustment will occur. Those households not entitled to use the standard utility allowance may claim actual utility expenses in accordance with (a)5i(3) above] **in accordance with the following provisions.**

(1) Households which pay directly for their primary source of heat separately and apart from rent or mortgage may claim the heating utility allowance (HUA) during the heating season. The CWA shall verify that the household is responsible for primary heating costs.

(A) Households that are charged only for excess heating costs are not eligible for the HUA.

(B) Households that are responsible only for secondary sources of heat are not eligible for the HUA.

(C) Households that heat with wood must actually purchase the wood to be used as fuel to be eligible for the HUA.

(2) Households which do not incur heating costs separate and apart from rent or mortgage but which incur a utility charge (other than telephone, water, sewerage, or garbage collection fees) are entitled to use the standard utility allowance (SUA). The CWA shall verify that the household incurs such utility charge.

(3) Households must be advised that they are allowed to switch between actual utility costs and the appropriate utility allowance once within a certification period with the exception specified below.

(A) Households which elect to average actual utility expenses are not permitted to switch to the HUA in the months between billing months. Households which elect to deduct actually incurred utility costs for heating expenses for which they are billed intermittently are not permitted to switch to the HUA during the period for which the deducted cost was intended to cover.

(4) Households whose certification periods overlap the annual adjustment of the utility allowances shall be advised that the adjustment will occur.

(5) Households that claim a utility allowance shall not be allowed any additional utility costs toward the shelter deduction.

(6) Households not entitled to use SUA or HUA may claim actual utility expenses in accordance with (a)5i(3) above.

(7) When a household shares a residence and the utility costs with other individuals, the SUA or HUA shall be divided equally among the parties which contribute to meeting the utility costs. In such cases, the household shall only be permitted to use its share of the utility allowance, unless the household elects to use its actual costs.

10:87-6.14 Anticipating expenses

- (a) (No change.)
- (b) Updating utility bills: When the household is not claiming [the] a utility [standard] **allowance**, the CWA may anticipate changes

during the certification period based on last year's bills updated by overall price increases; or if only the most recent bill is available, utility cost increases or decreases over the months of the certification periods may be based on utility company estimates for the type of dwelling and utilities used by the household.

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

10:87-6.15 Calculating net and gross income and benefit levels

(a) The procedures below shall be used to calculate net and gross income and benefit levels.

1.-2. (No change.)

3. Eligibility and benefits: Except for households considered destitute in N.J.A.C. 10:87-6.16, the household's net monthly income as calculated in N.J.A.C. 10:87-6.15(a)1i-viii shall be compared to the monthly income eligibility standard for the appropriate household size in N.J.A.C. 10:87-12.3 (Appendix A, Table III) to determine eligibility for the month for households containing a member who is 60 years of age or over **(or who becomes 60 in the month of application)** or who receives SSI or disability or blindness payments under Titles I, II, X, XIV or XVI of the Social Security Act. For all other households, the CWA shall compare a household's gross income to the monthly income eligibility standards in N.J.A.C. 10:87-12.4 (Appendix A, Table IV) for the appropriate household size to determine eligibility for the month. The amount of the household's benefit is determined in accordance with N.J.A.C. 10:87-12.6 (Appendix A, Table VI).

10:87-12.1 Income deduction table

TABLE I
Income Deductions

Standard Deduction	\$ 85.00
Child Care/Shelter Deduction	\$115.00
Uniform Telephone Allowance	\$[8.36]8.51
Standard Utility Allowance	\$112.00
[Standard]Heating Utility Allowance	\$286.00 ¹

¹Expires 3/31/83

MISCELLANEOUS NOTICES

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Rules for Agency Rulemaking

Notice of Correction: N.J.A.C. 1:30-3.7

An error appears in the August 2, 1982 issue of the New Jersey Register at 14 N.J.R. 784 concerning Federally required rule (OAL Rules for Agency Rulemaking). N.J.A.C. 1:30-3.7(a) should have appeared as follows:

- 1:30-3.7 Federally required rule
- (a) Pursuant to N.J.S.A. 52:14B-4.4, a Federally required proposed rule is not required to be submitted to the Legislature.
- (b)-(c) (No change.)

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF ENVIRONMENTAL QUALITY

Office of Noise Control Stationary Emergency Signalling Devices

Petition for Rulemaking

Petitioner: Dr. William Pecoraro et al.
Authority: N.J.S.A. 52:14B-(4)f and N.J.A.C. 1:30-3.6.

Take notice that the Department of Environmental Protection has received a petition for rulemaking from Dr. William Pecoraro and other citizens of the State, as forwarded by the Department of the Public Advocate. Pursuant to N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6, notice is hereby given of that petition.

The petitioners request that DEP promulgate standards for noise levels of stationary emergency signalling devices (sirens). The petitioners further request that DEP promulgate regulations to protect the citizens of the State from unnecessary and harmful levels of noise from such devices.

N.J.A.C. 7:29-1.3(b) provides that stationary signalling devices shall be used only for testing and for "emergency purposes where personnel and equipment are mobilized."

Interested persons may submit written comments concerning the subject of the petition and alternatives to stationary emergency signalling devices to:

Herbert Wortreich, Assistant Director
Air and Noise Quality
New Jersey Department of
Environmental Protection
CN027
Trenton, NJ 08625

This is a notice of petition for a rule (see N.J.A.C. 1:30-3.6). Any rule concerning the subject of this notice of petition for a rule must comply with the rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

TREASURY-TAXATION

(c)

DIVISION OF TAXATION

Average Wholesale Price of Cigarettes Cigarette Surtax Rate

Public Notice

For the purpose of complying with the requirements of Chapter 40, P.L. 1982, Sec. 4 (N.J.S.A. 54:40A-8.2), Sidney Glaser, Director of the Division of Taxation, hereby gives notice that, based upon the best available current data, the average wholesale price of cigarettes in this State during the succeeding six months commencing January 1, 1983 is \$0.39624 for each 10 cigarettes or fraction thereof.

Therefore, the cigarette surtax due for such six months, pursuant to Sec. 301 of P.L. 1948, c.65 (C.54:40A-8), as amended, shall remain at \$0.02 1/2 for each 10 cigarettes or fraction thereof.

INDEX OF PROPOSED RULES

The *Index of Proposed Rules* contains rules which have been proposed in the New Jersey Register between January 4, 1982 and January 3, 1983, and which have not been adopted and filed by December 30, 1982. The index does not contain rules proposed in this Register and listed in the *Table of Rules in This Issue*. These proposals will appear in the next *Index of Proposed Rules*.

A proposed rule listed in this index may be adopted no later than one year from the date the proposal was originally published in the Register. Failure to timely adopt the proposed rule requires the proposing agency to re-submit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) as implemented by the Rules for Agency Rulemaking of the Office of Administrative Law (N.J.A.C. 1:30).

The *Index of Proposed Rules* appears in the second issue of each month, complementing the *Index of Adopted Rules* which

appears in the first Register of each month. Together, these indices make available for a subscriber to the Code and Register all legally effective rules, and enable the subscriber to keep track of all State agency rulemaking activity from the initial proposal through final promulgation.

The proposed rules are listed below in order of their Code citation. Accompanying the Code citation for each proposal is a brief description of its contents, the date of its publication in the Register, and its Register citation.

The full text of the proposed rule will generally appear in the Register. If the full text of the proposed rule was not printed in the Register, it is available for a fee from:

Administrative Filings
CN 301
Trenton, New Jersey 08625

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW--TITLE 1			
1:1-2.2	Public hearing: Contested cases and OAL jurisdiction	6-7-82	14 N.J.R. 674(a)
1:1-5.2, 5.3	Pre-hearing information	6-21-82	14 N.J.R. 607(a)
1:1-17.3	Return of cases	1-4-82	14 N.J.R. 4(b)
1:6A-2.1, 2.2, 4.2, 5.5	Special Education Program hearing rules	1-3-83	15 N.J.R. 2(a)
1:20	Representation fee hearings before PERC Appeal Board	8-16-82	14 N.J.R. 862(a)
1:30-3.8	Rulemaking: Agency status reports	11-1-82	14 N.J.R. 1185(a)
BANKING--TITLE 3			
3:1-9.4-9.21	Home mortgage disclosure	1-3-83	15 N.J.R. 4(a)
3:6-9	Super NOW deposit accounts	8-2-82	14 N.J.R. 786(a)
3:6-13	Automated teller machines	11-15-82	14 N.J.R. 1246(a)
3:6-14	Foreign banks: Biennial certification fee	1-3-83	15 N.J.R. 6(a)
CIVIL SERVICE--TITLE 4			
4:1-7.11	Hours of work and compensation	9-7-82	14 N.J.R. 938(a)
4:1-12.10	Notifying eligibles of certification	9-7-82	14 N.J.R. 940(a)
4:1-15.2	Lateral title change	9-7-82	14 N.J.R. 940(b)
4:1-16.1-16.5	Layoffs and demotions	2-16-82	14 N.J.R. 184(a)
4:1-16.1-16.5	Senate Concurrent Resolution: Layoffs and demotions	2-16-82	14 N.J.R. 298(a)
4:1-18.2, 18.6-18.8	Hours of work and compensation	9-7-82	14 N.J.R. 938(a)
4:1-18.4	Repeal dual employment rules	9-7-82	14 N.J.R. 941(a)
4:1-24.1, 24.3-24.12	Layoffs and demotions	2-16-82	14 N.J.R. 184(a)
4:1-24.1, 24.3-24.12	Senate Concurrent Resolution: Layoffs and demotions	2-16-82	14 N.J.R. 298(a)
4:1-25.1	Public inspection of records	9-7-82	14 N.J.R. 942(a)
4:2-7.1	Compensation for NL4 designated titles	2-16-82	14 N.J.R. 184(a)
4:2-7.1	Repeal: Hours of work	9-7-82	14 N.J.R. 938(a)
4:2-15.2	Repeal: Lateral title change	9-7-82	14 N.J.R. 940(b)
4:2-16.1, 16.2	Senate Concurrent Resolution: Layoffs and demotions	2-16-82	14 N.J.R. 298(a)
4:2-18.4	Repeal dual employment rules	9-7-82	14 N.J.R. 941(a)
4:2-20.12	Repeal: Public inspection of records	9-7-82	14 N.J.R. 942(a)
4:3-16.1, 16.2	Layoffs and demotions	2-16-82	14 N.J.R. 184(a)
4:3-16.1, 16.2	Senate Concurrent Resolution: Layoffs and demotions	2-16-82	14 N.J.R. 298(a)
4:3-18.1	Repeal dual employment rules	9-7-82	14 N.J.R. 941(a)
4:6	Overtime Committee Rules	10-18-82	14 N.J.R. 1126(a)
COMMUNITY AFFAIRS--TITLE 5			
5:11-2.1, 3.11	Emergency relocation benefits	1-3-83	15 N.J.R. 6(b)
5:23	Readopt Uniform Construction Code	11-15-82	14 N.J.R. 1247(a)
5:23-3.14, 3.15	Building and plumbing subcode supplements	12-6-82	14 N.J.R. 1326(a)
5:23-5.11(d)	Uniform Construction Code: Licensing	7-19-82	14 N.J.R. 734(a)
5:27-1.6	Rooming and boarding houses: License fees	1-3-83	15 N.J.R. 7(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
5:30-10.1, 10.2	Local Finance Board: Municipal port authorities	8-2-82	14 N.J.R. 786(b)
5:80-2	Housing Finance Agency project conversions	4-5-82	14 N.J.R. 301(b)
EDUCATION—TITLE 6			
6:11-3.3	Fees for certificates and transcript evaluation	11-1-82	14 N.J.R. 1188(b)
6:11-4.2, 4.3, 4.4	Temporary, provisional and emergency certificates	9-20-82	14 N.J.R. 1011(a)
6:11-8.1, 8.2, 8.4 8.8, 8.9-8.13	Minimum standards for teacher education	4-5-82	14 N.J.R. 305(a)
6:11-10.2, 10.4, 10.7-10.9	Administrative certification	6-21-82	14 N.J.R. 614(a)
6:28-11	Programs for preschool handicapped children	12-20-82	14 N.J.R. 1430(a)
6:79-1.9, 1.11	Child nutrition program changes	11-15-82	14 N.J.R. 1248(b)
ENVIRONMENTAL PROTECTION—TITLE 7			
7:1A-3	Emergency interim repair of water systems	10-4-82	14 N.J.R. 1075(b)
7:1G	Loan procedures: Water supply interconnections	9-20-82	14 N.J.R. 1012(a)
7:1H-3.4	County fees for solid waste enforcement activities	12-6-82	14 N.J.R. 1328(a)
7:7-2.2, 2.6-2.9, 2.11, 2.15	“Repair” of waterfront structures; removal of unauthorized fill; permit duration	7-6-82	14 N.J.R. 679(b)
7:7A-1.13	Wetlands maps in Cape May County	12-6-82	14 N.J.R. 1330(a)
7:7E-5.3, 5.6, 5.7	Coastal resource and development	10-18-82	14 N.J.R. 1129(b)
7:8	Storm water management	9-20-82	14 N.J.R. 1022(a)
7:13-1.11	Floodway delineations within Bass River Basin	7-6-82	14 N.J.R. 683(b)
7:13-1.11	Floodway delineations within Atlantic Basin	7-19-82	14 N.J.R. 736(a)
7:13-1.11	Floodway delineations in Somerset and Union counties	10-18-82	14 N.J.R. 1131(a)
7:13-1.11	Floodway delineations in Hunterdon County	10-18-82	14 N.J.R. 1131(b)
7:13-1.11	Floodway delineations in Mercer County	10-18-82	14 N.J.R. 1132(a)
7:13-1.11	Floodway delineations in Mullica River Basin	10-18-82	14 N.J.R. 1133(a)
7:13-1.11	Floodway delineations in Monmouth County	10-18-82	14 N.J.R. 1134(a)
7:13-1.11	Floodway delineations in Ocean-Monmouth Counties	11-1-82	14 N.J.R. 1189(a)
7:13-1.11	Floodway delineations in Burlington County	12-20-82	14 N.J.R. 1434(a)
7:14-2.13, 2.14, 2.15	Construction of wastewater treatment facilities	10-18-82	14 N.J.R. 1135(a)
7:14A-1.9, 5.11, 5.13, 5.15, 5.16	Water quality: Underground injection control	10-18-82	14 N.J.R. 1136(a)
7:14A-4.2, 4.3	Hazardous waste management	10-18-82	14 N.J.R. 1137(a)
7:20A	Water diversion for growing use	11-15-82	14 N.J.R. 1249(a)
7:25-9.1	Taking of hard clams: Size tolerance control	7-6-82	14 N.J.R. 689(a)
7:25-15.1	Relay of hard clams (with Emergency Adoption)	9-20-82	14 N.J.R. 1055(a)
7:25-18A	Fisheries closures and advisories on certain species (with Emergency Adoption)	1-3-83	15 N.J.R. 39(a)
7:25-22.1	Marine finfish: Menhaden season	9-7-82	14 N.J.R. 945(a)
7:26-1.4, 2.9, 2.13	Sanitary landfill closure	8-16-82	14 N.J.R. 883(a)
7:26-1.4, 9.1, 12.1	Hazardous waste recycling	12-20-82	14 N.J.R. 1435(a)
7:26-4.10	County fees for solid waste enforcement activities	12-6-82	14 N.J.R. 1328(a)
7:26-15.8	Recycling grants and loans: Supplementary projects	12-6-82	14 N.J.R. 1346(a)
7:30	State Pesticide Control Code (see 14 N.J.R. 1385(a))	8-2-82	14 N.J.R. 787(a)
7:30	Pesticide Control Code: Extension of comment period	9-7-82	14 N.J.R. 946(a)
7:36-5.2	Green acres additional funding	12-20-82	14 N.J.R. 1436(a)
7:38-1	Wild and Scenic Rivers System	11-15-82	14 N.J.R. 1256(a)
HEALTH—TITLE 8			
8:18-1	Repeal children’s boarding home rules	12-20-82	14 N.J.R. 1436(b)
8:21-2.34	Repeal (see 8:21-12)	11-15-82	14 N.J.R. 1265(a)
8:21-3.25	Sale and possession of nitrous oxide	11-1-82	14 N.J.R. 1190(a)
8:21-12	Nonalcoholic beverages and bottled water	11-15-82	14 N.J.R. 1265(a)
8:24	Retail food establishments; vending machines	6-7-82	14 N.J.R. 509(a)
8:30-1.4	Health care facilities licensure fees	11-15-82	14 N.J.R. 1273(a)
8:31-25.1	Mobile intensive care paramedics: Approved drugs	12-6-82	14 N.J.R. 1331(a)
8:31-26.3	All health care facilities: Employee physicals	11-15-82	14 N.J.R. 1274(a)
8:31-26.5	Licensure fees	11-15-82	14 N.J.R. 1273(a)
8:33G-1.2, 1.4	CT scanners: Need review	11-15-82	14 N.J.R. 1275(a)
8:37-4.7	Licensure fees	11-15-82	14 N.J.R. 1273(a)
8:39-1.4	Licensure fees	11-15-82	14 N.J.R. 1273(a)
8:42-1.4, 2.4	Licensure fees	11-15-82	14 N.J.R. 1273(a)
8:42A-2.2	Licensure fees	11-15-82	14 N.J.R. 1273(a)
8:43-1.4	Licensure fees	11-15-82	14 N.J.R. 1273(a)
8:43-2.6	Residential health care facilities	1-3-83	15 N.J.R. 8(a)
8:43-7.1	Repealed	1-3-83	15 N.J.R. 8(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
8:43A-1.5	Licensure fees	11-15-82	14 N.J.R. 1273(a)
8:43A-8.1	Ambulatory care facilities: Surgical services	1-3-83	15 N.J.R. 9(a)
8:43A-9.9	Outpatient drug-abuse counseling	1-3-83	15 N.J.R. 10(a)
8:43B-1.8	Licensure fees	11-15-82	14 N.J.R. 1273(a)
8:43B-8.3, 8.6	Hospital facilities: Maternal and newborn services	11-15-82	14 N.J.R. 1276(a)
8:43F-2.3	Licensure fees	11-15-82	14 N.J.R. 1273(a)
8:43F-3.26	Medical day care in long-term facilities	1-3-83	15 N.J.R. 11(a)
8:57-1.1	Reportable diseases	11-15-82	14 N.J.R. 1277(a)
8:65-1.1	Controlled dangerous substances: Registration fees	11-1-82	14 N.J.R. 1191(b)
8:70-1.4	Resubmission of rejected generic drug products	9-20-82	14 N.J.R. 1030(a)
8:71	Additions to generic drug list (see 14 N.J.R. 389(c), 655(b), 1159(a))	1-4-82	14 N.J.R. 22(a)
8:71	Additions to generic drug list (see 14 N.J.R. 836(a), 1160(a))	4-19-82	14 N.J.R. 369(a)
8:71	Additions to generic drug list (see 14 N.J.R. 1160(b), 1392(a); 15 N.J.R. 91(a))	7-6-82	14 N.J.R. 690(a)
8:71	Steri-med 50mg hydrochlorothiazide tabs	8-16-82	14 N.J.R. 887(b)
8:71	Generic drug list additions (see 15 N.J.R. 90(a))	8-16-82	14 N.J.R. 888(a)
8:71	Generic drug list deletions	9-20-82	14 N.J.R. 1030(b)
8:71	Additions to generic drug list	10-4-82	14 N.J.R. 1077(a)
8:71	Generic drug list changes	11-15-82	14 N.J.R. 1278(a)
HIGHER EDUCATION—TITLE 9			
9:1-1.6	Branch campuses and off-campus facilities	4-19-82	14 N.J.R. 370(a)
9:4-1.2, 2.14	Branch campuses and off-campus facilities	4-19-82	14 N.J.R. 370(a)
HUMAN SERVICES—TITLE 10			
10:44A	Group homes and supervised apartments for developmentally disabled	6-7-82	14 N.J.R. 531(a)
10:49-1.4	Personal care services	7-6-82	14 N.J.R. 695(a)
10:49-1.24	Medical day care in hospital-affiliated facilities	12-6-82	14 N.J.R. 1332(a)
10:49-1.27	LTC: "Field audit" defined	9-20-82	14 N.J.R. 1031(a)
10:51-1.2	Non-legend device addition	4-5-82	14 N.J.R. 320(a)
10:51-1.14, 1.17	Pharmaceutical Services Manual: Fees and delivery	12-6-82	14 N.J.R. 1336(a)
10:51—App. B, D	Non-legend device addition	4-5-82	14 N.J.R. 320(a)
10:51-3.14, 5.18	Pharmaceutical payment in long-term care	6-7-82	14 N.J.R. 542(a)
10:52-1.1, 1.19	Medical day care	12-6-82	14 N.J.R. 1332(a)
10:53-1.1, 1.15	Medical day care	12-6-82	14 N.J.R. 1332(a)
10:54-1.20	Physicians Services: Sterilization by hysterectomy	12-6-82	14 N.J.R. 1337(a)
10:55-1.1, 1.2, 1.7, 1.9	Prosthetic and orthotic "approved" providers defined	9-20-82	14 N.J.R. 1032(a)
10:56-1.14, 3.4	Dental Services: X-ray reimbursement	12-6-82	14 N.J.R. 1338(a)
10:63-1.16	Agency response to petition: Long-term care of psychiatric patients	4-5-82	14 N.J.R. 321(a)
10:63-1.22	LTC: "Field audit" defined	9-20-82	14 N.J.R. 1031(a)
10:63-3.2	LTC: Related-party lease costs	7-19-82	14 N.J.R. 742(a)
10:63-3.10	LTC: Capital Facilities Allowance rate	7-19-82	14 N.J.R. 743(a)
10:63-3.20	Long-term care facilities: Reimbursement appeals	3-15-82	14 N.J.R. 269(a)
10:65-1.2-1.8, 2.1, 2.4-2.7	Medical day care	12-6-82	14 N.J.R. 1332(a)
10:66-1.2, 1.3, 1.6, 1.7	Ambulatory surgical centers	7-6-82	14 N.J.R. 697(a)
10:66-1.6, 3.3	Personal care services	7-6-82	14 N.J.R. 695(a)
10:66-3.3	Independent Clinic Services: Procedure code revisions	12-6-82	14 N.J.R. 1339(a)
10:81-3.38	PAM: Liquidation and transfer of resources	12-20-82	14 N.J.R. 1437(a)
10:81-5.2	PAM: Periodic redetermination	12-6-82	14 N.J.R. 1341(a)
10:82-3.1, 3.2, 3.4	ASH: Resources	12-20-82	14 N.J.R. 1438(a)
10:85-3.3	GAM: Residential health care rates	8-16-82	14 N.J.R. 894(a)
10:85-4.6	GAM: Emergency house furnishings	12-6-82	14 N.J.R. 1342(a)
10:85-6.5	GAM: Reimbursement authorization and repayment agreement	12-6-82	14 N.J.R. 1342(b)
10:87-3.23	Food Stamp Program: Student eligibility	1-3-83	15 N.J.R. 12(a)
10:89-3.1	Home Energy Assistance: Automatic payments	9-7-82	14 N.J.R. 957(a)
10:98	State Plan for Vocational Rehabilitation Services	11-1-82	14 N.J.R. 1193(a)
10:122-4.1	Head and group teachers in child care centers	3-1-82	14 N.J.R. 223(a)
10:122-4.3-4.6	Head and group teachers in child care centers	3-1-82	14 N.J.R. 223(a)
10:122-5.1-5.4	Standards for child care centers	1-18-82	14 N.J.R. 82(a)
LABOR—TITLE 12			
12:45	Vocational Rehabilitation Services	12-20-82	14 N.J.R. 1438(b)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
12:46	Vocational Rehabilitation Services	12-20-82	14 N.J.R. 1438(b)
12:47	Vocational Rehabilitation Services	12-20-82	14 N.J.R. 1438(b)
12:48	Vocational Rehabilitation Services	12-20-82	14 N.J.R. 1438(b)
12:49	Vocational Rehabilitation Services	12-20-82	14 N.J.R. 1438(b)
12:50	Repealed	12-20-82	14 N.J.R. 1438(b)
LAW AND PUBLIC SAFETY—TITLE 13			
13:2-24.6	Alcoholic beverage wholesale pricing	1-3-83	15 N.J.R. 13(a)
13:20-31.3	Fee fro driver alcohol education program	11-1-82	14 N.J.R. 1195(a)
13:20-32.6, 32.9, 32.11	Motor vehicle reinspection centers: Fees	11-1-82	14 N.J.R. 1196(a)
13:21-8.10	Vision standards for motor vehicle drivers	7-6-82	14 N.J.R. 700(a)
13:29-1.7	Board of Accountancy: Conditional credit	11-15-82	14 N.J.R. 1279(a)
13:30-6.2	Dental hygienists and hygiene school directorships	1-18-82	14 N.J.R. 89(a)
13:30-6.3	Oral hygiene schools and advisory council provision	2-1-82	14 N.J.R. 135(a)
13:30-6.6	Repeal dormitory requirement for oral hygiene schools	2-1-82	14 N.J.R. 136(a)
13:30-8.7	Dental personnel law test requirement	1-18-82	14 N.J.R. 89(b)
13:32-1.8	Pressure seal on plumbing permit applications	7-19-82	14 N.J.R. 759(a)
13:33-1.1-1.4, 1.7, 1.11-1.13, 1.19, 1.25, 1.39, 1.42	Licensure of ophthalmic dispensers and technicians	6-7-82	14 N.J.R. 545(a)
13:33-1.5, 1.6, 1.9, 1.10, 1.15-1.18, 1.34	Repeal ophthalmic licensure rules	6-7-82	14 N.J.R. 545(a)
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N.J.A.C.
CITATION

PROPOSAL
DATE

PROPOSAL NOTICE
(N.J.R. CITATION)

The following rules were proposed in the New Jersey Register, but have not been timely adopted and therefore have expired pursuant to N.J.A.C. 1:30-4.2(c).

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Adoptions	January 24
February 22 issue:	
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