

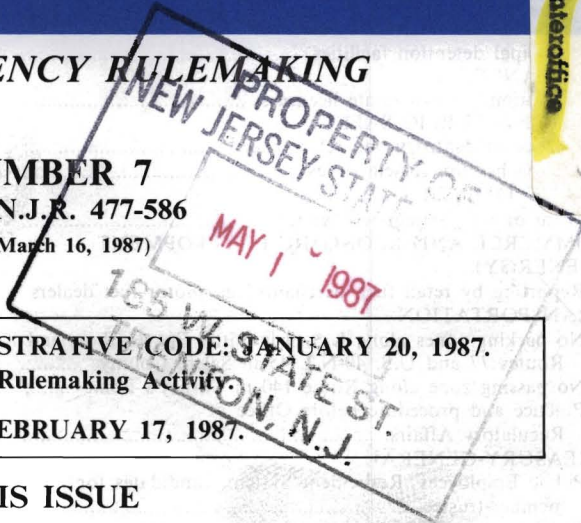
NEW JERSEY REGISTER



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THE JOURNAL OF STATE AGENCY RULEMAKING

VOLUME 19 NUMBER 7
 April 6, 1987 Indexed 19 N.J.R. 477-586
 (Includes adopted rules filed through March 16, 1987)



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 NJ

MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: JANUARY 20, 1987.
 See the Register Index for Subsequent Rulemaking Activity
NEXT UPDATE WILL BE DATED FEBRUARY 17, 1987.

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Interested persons may submit, in writing, information or arguments concerning any of the rule proposals in this issue until **May 6, 1987**. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal or group of proposals.

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

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

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NEW JERSEY REGISTER

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

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RULE PROPOSALS

AGRICULTURE

(a)

DIVISION OF PLANT INDUSTRY

Insect Control

Dangerously Injurious Insects

Proposed New Rules: N.J.A.C. 2:22

Authorized By: State Board of Agriculture,

Arthur R. Brown, Jr., Secretary, Department of Agriculture.

Authority: N.J.S.A. 4:1-21.5, 4:6-20 and 4:7-1.

Proposal Number: PRN 1987-102.

Submit comments by May 6, 1987 to:

William W. Metterhouse, Director
New Jersey Department of Agriculture
Division of Plant Industry
CN 330
Trenton, New Jersey 08625
Telephone: (609) 292-5441

The agency proposal follows:

Summary

The Department of Agriculture proposes new rules at N.J.A.C. 2:22-1.1, 2.1 and 3.1, Ceriferous Wax Scale, Mediterranean Fruit Fly, and Africanized Honeybee respectively. The present rules expired on January 17, 1987 through operation of Executive Order No. 66(1978). No change in the text of N.J.A.C. 2:22-3.1 as it now appears in the New Jersey Administrative Code is proposed, while the present text of N.J.A.C. 2:22-1.1 and 2.1 is revised to a more informative style. The Department also proposes a new rule on the Khapra Beetle, N.J.A.C. 2:22-4.1.

On May 30, 1974, Wax Scale was declared to be a dangerously injurious insect in accordance with N.J.S.A. 4:1-21.5, 4:6-20 and 4:7-1. On January 18, 1982 the same process was followed for the Mediterranean Fruit Fly. The Africanized Honeybee was declared a dangerously injurious insect on June 2, 1986. While there are no present outbreaks of these insects in New Jersey, they do exist in the world and their entrance into the State would still cause immense destruction of fruit, vegetable and nursery crops, the agriculture industry and the natural vegetation of the State. New Jersey, because it is one of the largest ports of entry in the world, is a likely entry for these pests. The Khapra Beetle has appeared in the State and was eradicated in 1984. The insect is destructive of all North American food stocks and is capable of causing immense damage to the North American eco-system.

Social Impact

The re-adoption of expired N.J.A.C. 2:22-3.1 and adoption of the new rules would have no impact immediately as the insects are not present in the State. The re-adoption and adoption would, however, give the Department the ability to investigate and examine for such outbreaks or possible outbreaks and allow a faster response time in taking such measures as would be needed to control any possible outbreak. The benefits of prompt action in any quarantine or infection will minimize both the costs and time involved and will, therefore, be a less expensive and time consuming operation to both the Department and the public, resulting in a positive social impact to the State of New Jersey and its agricultural related industries.

Economic Impact

The purpose of these rules is to provide protection from three highly destructive and injurious insects, not native to North America. The cheapest and most efficient methods of control of these creatures is to prevent their entry into the country. The economic impact of any of these four insects to New Jersey and North American agriculture would be devastating, as they are capable of untold damage if unchecked.

Environmental Impact

The prevention of the introduction of injurious, non-native insects into this country is important to prevent agricultural and environmental imbalance and the destruction of native species. Because the native flora

may not have resistance to such insects, and their natural predators and disease control do not exist within the State or North American Continent, the insects may spread unchecked.

Regulatory Flexibility Statement

The issue addressed by these rules concerns the endangerment of the public health, welfare and safety, and the small businesses of New Jersey cannot be exempted from compliance with these rules. It must be pointed out that the rules themselves, which are a scientific finding based upon the best available entomologic information, do not in themselves pose any burden on the small businesses of this State. However, should control and quarantine measures have to be implemented, then a heavy burden may be imposed upon the individual businesses affected. This burden, of course, is in counterpoise to the overwhelming risks that the unchecked spread of these insects would have upon the rest of New Jersey and North American agriculture. Thus, a fuller explanation of the ramifications of actions which could be undertaken under these rules are needed.

The rules or their enforcement do not impose any reporting or recordkeeping on the part of any business or individual; however, accurate records that are kept in the ordinary course of business are extremely helpful in determining the possible spread of the insects, but are not required. The identification of any problem would come through routine and present inspections and the ordinary care of crops and plants by any honest and alert grower, dealer or gardener would normally undertake in their business or hobby. It is not presumed that everyone will become an expert entomologist, but the appearance of damage caused by these insects is such that any prudent person will seek help from the Department, County Extension Agents or professionals involved in the sale and cultivation of plants.

Relatively cheap and effective control measures are available through the proper use of pesticides and other control agents applied early in the outbreak. The cost of such treatment would fall upon businesses small or large in proportion to the location of the infection or amount of acreage affected and the difficulty of treatment. Delay in treatment requiring prolonged quarantine of premises or stock will, of course, affect the operation of the business and must be assumed to fall disproportionately on a small business with its smaller resources.

The rapid and early cooperation with the Department will minimize the economic impacts of enforcement of the rules. The harboring of these insects, failure to allow inspection and violation of a quarantine are offenses of and in themselves of the statutes of the State of New Jersey.

There is no provision in the statutes nor are funds provided by the Legislature for the reimbursement of the destruction of any infected crop, stock, or plant. The Department would attempt to seek such funding if possible, but such funds have, except for the Dutch Elm Blight in the 1930's, never been provided by the Legislature. It may be that the costs of control due to the virulence or large scale spread of such an outbreak be treated by the Department on an area wide control program. If that happens, it would be the Department's responsibility to secure funding to deal with the problem either in cooperation with the Federal government or on its own.

Full text of the proposed new rules follows.

CHAPTER 22 INSECT CONTROL

SUBCHAPTER 1. CERIFERUS (OR JAPANESE) WAX SCALE (CEROPLASTES CERIFERUS F.)

2:22-1.1 Ceriferus (or Japanese) Wax Scale (Ceroplastes ceriferus F.)

It has been determined by the New Jersey State Department of Agriculture that the Ceriferus (or Japanese) Wax Scale (Ceroplastes ceriferus F.) is a dangerously injurious insect and constitutes a menace to the trees and shrubs of the State of New Jersey. The Ceriferus (or Japanese) Wax Scale is not native to the State of New Jersey. The harboring or importation of the Ceriferus (or Japanese) Wax Scale is prohibited. Any building, product or means of conveyance of any character whatsoever, which, in the determination of the Department of Agriculture, presents a risk of the spread of the Ceriferus (or Japanese) Wax Scale, shall be subject to the measures of control allowed by the Statutes of New Jersey.

SUBCHAPTER 2. MEDITERRANEAN FRUIT FLY (CERATITUS CAPITATA)

2:22-2.1 Mediterranean Fruit Fly (Ceratitis capitata)

It has been determined by the New Jersey State Department of Agriculture that the Mediterranean Fruit Fly (Ceratitis capitata) is a dangerously injurious insect and constitutes a menace to the fruits and vegetables of the State of New Jersey. The Mediterranean Fruit Fly is not native to the State of New Jersey. The harboring or importation of the Mediterranean Fruit Fly is prohibited. Any building, product or means of conveyance of any character whatsoever, which, in the determination of the Department of Agriculture, presents a risk of the spread of the Mediterranean Fruit Fly, shall be subject to the measures of control allowed by the Statutes of New Jersey.

SUBCHAPTER 3. AFRICANIZED HONEYBEE (APIS MELLIFERA SCUTELLATA)

2:22-3.1 Africanized Honeybee (Apis mellifera scutellata); prohibitions

It has been determined by the New Jersey State Board of Agriculture that the Africanized Honeybee (Apis mellifera scutellata) is a dangerously injurious insect and constitutes a menace to the practice of apiculture in New Jersey. The Africanized Honeybee is not native to the State of New Jersey. The keeping or importation of Africanized Honeybees in any stage of development, including honeybees with characteristics identifiable with the subspecies (Apis mellifera scutellata), regardless of the purity of the genetic strains of the bees, fresh or frozen bee sperm, equipment, shipping and storage containers that have been used at an apiary, unprocessed comb, vehicles that have been used to carry regulated articles, other than fresh or frozen bee sperm, is prohibited. Any other product, article or means of conveyance of any character whatsoever, if in the determination of the Department of Agriculture, presents a risk of the spread of the Africanized Honeybee, shall be prohibited.

SUBCHAPTER 4. KHAPRA BEETLE (TOGODERMA GRANARIUM EVERTS)

2:22-4.1 Khapra Beetle (Trogoderma Granarium Everts)

It has been determined by the New Jersey State Board of Agriculture that the Khapra Beetle (Trogoderma Granarium Everts) is a dangerously injurious insect and constitutes a menace to the food and grain stocks of the State of New Jersey. The Khapra Beetle is not native to the State of New Jersey. The harboring or importation of the Khapra Beetle is prohibited. Any building, product or means of conveyance of any character whatsoever, which, in the determination of the Department of Agriculture, presents a risk of the spread of the Khapra Beetle, shall be subject to the measures of control allowed by the Statutes of New Jersey.

(a)

DIVISION OF MARKETS

New Jersey Sire Stakes Program

Proposed Repeal and New Rule: N.J.A.C. 2:32

Authorized By: Sire Stakes Board of Trustees, and

Arthur R. Brown, Jr., Secretary, Department of Agriculture.

Authority: N.J.S.A. 5:5-91.

Proposal Number: PRN 1987-100.

Submit comments by May 6, 1987 to:

Bruce A. Sterns, Executive Director
Equine Industry Programs
State Department of Agriculture
Division of Markets
CN 330
Trenton, New Jersey 08625
Telephone: (609) 292-8830

The agency proposal follows:

Summary

The New Jersey Sire Stakes Program is a 15-year-old program which has given the State of New Jersey prominence in Standardbred horse breeding. In 1986, the Program rules were substantially revamped to make them easier to understand and read and to more accurately reflect the actual conditions encountered by the participants. However, the logic of the regulations does not follow the actual course of events in the season. The Sire Stakes Board of Trustees has determined that by rearranging the rules as proposed, even better understanding will occur.

To make the program coherent, many provisions of the old conditions and rules have been combined. Rather than publish these in the usual format, which would be confusing, it was felt that a repeal of all the present rules and their adoption as reformed would be the easiest course for understanding by all concerned.

Two substantive changes in the rules have also occurred in 1987. These include the addition of the Lou Babic Filly Division race and the reduction of some starting times, to reflect the conditions of racing as it has improved.

Social Impact

The Sire Stakes Board of Trustees sees little if any new or additional social impact to the participants as the proposed rules, while new, are a recodification of the existing ones in a more coherent form. The reduction in starting times is a reflection and tribute to the quality of horses being raced in New Jersey and the reduction should not disqualify any competitive classes of horses from a race.

Economic Impact

Hopefully, the quality of comprehension by the rewriting of the rules will be such that the participants shall spend less time in the deciphering of the rules and more time racing, thus resulting in a positive economic impact on the participants.

Regulatory Flexibility Statement

Many of the participants in the Sire Stakes Program are small businesses by definition of the Regulatory Flexibility Act, P.L. 1986, c.169, and as such an analysis is appropriate.

The test of any promotion program is to provide fair and equal opportunity to participate with a minimum cost to prevent cheating and ensure an improvement of the breed. To this extent, rules are needed to ensure an honest improvement. The purpose of the Sire Stakes Program is to provide a competition for the Standardbred horses that is at once challenging enough to improve the breed and open enough to encourage the maximum participation of all possible Standardbreds, with a reward of significant size to make it worthwhile to do so.

The Sire Stakes Board of Trustees is aware of the facts of the industry it regulate. The total value of the 9,000 plus Standardbred stallions and race horses in New Jersey exceeds \$84 million. Standardbred owners, breeders and trainers put \$33 million of expenses into the economy each year and realize about \$35 million worth of revenue. Individually, it costs approximately \$15,000 per year to keep a race horse but the purse revenues are only \$14,000.

While the Sire Stakes Board of Trustees could raise entry fees to increase rewards, it must balance this against its desire to make a more profitable climate for the keeping of horses in New Jersey. To raise fees would discourage many small participants. The alternative is for the Legislature to supply either increased race track revenues through a change in the funding formula of the percentages deducted by statute, which the Sire Stakes Board has asked the Legislature to do, or supply more money for awards from the general revenues.

The Sire Stakes program, by providing 144 races at both pari-mutuel and fair tracks, provides over \$6 million in purse money and another \$3 million in restricted races for New Jersey sired performers. The program has continued to grow despite the problems of funding the program. The number of small businesses participating in it has increased each year of the program. Therefore, the Sire Stakes Board of Trustees believes the program is beneficial to the small businesses of the Standardbred industry based on the continuing and increasing numbers of small business participants.

Full text of the proposed new rules follows.

SUBCHAPTER 1. SIRE STAKES PROGRAM

2:32-1.1 General provisions

All rules utilized by the New Jersey Department of Agriculture in the Administration of the Sire Stakes Program shall conform to the latest edition of the United States Trotting Association published in the Racing Guide for Stakes and Futurities. (Copies of the most current regulations are available for inspection by contacting the Division of Markets, New Jersey Department of Agriculture, Health-Agriculture Building, John Fitch Plaza, Trenton, New Jersey.)

SUBCHAPTER 2. NEW JERSEY SIRE STAKES CONDITIONS

2:32-2.1 Adoption of by-laws

(a) The by-laws of the New Jersey Sire Stakes Board of Trustees are hereby adopted as follows:

1. 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 an dlisted in their registry books.

2. Those horses eligible to race under the 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 ten 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.

3. The 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 term of office of one appointee from the Breeders and Owners Association shall be for two years, and the other appointed member of such association shall be for a term of one year; the term of office for 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, appointments shall be for terms of two years.

4. 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.

5. The Board of Trustees is authorized to do all that is necessary for the proper administration of the Sire Stakes Program and shall prepare, issue, and promulgate rules providing for:

- i. Classes and divisions of races, eligibility of horses and owners therefor, and prizes and awards to be awarded;
- ii. Nominating, sustaining, and entry fees for horses and races;
- iii. 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;
- iv. Registration and certification of New Jersey stallions, mares bred to such stallions, and foals produced thereby; and
- v. Such other matters as the Board determines to be necessary and appropriate for the proper administration and implementation of the Sire Stakes Program.

6. The funds for the Sire Stakes Program pursuant to N.J.S.A. 5:5-91 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.

7. All disbursements from the Sire Stakes fund 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.

8. 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 the Sire Stakes fund.

9. Sire Stakes Races shall be run at all licensed harness tracks in the State of New Jersey. The races, purses and awards awarded therefor shall be pursuant to the rules of the Board of Trustees hereunder and the New Jersey Racing Commission.

10. The five-member Board of Trustees shall elect a chairman and vice-chairman at the annual meeting in June of each year.

11. 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.

12. 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.

13. 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.

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

15. The Board of Trustees by-laws can be amended by a four-out-of-five vote of the membership of the Board of Trustees.

2:32-2.2 Qualifications for New Jersey Sire Stakes

(a) 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.

(b) A foal conceived by semen which is frozen, desiccated, transported off the premises where it is produced, or not implanted on the same day it is collected is not eligible for nomination to the New Jersey Sire Stakes Program.

2:32-2.3 Registration of stallions

(a) 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.

(b) The stallion must be registered with the Standardbred Breeders and Owners Association of New Jersey, P.O. Box 839, Freehold, NJ 07728.

(c) The registration must be returned by December 1st for stallions that have previously registered and/or stood in New Jersey, and December 1st for any new stallions, with a certificate of good health enclosed. The certificate of good health must be completed by a licensed New Jersey veterinarian during the months of October or November which precede the approaching breeding season for which the registration is issued.

(d) The fee for annual registration of a stallion shall be due on or before December 1 of the approaching breeding season and December 1 for new registration. The fee must accompany this registration.

1. The following fees shall be applicable:
 - i. \$500 if the stud fee is under \$1,000, private treaty, or free.
 - ii. \$750 if the stud fee is \$1,000 but under \$10,000.
 - iii. \$1,000 if the stud fee is \$10,000 or higher.
2. The following late fee may be assessed:
 - i. Any stallion not registered by December 1 may pay an additional fee (registration fee plus late fee) of \$1,500 if registered and standing by January 1.

(e) Once the registration fee has been paid, there will be no refunds.

(f) The stallion must be on the farm by January 1.

(g) The registration makes the foals of the stallion eligible to be nominated to the following:

1. Charles I. Smith Trotting Classic;
2. Harold R. Dancer Memorial Trot (foals of participating stallions only);
3. Lou Babic Two-Year-Old Pace;
4. Miss New Jersey Pacing Classic;
5. New Jersey Sired Races;
6. New Jersey Breeders Awards;
7. New Jersey Futurity;
8. New Jersey Pacing Classic;
9. New Jersey Sire Stakes;
10. New Jersey Yearling Show;
11. Lou Babic Filly Division.

(h) Sires of horses eligible for the events listed above must have been registered with the SBOA/NJ at the time of mating.

2:32-2.4 Stallion standing full season

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 on which he was registered without the prior permission (excluding medical emergency) of the Sire Stakes Board of Trustees. A stallion shall not be permitted to race during a registered breeding period, that is, January 1 through December 31. The foals of a stallion that does not race or is moved without prior permission of the Sire Stakes Board of Trustees during a registered breeding year will not be eligible to the Sire Stakes.

2:32-2.5 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 Sire Stakes, and the United States Trotting Association a list of mares bred, on a form prescribed by the Sire Stakes Board of Trustees, stating that the mare has been bred to said stallion. The certificate is to be supplied by September 15 of the breeding season.

2:32-2.6 Fund policy

(a) After consideration of the Fair Division portion of the Sire Stakes purse money and special event money is made, the Parimutuel Division of the Sire Stakes purse money will be allocated as determined by the Board of Trustees.

(b) All Sire Stakes purse monies, excluding fees, are to be divided as closely as possible to 40 percent to trotters and 60 percent to pacers.

(c) Advertised purse monies for all New Jersey Sire Stakes, including contributions to special event races, are predicated upon the Pari-mutuel handle of New Jersey harness tracks and therefore are subject to change without notice.

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

2:32-2.7 Transfer of race

(a) If for any reason it becomes impractical or undesirable, in the opinion of the New Jersey Sire Stakes Board of Trustees, to hold the race(s) at the advertised track, the New Jersey Sire Stakes Board, while making every effort to adhere as closely as possible to the advertised location, fees, date, and purse, reserves the right to change any of the foregoing or to cancel the event.

(b) It shall not be the responsibility of the New Jersey Sire Stakes Board of Trustees to individually inform Sire Stakes nominators, agents, or trainers of any of the changes mentioned in (a) above.

(c) The Board shall advertise or publicize changes in racing interest trade magazines such as the various Standardbred related magazines and/or newsletters, and suggests all program participants communicate with the New Jersey Sire Stakes offices.

2:32-2.8 Number of Sire Stakes 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.

2:32-2.9 Registration of foals

(a) All foals must be registered with the United States Trotting Association with a certificate of registration dated on or before the time of nomination.

1. The date for the closing of nominations of yearlings to the Pari-mutuel and Fair Divisions shall be May 15 or the next business day following May 15 in the event that the date falls on a Saturday, Sunday, or a holiday, of each year, with no exceptions.

2. The yearling registration fee shall be \$40.00 if a copy of the United States Trotting Association certificate of registration accompanies the yearling nomination form and an additional \$10.00 processing fee shall be due if the copy of the United States Trotting Association certificate is not submitted. The nomination payment covers the nomination fee to both the Fair and Pari-mutuel divisions. Thereafter, each division will have separate sustaining payments with separate due dates.

3. The yearling nomination payment form will also include the nomination to the Lou Babic Pace at \$25.00. If one chooses nomination to both of these events, the yearling nomination payment will be a total of \$65.00 (or \$75.00) and shall be due on or before May 15 of each year. Yearling fillies may be nominated to the Babic Filly division at a cost of \$15.00 in addition to the \$40.00 registration fee.

4. Supplemental nominations may be made to the New Jersey Sire Stakes commencing with foals of 1984. Parties delinquent in paying the required May 15 yearling nomination fee date are given until January 15 of the two-year-old year to fulfill the aforementioned conditions of nominations for a fee of \$400.00. An additional \$400.00 is required to supplement to the Lou Babic Pace or \$300.00 for the Lou Babic Filly division.

2:32-2.10 Sustaining fees

In 1987, the sustaining fee schedule will be as follows:

PARI-MUTUEL DIVISION

Age	First Sustaining Fee	Second Sustaining Fee
2	\$300.00 (Feb. 15)	\$500.00 (Apr. 15)
3	\$350.00 (Feb. 15)	\$600.00 (Apr. 15)
4	\$250.00 (Jan. 15)	\$400.00 (Mar. 15)

FAIR DIVISION

Age	First Sustaining Fee	Second Sustaining Fee
2	\$100.00 (Jan. 15)	\$150.00 (Mar. 15)
3	\$100.00 (Jan. 15)	\$150.00 (Mar. 15)
4	\$100.00 (Jan. 15)	\$150.00 (Mar. 15)

2:32-2.11 Payment dates

(a) In the Pari-mutuel Division, 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.

(b) 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. In the event that the 15th day of the aforementioned month falls on a Saturday, Sunday, or holiday, the payment must be postmarked on or before the next business day following the 15th of that month.

2:32-2.12 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. This condition applies to both the Fair and Pari-mutuel Divisions.

2:32-2.13 Dishonored checks

An individual whose check for a sustaining payment, nominating payment, or starting fee is dishonored by the bank will be turned over to the New Jersey Racing Commission for appropriate action and the horse or horses will be immediately declared ineligible for all future Sire Stakes events until the check is made good. A \$25.00 administrative fee must be paid for each dishonored check.

2:32-2.14 No cash or partial payments

The New Jersey Sire Stakes Program will accept no cash payment on nominating and sustaining payments. All fees will be paid in good United States funds. No post-dated checks or partial payments on a nominating, sustaining, or entry fee will be accepted on individual horses.

2:32-2.15 Refunds

All requests for refunds on sustaining or nominating payments must be made by letter to the Board Secretary postmarked on or before the 15th of the month in which the payment is due. In the event that the 15th falls on a Saturday, Sunday, or holiday, the due date will be the next business day following the 15th.

2:32-2.16 Time of declaration

Starters declare in at the same time as in practice for overnight events at the raceway where Sire Stakes Races will be contested. Entries for the New Jersey Sire Stakes Fair Program will close at 9:00 A.M., three days prior to the race, with Sundays excepted.

2:32-2.17 Entry blanks

All entry blanks 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. In the event that incomplete information is provided and cannot be located, the horse may be drawn in, but may be scratched with the starting fee still payable if it is later determined that the horse is not eligible or qualified. Under no circumstances will late entries be taken.

2:32-2.18 Name change notification

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

2:32-2.19 Entry fee deadlines

(a) All Sire Stakes Race entry fees must be paid at the time of the race or the horse will not be allowed to start.

(b) All New Jersey Sire Stakes horses entered and drawn to post positions are required to pay starting fees at the track. This starting fee is required even though a horse is scratched.

(c) The starting fee must be paid or the horse will not be permitted to race in any Sire Stakes event until the fee is paid and collected.

(d) The starting fee will not be refunded unless the horse dies between the time of declaration to start and the start of the race.

(e) When an owner has outstanding debts owed to the New Jersey Sire Stakes, every horse owned in whole or part by that owner shall be subject to be declared ineligible by the Board of Trustees or its representative to be entered or to start in any New Jersey Sire Stakes Race until such time that debt is collected.

2:32-2.20 Starting fees

Starting fees will be added to the basic purse only in Fair and Pari-mutuel series races. Starting fees for the 1987 season will be:

Pari-mutuel Division		Fair Division	
2 year olds	\$500.00	2 year olds	\$75.00
3 year olds	\$500.00	3 year olds	\$75.00
4 year olds	\$200.00	4 year olds	\$75.00

2:32-2.21 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

2:32-2.22 Qualifying standards

(a) All starters in the New Jersey Sire Stakes Pari-mutuel Division must meet the following qualifying conditions for the 1987 racing season.

1. All other qualifying standards in effect at the track where the race is being conducted must be adhered to.

2. The 1987 New Jersey Sire Stakes qualifying times at the Pari-mutuel tracks will be as follows:

	One Mile Track	5/8 Mile Track	1/2 Mile Track
Two-Year-Old Trot	2:07	2:08	2:09
Three-Year-Old Trot	2:03	2:04	2:05
Four-Year-Old Trot	2:02	2:03	2:04
Two-Year-Old Pace	2:03	2:04	2:05
Three-Year-Old Pace	2:01	2:02	2:03
Four-Year-Old Pace	2:01	2:02	2:03

NOTE: When racing at the mile track, two seconds are allowed off the half mile, but when racing on a 1/2 mile track, two seconds are subtracted.

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

4. Official workouts or time trials are not acceptable as a substitute for a qualifying racing line.

(b) All starters in the New Jersey Sire Stakes Fair Division must meet the following conditions for the 1987 racing season.

1. All starters in the New Jersey Sire Stakes Fair Division shall have raced within 30 days of the race in which they have been entered. A three-year-old shall show a satisfactory racing line in one of their last two starts. A two-year-old shall show a satisfactory racing line in one of their last three starts. A satisfactory racing line is defined as a qualifying or racing line in the following times or better with allowances for track conditions:

	Trotters	Pacers
Two-Year-Olds	2:12	2:10
Three-Year-Olds	2:10	2:08
Four-Year-Olds	2:09	2:07

Horses may be placed on the stewards list for subsequent poor performance.

2:32-2.23 Splitting races

Each race is to be a one mile dash. 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.

2:32-2.24 Number of starters

In all Pari-mutuel and Fair Sire Stakes races, the number of starters permitted in the first tier shall be at the discretion of the judges. No more than two trailers will be permitted in the second tier. However, no trailers shall be permitted in the races designated as finals.

2:32-2.25 Eligibility papers

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 or accepted the trainer's eligibility papers, and the papers are subsequently lost, the horse may be allowed to start.

2:32-2.26 Splitting and carrying over divisions

In the event a Sire Stakes event is split into divisions, the Sire Stakes 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." In the event that a Pari-mutuel event splits into more than three divisions, one or more of the divisions in excess of three may be carried over to the following racing day.

2:32-2.27 Final races

(a) There will be a two- and three-year-old "Final" race in each Pari-mutuel Division at the Pari-mutuel raceways as scheduled by the New Jersey Sire Stakes Board of Trustees. There will be a minimum \$10,000 Fair "Final" race in each Division for two- and three-year-olds.

(b) Each Pari-mutuel Final will have a \$500.00 starting fee and is open to the highest New Jersey Sire Stakes point winners declared in at the Meadowlands, Garden State, and Freehold, and the highest New Jersey Sire Stakes point winners at the Fairs in each Division that are declared in and can be drawn to post in first tier. Trailers are not permitted to start in any New Jersey Sire Stakes Finals. There will be no entry fee for the Fair Finals.

(c) All horses competing in both the Pari-mutuel and Fair Finals at all tracks will be determined on a point basis. The point value will be awarded as follows:

1. 50 points for winning a heat;
2. 25 points for placing second in a heat;
3. 12 points for placing third in a heat;
4. Eight points for placing fourth in a heat;
5. Five points for placing fifth in a heat;

(d) In the event of less than five starters, the points shall be awarded in the same fashion as the purse breakdown with less than five starters, as in N.J.A.C. 2:32-2.21.

(e) In the event of a dead heat for any position in a New Jersey Sire Stakes race, the points shall be split evenly between the two horses as is currently done with the monies.

(f) In the event of a tie in point standings for Final events, money won in Sire Stakes races in which points were accumulated shall be used to break the tie.

(g) In the event of a tie for the last spot in the top 10 or top eight money winners for a Final event, the last spot in the Final will be drawn by lot from among the horses tied in both points and money winnings in the Sire Stakes and having the highest point totals and not already included in the Final.

(h) Judges' "official order of finish" will be used in determining eligibility to Finals exclusive of all appeals yet to be decided at the time of closing of the entry box for Finals.

(i) In order to qualify for the Fair Finals, a horse must race in at least half of the Fair races offered in his class.

2:32-2.28 Point standings

Total points accumulated towards Final Race eligibility in the Pari-mutuel Division shall include only Pari-mutuel Division points. Only Fair Division race points count toward the Fair Final eligibility.

2:32-2.29 Four-year-old split

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

2:32-2.30 Four-year-old division

The four-year-old New Jersey Sire Stakes Program will expire at the end of the 1988 season with the completion of the four-year-old season of those yearlings registered on May 15, 1985 (foals of 1984).

2:32-2.31 Separate Fair Division

A separate New Jersey Sire Stakes Fair Division, with a separate payment schedule as set forth in N.J.A.C. 2:32-2.10 and 2.20, will be in force.

2:32-2.32 Supervising Race Secretary

(a) A member of the New Jersey Sire Stakes staff will be appointed Supervising Race Secretary at all 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.

(b) Nothing in this chapter shall be construed to rescind or replace any of the powers or rules of the New Jersey Racing Commission at any race.

2:32-2.33 Dress requirements

Racing colors, helmet, and white pants, in accordance with the New Jersey Racing Commission rules, will be required to be worn by any person warming up a horse on a New Jersey fair track one hour before post time. Violators will be subject to a fine or suspension.

2:32-2.34 Broadcasting revenues

(a) In the event the Sire Stakes Board receives revenues derived from the broadcast of Sire Stakes events, any incremental revenues derived from these broadcasts shall be exclusively used by the New Jersey Sire Stakes Program to supplement the purse of Sire Stakes races.

(b) The nominator and/or owner of horses racing in Sire Stakes events expressly and irrevocably assigns to the New Jersey Sire Stakes the ownership rights of any broadcast revenues derived therefrom.

SUBCHAPTER 3. APPEALS

2:32-3.1 Appeal from decision of Supervising Race Secretary

When any decision is made by any person representing the Board of Trustees pursuant to the law of New Jersey or rules of the Board of Trustees, said decision may be appealed to the Board of Trustees and a hearing requested.

2:32-3.2 Right of appeal

(a) Any person aggrieved by any action or inaction by the Board of Trustees, or its representatives, may request an informal meeting with the Board to settle any dispute, or seek clarification of the Board's rules. The Board shall respond, in writing, to any such request stating the reasons for its determination.

(b) If any dispute is required by law or regulation to be handled formally, or if a party is dissatisfied with an informal determination, or if the Board determines the matter contested, the matter shall be treated in accordance with the Administrative Procedures Act (N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.), and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq.

2:32-3.3 Nature of proceedings

All hearings before the Board of Trustees will be de novo proceedings and shall be accompanied by notice and an opportunity to be heard.

2:32-3.4 Appeal procedure

In the event that an appeal is taken to the Board of Trustees, said appeal and one copy must be filed, in writing, at the office of the Board of Trustees within 20 days of the date of the receipt of the decision by the person representing the Board of Trustees.

2:32-3.5 Hearing; costs

The applicant shall be responsible for any costs incurred in connection with any hearing held pursuant to the right of appeal contained in this subchapter and the laws of the State of New Jersey.

2:32-3.6 Acting on appeals

The Board of Trustees shall act on all appeals in accordance with the laws of the State of New Jersey and the rules promulgated by the Board of Trustees.

(a)

DIVISION OF REGULATORY SERVICES

Commercial Fertilizer and Soil Conditioner Commercial Values

Proposed Amendment: N.J.A.C. 2:69-1.11

Authorized By: State Board of Agriculture and
Arthur R. Brown, Jr., Secretary, Department of Agriculture.

Authority: N.J.S.A. 4:9-15.26, 4:9-15.33.

Proposal Number: PRN 1987-101.

Submit comments by May 6, 1987 to:

Robert C. Fringer, Director
State Department of Agriculture
Division of Regulatory Services
CN 330
Trenton, New Jersey 08625
Telephone: (609) 292-5575

The agency proposal follows:

Summary

The purpose of this proposal is to update the commercial values of primary plant nutrients. The assessed penalties for deficient fertilizers will be based on the values and charged to the manufacturer. Claimed penalty fees are returned to the customer. The State Treasury will receive all unclaimed penalty fees. There are no changes in dollar figures per unit from 1987 to 1988.

Social Impact

All consumers of fertilizers will have more monetary protection when deficient fertilizers are detected. Manufacturers will exhibit more care in controlling their formulating processes to avoid a penalty.

Economic Impact

All consumers of fertilizers will be equitably compensated for their losses because these proposed values are accurately adjusted to current market prices.

Regulatory Flexibility Statement

This regulation implements N.J.S.A. 4:9-15.26, which, although having been altered by revisions, has been in substantially similar form on the books since 1874. The original law was in response to the growing use and availability of commercial fertilizers to farmers in the 1850's, who faced many products of doubtful value. The law and rules are designed to provide accurate verifiable information so the proper amount and type of fertilizer is used on any particular crop and soil. The present rule provides a mechanism to implement a formula to establish the index value of the fertilizer, which is an expression of the difference in the actual found nutrients analysis and what is claimed by the manufacturer on the label. If a deficiency is found, the values of the nutrients in the rule are then used in the formula to produce a figure which is compared to the cost of the product by deficiency in the guaranteed analysis. The found and guaranteed figures are then subtracted and the resulting figure is multiplied by three to find the amount due to the customer or customers, which is then distributed pro rata. If no customer can be identified, the money goes to the State Treasury.

In 1985, 846 fertilizer samples were analyzed and 20 percent were found to be in violation. The penalties collected totalled \$17,225, of which \$11,410 was turned over to the Treasury and \$5,815 was refunded to consumers.

The Department had registered with it 622 firms dealing in commercial feeds, fertilizers and liming materials. Many of these are small businesses. However, all farmers in New Jersey are small businesses, by virtue of that term's definition in the Regulatory Flexibility Act. Further, many consumers use fertilizers.

The Regulatory Flexibility Act makes no explicit provision for weighing the harm of a regulation against one group of small businesses and comparing it to the benefits given to others. But the intent of the Act seems to be that the regulatory agency is required to quantify in its analysis the good and harm that is to be done by a regulation to all small businesses. The question of consumer interest is not addressed in the Regulatory Flexibility Act; however, the Legislative history of the original and subsequent Fertilizer Acts makes manifestly clear there is an intent to protect the end user of the commodity. The drafting of the Fertilizer law itself makes clear the benefits which are bestowed by it are to be applied to that end.

The burdens the law and rules place upon the fertilizer manufacturers are the costs of registration, the cost of complying with the guaranteed analysis, such monitoring of production which this might require, and the cost of reporting this information to the consumer, via either printing on the bag or supplying the information in written form with bulk deliveries. The rules also provide to the consumer information which is accurate, useful and necessary to apply fertilizers on the basis of nutrients needed by the crop, without the necessity of relying upon brand names, which may or may not in themselves be reliable. There is nothing in the rules which prohibits anyone from selling the grade of fertilizer he wishes, but it could not be mislabeled or claims made for it that are untrue. The matter of adulterants is not in question here and no product tested has been found to contain them in the 1985 year.

The cost of compliance varies with the number of blends and types of fertilizer placed on the market. These costs are solely in the hands of the manufacturer and is solely one that a manufacturer makes to meet the demands of the market.

The law and rules are designed to provide the freest form of safe, honest and understandable competition. They are based on the accepted standards of Association of American Plant and Food Control Officers, Inc., whose standards are the basis for the laws and rules of most other states in the union. If the burden on the manufacturer or distributor were lifted, New Jersey manufacturers would be left only with a New Jersey market and would be given no chance to compete in other states or countries. Further, every bag of every fertilizer load would have to be tested by every user to determine if it was desirable for use on each and every area to be covered. Competition in the fertilizer field would soon become based not on results but on brand loyalty, which would further deprive the small manufacturer of the opportunity to compete on merit, requiring them to match the advertising budget of the large manufacturer, which no small manufacturer could do.

Further, the rules and deficiency formula provide a rather economical way to settle disputes on the quality of the product purchased. Otherwise, an action would have to be commenced in court, possibly a class action,

with expert testimony and trial costs, which would be disadvantageous to the plaintiff who has a small business and the small business defendant to whom the cost of defending and prosecuting such actions would be disproportionate to the amount that could be recovered.

It is the analysis of the Department that the rules provide more benefits to more small businesses by complying with these rules and law, than are hurt by them. They are the minimum necessary to ensure the honest, understandable trade in the commodity based on the important results deliverable by the product, not upon brand loyalty. It is, as a result, more economically advantageous for small business manufacturers to enter and compete in the market in both New Jersey and the rest of the world.

Lastly, fertilizer is one of the key ingredients of modern agriculture and a source of great consumer pleasure in landscaping and gardening. The overwhelming costs saved in purchasing these products for the results desired provides a sound basis for economical farming and gardening based on science not luck.

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

2:69-1.11 Commercial values

(a) The State Board of Agriculture, pursuant to N.J.S.A. 4:9-15.26, determine the commercial value of primary plant nutrients to be:

1. Nitrogen:	\$3.50 per unit.
2. Water insoluble nitrogen:	\$7.50 per unit.
3. Available phosphoric acid:	\$3.00 per unit.
4. Soluble potash:	\$2.00 per unit.

(b) These values shall be effective from July 1, [1986] 1987 through June 30, [1987] 1988.

BANKING

(a)

DIVISION OF BANKING CONSUMER CREDIT BUREAU

License Fees

Proposed Readoption: N.J.A.C. 3:23

Authorized By: Mary Little Parell, Commissioner, Department of Banking.

Authority: N.J.S.A. 17:1-8.1; 17:10-3, 9 and 23; 17:11A-38 and 54; 17:15-1; 17:15A-4 and 6; 17:15B-7 and 17; 17:16C-7, 8, 82(a), (b) and (c); 17:16D-4 and 8; and 45:22-4 and 11.

Proposal Number: PRN 1987-107.

Submit comments by May 6, 1987 to:

Roger Wagner
Deputy Commissioner
Department of Banking
CN 040
Trenton, NJ 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), Chapter 23, License Fees, of Title 3 of the Administrative Code, N.J.A.C. 3:23, expires on May 3, 1987. The Department has reviewed these regulations and determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated. The Department of Banking proposes to readopt these rules without change.

The chapter continues to effect the license fees established by the Commissioner of Banking for annual and biennial license periods, and the maximum biennial license fees permitted by law.

Social Impact

The licensing fees affect the following licenses: small loan, secondary mortgage, foreign money remitter, check casher, check seller, sales finance company, motor vehicle installment seller, home financing agency, home repair contractor, home repair salesman, insurance premium finance company, and pawnbroker.

Economic Impact

The subchapter requires the payment of the enumerated fee upon application and upon renewal of a license. The Department receives the fee revenue and incurs costs due to the administration of the fee procedure. There are no costs to the public.

Regulatory Flexibility Statement

The licensees affected by these rules are predominantly "small businesses", which are required to make payment of a license fee upon application for and renewal of a license. No reporting or recordkeeping is required. It is not perceived that professional services are needed by small businesses to comply, nor will the costs of compliance vary among the licensees affected. Thus, no adverse economic impact exists.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:23.

EDUCATION

(b)

STATE BOARD OF EDUCATION

Vocational Education Safety Standards General Provisions

Proposed Readoption with Amendments:

N.J.A.C. 6:53-1, 2, 3, 8 and 9

Proposed Repeal: N.J.A.C. 6:53-4, 5, 6 and 7

Authority: N.J.S.A. 18A:1-1, 4-15, 33-1 et seq., 40-12.1 and 12.2, 54-1 et seq.

Proposal Number: PRN 1987-109.

Submit comments by May 6, 1987 to:

Patricia Joseph, Rules Analyst
New Jersey Department of Education
225 West State Street
Trenton, New Jersey 08625

The agency proposal follows:

Summary

N.J.A.C. 6:53, Vocational Education Safety Standards, originally became effective on August 3, 1977. The standards were readopted, without substantive change, and became effective on October 18, 1982. The chapter expires on September 1, 1987, pursuant to the requirements and criteria of Executive Order No. 66(1978).

The rules provide safety standards to govern the use of tools, machines, equipment and protective devices in vocational education programs and courses. It is no longer necessary to maintain the majority of the rules contained in the chapter because of the enactment of N.J.S.A. 34:6A-25 et seq. (enacted January, 1984), the New Jersey Public Employees Occupational Safety and Health Act (NJPEOSHA) and the promulgation of N.J.A.C. 12:100 (adopted October 18, 1984), Safety and Health Standards for Public Employees, pursuant to NJPEOSHA. The statute and resulting rules are to protect employees in the public sector and include employees of any school district or special purposes district created pursuant to law.

Rules promulgated pursuant to NJPEOSHA are, for the most part, at least as effective as the rules contained in N.J.A.C. 6:53 and far more comprehensive in covering safety and health conditions in the public workplace. Rules more stringent than N.J.A.C. 12:100 will be maintained with the adoption of the proposed amendments to N.J.A.C. 6:53. Repeal of N.J.A.C. 6:53-4, 5, 6 and 7 and adoption of N.J.A.C. 12:100 by reference, will preclude the duplication of rules found in both N.J.A.C. 6:53 and N.J.A.C. 12:100.

N.J.A.C. 12:100 incorporates by reference standards at least as effective as the standards promulgated under Section 6 of the Federal Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq. Those same Federal standards were used to model the majority of the rules found in N.J.A.C. 6:53.

Social Impact

Local school districts have been required to comply with NJPEOSHA and N.J.A.C. 12:100 since November 6, 1986. As a result, local districts can be expected to be in various stages of compliance depending on their knowledge of NJPEOSHA and its direct regulation of the safety and

health conditions in the public school workplace. However, it is anticipated that the following benefits will be realized by modifying sections and incorporating by reference as a part of N.J.A.C. 6:53:

- The fact that local school districts must be in full compliance with NJPEOSHA will be reinforced.

- Redundancies within the Administrative Code from different State agencies will be eliminated.

- Students in vocational programs and courses will continue to be protected by comprehensive safety and health standards. The more stringent standards in N.J.A.C. 6:53 will be maintained. The student learning environment (vocational shops and laboratories) is the same as the workplace of the public employee instructor. Therefore, the standards established pursuant to NJPEOSHA also apply.

- The more stringent safety and health standards maintained in N.J.A.C. 6:53 will be minimal and no different from those in effect for the last 10 years.

- Except for the more stringent standards maintained, the Commissioner of the Department of Labor has primary responsibility to inspect public employers for compliance with safety and health standards promulgated pursuant to NJPEOSHA. In addition, the Commissioner of the Department of Labor in consultation with the Commissioners of the Departments of Health and Community Affairs shall:

- “a. Provide for a method of encouraging employers and employees to reduce the number of safety and health hazards in their workplace and to institute . . . and perfect existing safety programs.

- b. Provide for the publication and dissemination of informational, education and training materials to assist in achieving the objectives of NJPEOSHA.

- c. Provide for the establishment of a program for voluntary compliance by employers and employees.” (New Jersey Department of Labor pamphlet, “Public Employees Occupational Safety and Health Act,” document number OHS-14 (R-11-84)).

By virtue of the above, knowledgeable representatives of the Departments of Labor, Health and Community Affairs ensure compliance with NJPEOSHA through inspection or response to written employee complaints. These representatives also provide technical assistance to meet the applicable safety and health standards.

Economic Impact

This proposal will have no economic impact upon either the State or local school districts. The readoption imposes no new safety standards from the original adoption. Consequently, no additional expenditures will be required to achieve compliance with the rule. Any additional expenses that could possibly be incurred to maintain required safety standards would rather be the result of compliance with NJPEOSHA. As employers, local school districts are included within the purview of the Act and must comply fully with its requirements.

Regulatory Flexibility Statement

The proposed readoption of the vocational education safety standards impact upon the New Jersey local public school districts. Since small businesses are not impacted or affected by the proposal, a regulatory flexibility analysis is not required.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at 6:53.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 6:53-4 through 6:53-7.

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

CHAPTER 53

VOCATIONAL EDUCATION SAFETY STANDARDS

SUBCHAPTER 1. GENERAL PROVISIONS

6:53-1.1 Scope and purpose

The [following] rules [and regulations] in this chapter prescribed and approved by the State Board of Education pursuant to N.J.S.A. 18A:1-1, 18A:4-15, 18A:33-1 et seq., 18A:40-12.1, 18A:40-12.2 and 18A:54-1 et seq. provide safety standards to govern the use of tools, machines, equipment and protective devices in vocational education programs and courses.

6:53-1.2 Adoption by reference

(a) **The standards contained in N.J.A.C. 12:100, Safety and Health Standards for Public Employees, are adopted as safety and health standards for vocational education programs and courses.**

(b) **The standards are available for review at the Department of Education, Division of Vocational Education, 225 West State Street, CN 500, Trenton, New Jersey 08625 or at the Office of Administrative Law, Quakerbridge Plaza, Bldg. 9, CN 301, Trenton, New Jersey 08625.**

6:53-[1.2]1.3 Definitions

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

[“AWG” means the American Wire Gage and refers to the accepted table of wire gages with the corresponding wire diameter values and cross-section values.]

“**Hazardous substances**” means any substance or substance contained in a mixture, included on the workplace hazardous substance list developed by the Department of Health pursuant to N.J.S.A. 34:5A-5, introduced by an employer to be used, studied, produced or otherwise handled at a facility.

[“Nationally recognized testing laboratory” means a laboratory such as, but not limited to, the Underwriters Laboratory, United States Bureau of Mines, Factory Mutual Laboratories or the American Gas Association Laboratories.]

[“P.s.i.” means pounds per square inch.]

“**Vocational education program and/or course**” means any program and/or course in any school under the regulatory authority and jurisdiction of the [Division of Vocational Education and Career Preparation] **Department of Education.**

[“Welder or welding operator” means any operator of electric or gas welding and cutting equipment as part of a vocational course or program.]

SUBCHAPTER 2. STANDARDS IMPLEMENTATION

6:53-2.1 (No change.)

6:53-2.2 Safety program

(a) All district boards of education operating **vocational education programs and/or courses** [in vocational education] shall organize, adopt and implement a vocational education safety program. A copy of the program, indicating district board of education approval, shall be [filed with the Assistant Commissioner of Education, State Director of Vocational Education] **retained on file by the local education agency and made available, upon request, to the Department of Education.**

(b) The safety educational program shall contain, as a minimum, the following sections:

1. through 6. (No change.)

7. Methods to be used to provide safety education to pupils; and

8. (No change.)

6:53-2.3 Reporting requirements

(a) Accidents involving vocational education pupils, staff or others shall be reported to the [Assistant] Commissioner of Education[, State Director of Vocational Education,] on the accident reporting form supplied by the [Division of Vocational Education and Career Preparation] **Department of Education** within five working days of the occurrence.

(b) (No change.)

SUBCHAPTER 3. GENERAL REQUIREMENTS FOR ALL MACHINES

[6:53-3.1 Machine guarding]

[One or more methods of machine guarding shall be provided to protect the operator and other personnel in the machine area from hazards such as, but not limited to, those created by point of operation, ingoing nip points, rotating parts, flying chips and sparks. Examples of guarding methods are, but need not be limited to, barrier guards, two-handed tripping devices, and electronic safety devices.

(b) Guards shall be affixed to the machine where possible and secured elsewhere if, for any reason, attachment to the machine is not possible. The guards shall be such that they do not offer hazards in themselves. Guards should be of the type commercially designed and constructed and shall meet the standards and specifications adopted and promulgated by nationally recognized standards producing organizations.]

6:53-[3.2]3.1 Securing machines and equipment

[(a) All machines and equipment, except portable machines and equipment, shall be secured to prevent tipping, walking or moving in accordance with the methods recommended by the manufacturer of the machines or equipment.]

[(b)](a) (No change in text.)

[(c)](b) (No change in text.)

[6:53-3.3 Point of operation guarding]

[(a) The point of operation of any machine that exposes an individual to injury shall be guarded. The guarding device(s) shall be in conformity with all appropriate standards and shall be so designed and constructed as to prevent the operator from having any part of his/her body in the danger zone during the operating cycle.

(b) Special handtools, push sticks or other appropriate devices for placing, removing or moving material shall be such as to permit easy handling of material without the operator placing a hand in the danger zone. Such tools shall not be in lieu of other guarding required but can only be used to supplement protection provided.]

6:53-[3.4]3.2 (No change in text.)

[6:53-3.5 Braking devices]

[Radial arm saws, nonportable crosscut and/or ripsaws and band saws should be equipped with a braking device capable of stopping the rotation of the saw blade after the equipment has been shut off. The braking device should be of a type provided by or recommended by the manufacturer of the equipment on which it is to be used.]

6:53-[3.6]3.3 Machine controls and equipment

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

(c) Power controls and operating controls shall be located within easy reach of the operator while he or she is at the regular work location, **thereby** making it unnecessary to reach over the point of operation to make adjustments.

(d) (No change.)

(e) **Push-type emergency cut-out switches shall be provided at appropriate locations within shops to de-energize the electrical supply to machinery in accordance with N.J.A.C. 6:22-2.4(a)9.**

(f) **Power tools and machines in shops which generate dust shall be provided with dust collecting equipment in accordance with N.J.A.C. 6:22-2.4(a)12.**

6:53-3.7 [Inspection and maintenance of machinery] (Reserved)

[(a) It shall be the responsibility of the instructor to insure that:

1. Dull, badly set, improperly filed or improperly tensioned saw blades shall be immediately removed from service before they begin to cause the material to stick, jam or kick back when fed to the saw at normal speed.

2. Knives and cutting heads of woodworking machines shall be kept sharp, properly adjusted, firmly secured and properly balanced.

3. Cleanliness shall be maintained around machinery, particularly as regards the effective functioning of guards and the prevention of fire hazards in switch enclosures, bearing and motors.

4. The practice of inserting wedges between the saw blade and the collar to form what is commonly known as a "wobble saw" shall not be permitted.]

SUBCHAPTER [8]4. HAZARDOUS [LIQUIDS AND MATERIALS] SUBSTANCES

6:53-[8.1]4.1 Storage of [materials] flammable and combustible materials

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

(d) Flammable or combustible liquids shall be stored in accordance with the requirements as specified in NJPA 30-1976, "Flammable and Combustible Liquids Code[.]", which, with all subsequent amendments and supplements, is hereby adopted as a rule.

1. This document is available for review at the [Division of Vocational Education and Career Preparation,] Department of Education, **Division of Vocational Education**, 225 West State Street, CN 500, Trenton, New Jersey 08625[,] or at the Office of Administrative Law, **Quakerbridge Plaza, Bldg. 9**, CN 301, Trenton, New Jersey 08625.

2. (No change.)

6:53-[8.2]4.2 Hazardous [materials] substances

[(a) All potentially hazardous materials shall be stored, handled and used according to the instructions of the manufacturer or distributor of the material.

(b) If adequate instruction for the storage, handling and use is not provided when the potentially hazardous material is secured, a safety data sheet shall be procured from the manufacturer or distributor of the material prior to use.]

(a) **Hazardous substances shall be stored, handled and used in accordance with N.J.A.C. 8:59, Worker and Community Right to Know Act, promulgated pursuant to the authority of the Worker and Community Right to Know Act, L.1983, c.315, N.J.S.A. 34:54-1 et seq.**

1. **These rules are available for review at the Department of Education, Division of Vocational Education, 225 West State Street, CN 500, Trenton, New Jersey 08625 or at the Office of Administrative Law, Quakerbridge Plaza, Bldg. 9, CN 301, Trenton, New Jersey 08625.**

2. **The rules may be requested from the State of New Jersey, Department of Health, John Fitch Plaza, CN 360, Trenton, New Jersey 08625.**

SUBCHAPTER [9]5. PERSONAL PROTECTION

[6:53-9.1 General provisions]

[(a) Hair that may become caught or entangled in any moving equipment, machine, tool or mechanical power transmission device shall be covered or secured in such a manner that the hair will be held close to the scalp. The securing or holding device shall be of such a design that it does not in itself constitute a hazard.

(b) Open type footwear shall not be permitted to be worn by individuals engaged in activities or processes that could readily lead to foot injuries.

(c) Individuals engaged in any vocational education course or program activity in which there is a recognized hazard from falling or flying objects shall wear industrial quality head protection meeting the requirements and specifications contained in ANSI Z89.1-1981, "Safety Requirements for Industrial Head Protection," which with all subsequent amendments and supplements is hereby adopted as a rule.

1. This document is available for review at the Division of Vocational Education and Career Preparation, Department of Education, 225 West State Street, CN 500, Trenton, New Jersey 08625, or at the Office of Administrative Law, CN 301, Trenton, New Jersey 08625.

2. This document may be purchased from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.]

6:53-[9.2]5.1 Foundry operations

(a) Individuals engaged in the melting of metal to be cast or the pouring of molten metals shall be protected by the wearing of the following:

1.-2. (No change.)

3. Inhibited asbestos or fireproof duckbib-type apron that extends below the top of leggings[,] or equivalent;

4.-5. (No change.)

6. Inhibited asbestos gloves; and

7. (No change.)

(b) No change.)

6:53-5.2 Protection of personnel

Individuals using hand and power tools who are exposed to hazards of falling, flying, abrasive and splashing materials or harmful dusts, fumes, mists, vapors or gases shall be provided with the particular personal protective equipment necessary to protect them from potential hazards in accordance with N.J.A.C. 6:3-1.14.

6:53-9.3 [Spray finishing operations] (Reserved)

[(a) Individuals engaged in spray finishing operations shall wear approved respirators of a type designed to protect them from inhaling the mist, fumes or vapors as specified by the manufacturer of the finishing material.

(b) Respirators may be of the disposable or nondisposable type. Provisions shall be made for sterilization of shared, nondisposable type respirators.]

6:53-9.4 [Emergency eyewash facilities] (Reserved)

[(a) Emergency eyewash equipment shall be installed in areas in which acid base battery electrolytes are used.

(b) Emergency eyewash stations may be of the portable or permanently installed type. The device shall be capable of providing a continuous flow of eyewash liquid for at least 15 minutes. Eyewash stations shall be inspected and maintained in accordance with the recommendations of the manufacturer.]

6:53-9.5 [Compressed air used for cleaning] (Reserved)

[(a) Compressed air used for cleaning purposes shall not be in excess of 30 p.s.i.

(b) Compressed air pressure shall be kept below 30 p.s.i. by regulating line pressure to an acceptable level, installing a self-regulated type safety air nozzle, installing a pressure-reducing safety adapter or other similar means.]

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Stormwater Management

Proposed Amendments: N.J.A.C. 7:8-1.3, 1.7, 2.1, 2.2, 2.6, 3.4, and 3.6

Authorized By: Richard T. Dewling, Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 40:55D-93 et seq., specifically 40:55D-98.

DEP Docket Number: 010-87-03.

Proposal Number: PRN 1987-121.

Public hearings concerning this proposal will be held on:

April 28, 1987 at 10:00 A.M.
Municipal Council Chambers
Municipal Building
Wayne, New Jersey

April 30, 1987 at 7:00 P.M.
Freeholders Meeting Room
County Courthouse
Freehold, New Jersey

Submit written comments by May 6, 1987 to:

Howard Geduldig, Esq.
Office of Regulatory Services
Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposal amends the existing stormwater management standards at N.J.A.C. 7:8-3.4 applicable to major developments to afford increased protection to freshwater wetlands subject to stormwater management facility construction. Wet basins and infiltration basins will be allowed only where in accordance with an approved local plan or upon prior approval by the Department and where it can be demonstrated that important endangered or threatened faunal habitat would not be adversely affected. Intermittently-flooded detention basins may be allowed in freshwater wetlands, but where grading or cleaning is required or where an agency objection is raised, the proposed use shall be subject to the procedural requirements for "Project of Special Concern" permits developed for the stream encroachment program (see N.J.A.C. 7:13-5).

Definitions necessary for these additional stormwater management standards are provided at N.J.A.C. 7:8-1.3.

Specific reference is made to the Delaware and Raritan Canal Commission at N.J.A.C. 7:8-1.7 in recognition of its authority and the close relationship of that agency's program to the program covered in these rules.

Clarification of the language at N.J.A.C. 7:8-2.2 is proposed to make it clear that municipalities are obligated to complete stormwater management plans if the Department makes available a grant for 90 percent of the costs for the preparation of such plans.

Minor technical modifications are proposed to N.J.A.C. 7:8-3.4(a)3iv to make it clear that this paragraph setting standards for use of detention basins in flood plains, as applied to major developments, does not apply to those detention basins that are on-stream. In addition, the existing language is modified to make it clear that these standards are not limited in applicability to that detention storage made available solely by construction of dikes and embankments.

The limitation at N.J.A.C. 7:8-3.4(a)3v, providing that the gross storage considered in the evaluation of effective detention storage will not exceed that which would be filled by runoff of a 100-year storm at the site, is proposed for deletion on the basis of its being unnecessarily restrictive.

The procedures for computing the volume of net fill provided at N.J.A.C. 7:8-3.4(a)3vi are not relevant to this chapter and are unduly complicated. Since "net fill" is adequately defined in the Flood Hazard Area Control rules at N.J.A.C. 7:13-1.2, N.J.A.C. 7:8-3.4(a)3vi is proposed for deletion in its entirety.

Citations for the codification of P.L. 1981, c.32, the New Jersey Storm Water Management Act, have been added to the existing rule.

Social Impact

The proposal will have a beneficial social impact. Only those freshwater wetlands that can be used for stormwater management without adversely affecting other important freshwater wetland values will be available for such use. The modifications to N.J.A.C. 7:8-2.2 and 3.4(a)3 will have a beneficial social impact in that they add clarity while removing those restrictions offering no significant benefits.

Economic Impact

The proposal will have only minimal economic impact. Where plans must be referred to the Department for discussion, some project delay or plan modification may occur potentially increasing project costs. The modification to N.J.A.C. 7:8-2.2 and 3.4(a)3 should have no adverse economic effect.

Environmental Impact

The proposal will have a beneficial environmental impact in that freshwater wetlands will be better protected from stormwater management facility construction practices that might prove damaging to important freshwater wetland values. The modifications to N.J.A.C. 7:8-2.2 and 3.4(a)3 should have no adverse environmental impact.

Regulatory Flexibility Statement

This proposal would apply to those with a property interest in development sites who are responsible for construction of detention facilities and includes large developers employing not fewer than 100 persons, large industrial or commercial facilities employing not fewer than 100 persons, and small businesses. It is estimated that of the total number of property owners of development sites impacted by this proposal, 95 percent are "small businesses" as defined in the New Jersey Regulatory Flexibility Act (P.L. 1986, c.169) and will be impacted. In order to comply with this proposal, the small businesses will have to comply with the requirements set forth in the "Summary" above. In so doing, it is likely that small businesses will need the services of professional engineers and ecological consultants. It is expected that initial capital costs for each small business would be minimal, even though five to eight percent of the proposed detention basin sites would have to be modified or relocated, because of similar restrictions imposed under the United States Army Corps of Engineers "404" wetlands permit program administered pursuant to 33 U.S.C. 1344. In developing this rule, the Department has balanced the need to protect the environment against the economic impact of the proposed rule and has determined that to minimize the impact of the rule would endanger the environment, public health and public safety, and, therefore, no exemption from coverage is provided.

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

7:8-1.3 Definitions

...

"Detention basin" means an embankment and associated space for impoundment of water or, alternatively, the space for impoundment partially or entirely created by excavation rather than by embankment, in either case designed to temporarily retain stormwater runoff.

"Detention facility" means a detention basin or alternative structure designed to temporarily retain stormwater runoff.

...

"Infiltration basin" means a detention basin designed to infiltrate retained water to the subsurface and which is not an injection well.

...

"Wet basin" means a detention basin designed to retain some water on a permanent basis.

7:8-1.7 Relationship to other permitting programs

Nothing in this chapter shall be construed as limiting the rights of other agencies or entities, such as the Pinelands Commission or the Delaware and Raritan Canal Commission, from imposing stricter standards or other requirements as allowed by statute.

7:8-2.1 Objectives

(a) A storm water management plan and its implementing ordinance or ordinances shall be designed:

1.-6. (No change.)

7. To reduce the impact of development upon stream [c]erosion;

8.-10. (No change.)

7:8-2.2 Schedule for completion and submission of plans and ordinances

If a grant for 90 percent of the costs for the preparation of the plan [is provided] **has been made available** by the Department pursuant to section 6 of the Act (N.J.S.A. 40:55D-98), the storm water management

plan shall be completed by the municipality [within one year from the date of promulgation of storm water management regulations by the Commissioner, or] by the next reexamination of the municipality's master plan required pursuant to N.J.S.A. 40:55D-89 [whichever is later]. The storm water management plan shall be an integral part of each municipal master plan as provided by N.J.S.A. 40:55D-28. Each storm water [management] **control ordinance or ordinances implementing the storm-water management plan** prepared under such a grant shall be adopted by the municipality within one year of the completion of the storm water management plan and shall be revised thereafter as needed. Such a storm water management plan, control ordinance or resolution prepared by counties, municipalities or designated regional agencies shall be prepared in accordance with this chapter.

7:8-2.6 Exceptions

The Commissioner may upon application by any appropriate agency grant an exception from any of the objectives listed in N.J.A.C. 7:8-2.1(a) through 10 above, as provided for in sections 3 and 4 of the Act (N.J.S.A. 40:55D-95 and 96), provided that the Commissioner shall determine that such exception will not materially increase flood damage, non-point source pollution, or erosion within or without the municipality. Any municipal request for such exemptions shall be accompanied by proof of notice to all affected municipalities of such request and the request shall be submitted to the State through the appropriate county planning agency.

7:8-3.4 General standards

(a) The following standards are specified for general use as minimums to be applied to major developments. Local plans and ordinances which require a greater degree of control or require retention for a greater period of time, or apply to classes of developments in addition to those specified herein, will be acceptable as long as the objectives are met. Plans and ordinances expressed in different terms but which are considered by the Department to achieve substantially the same objectives will also be acceptable.

1.-2. (No change.)

3. Detention basins in flood plains:

i.-iii. (No change.)

iv. **In cases where detention basins, other than on-stream basins, are to be built in flood plains and [I]n default of an analysis such as described above, detention storage provided [by construction of dikes or embankments] below the elevation of the 100-year flood (either specifically calculated or taken from an official state flood plain delineation map) will be credited as effective storage at a reduce proportion as indicated in the table below:**

TABLE I

Allowable proportion of storage to be assumed usable in detention basins [created by the construction of dikes and embankments of various sizes in drainage basins] **in the flood plain.**

	DRAINAGE BASIN AREA AT SITE		
	Less than 5 Sq. Mi.	5-100 Sq. Mi.	Over 100 Sq. Mi.
Elevation of storage provided below 100-year flood level			
less than 2 ft.	40 percent	65 percent	90 percent
2-4 ft.	25 percent	50 percent	75 percent
Over 4 ft.	10 percent	25 percent	50 percent

v. This effective detention storage, plus any other supplementary measures, will be required to provide for storm water detention, in accordance with established standards. [However, the gross storage considered for this evaluation will not exceed that which would be filled by runoff of a 100-year storm at the site.]

[vi. In making computations the volume of net fill added to the flood hazard area portion of the project site will be subtracted from the capacity of effective detention storage provided. Net fill is defined as the total amount of fill created by the project less the amount of material excavated during the construction of the project, both measured below the elevation of the 100-year flood but above the elevation of low water in the stream. Therefore, net storage provided by excavation in the flood plain above the seasonal high water rate table will be credited 100 percent towards effective detention storage.]

4.-8. (No change.)

9. In any areas classified as freshwater wetlands pursuant to either 40 C.F.R. §233.3 or applicable State law, detention facilities may be allowed subject to the following restrictions:

i. Wet basins and infiltration basins may be provided only where in accordance with a municipal storm water management plan approved by the designated county agency in accordance with N.J.A.C. 7:8-2 or upon prior approval of the Department.

ii. Detention basins may not be provided in areas known to be inhabited on a seasonal or permanent basis by, or to be critical at any stage in the life cycle of, any wildlife (fauna) identified as "endangered" or "threatened" species on official Federal or State lists (see N.J.A.C. 7:25-4.13 and 7:25-4.17), unless the proponent of such detention basins has demonstrated to the satisfaction of the Department that these endangered or threatened species habitats would not directly, or through secondary impacts on the relevant site, be adversely affected. These habitats shall also include sufficient buffer areas to ensure the continued survival of the species.

(1) The Division of Fish, Game and Wildlife, in the Department, intentionally restricts dissemination of data showing the geographic distribution of these species habitats in order to furnish them with further protection. The proponent of such detention basins should apply to the Department to ascertain whether the location of the proposed detention basin is on such endangered or threatened species habitats.

iii. Intermittently-flooded detention basins may be provided, except that if grading or clearing of any space for the impoundment of water is proposed or if the county environmental commission, the United States Fish and Wildlife Service, the United States Army Corps of Engineers, or the Division of Fish, Game and Wildlife within the Department objects to the proposed use of any portions of a freshwater wetlands on the basis of environmental consideration, the proposed use shall be deemed a Project of Special Concern requiring and subject to a permit from the Department issued in conformity with the procedural requirements of N.J.A.C. 7:13-5.3(a)-(e), (g), and 7:13-5.4(a), originally developed to help assure adequate protection of the State's aquatic life and water resources from the adverse impacts of certain kinds of stream encroachment.

7:8-3.6 Storm water control ordinance

The storm water control ordinance is required to be adopted by the municipality within one year of the completion of a storm water management plan funded pursuant to section 6 of the Act (N.J.S.A. 40:55D-98). It is an implementation document for the plan. The ordinance shall conform with all requirements of this chapter. Upon adoption of this chapter, the Department will supply each municipality with a Model Storm Water Control Ordinance as a guide for municipalities to prepare their own ordinances.

(a)

DIVISION OF WATER RESOURCES

**Flood Hazard Area Delineation and Redelineation
Flood Plain Delineations of Passaic River, Rockaway
River and Tributaries, Whippany River and
Tributaries, Peguannock River, Lake Hopatcong
and Tributaries, Hohokus Brook, Pond Brook, and
Tributaries of the Rahway River**

Proposed Amendment: N.J.A.C. 7:13-7.1

Authority: N.J.S.A. 58:16A-50 et seq. and 13:1D-1 et seq.

DEP Docket Number: 007-87-03.

Proposal Number: PRN 1987-116.

A public hearing concerning this proposal will be held on:

April 22, 1987 at 1:00 P.M.
Parsippany-Troy Hills Municipal Building
1001 Parsippany Boulevard
Whippany, New Jersey

Submit comments by May 6, 1987 to:
Robert L. Vincent
Hearing Officer
Department of Environmental Protection
Division of Water Resources
CN 029
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed delineations affect the floodway and flood hazard areas for the Passaic River, Rockaway River and its tributaries, Whippany River and its tributaries, Pequannock River, Lake Hopatcong and tributaries, Hohokus Brook, Pond River, and tributaries of the Rahway River within the following municipalities:

Montville Township, West Caldwell Township, East Hanover Township, Hanover Township, North Hanover Township, Parsippany-Troy Hills Township, Town of Boonton, Boonton Township, Town of Denville, Borough of Rockaway, Rockaway Township, Randolph Township, Borough of Victory Gardens, Town of Dover, Borough of Wharton, Jefferson Township, West Milford Township, Borough of Franklin Lakes, City of Orange City, Mahwah Township.

The proposed delineations are based upon studies prepared by RBA of Morristown, N.J. and URS/MSR of Montvale, N.J. while under contract from the New Jersey Department of Environmental Protection. The proposed delineations for the study streams within Franklin Lakes, Orange City, Jefferson, Denville and the Borough of Rockaway were prepared by URS/MSR of Montvale, N.J.

The proposed redelineations establish new design flood elevations and floodway limits for the Passaic River in Montville and West Caldwell; the Rockaway River, Hatfield Creek and Crooked Brook in Montville Township; and the Rockaway River in the Town of Dover. For these five stream segments, earlier delineations will be retained in Departmental files, but will be stamped "superseded."

Within Montville and West Caldwell, the new hydraulic analysis yields the same or somewhat smaller floodway limits and a revised flood hazard area delineation profile based on the use of higher water surface elevations from the latest Township of Fairfield study. The improved hydraulic model indicates that the 100-year flood elevations within Montville and West Caldwell are approximately 1 foot higher than previously believed. Based on the use of the latest U.S. Army Corps of Engineers hydraulic model and topographic mapping, floodway widths increase substantially in the reach of the Rockaway River immediately upstream from Vail Road.

Within the Town of Dover the hydrologic and hydraulic analysis yields wider floodway limits and a slightly larger flood hazard area based on more detailed topographic mapping and an increase in peak flows from the updated Federal Flood Insurance Study. The criteria for determining the floodway has not changed. However, under the updated hydrology the revised floodway width is 85 feet to 500 feet within the Town of Dover, compared to the previous width of 40 feet to 200 feet. The earlier delineations will be superseded.

Social Impact

The proposed delineation indicates floodways and flood hazard areas where added flood protection will apply. The proposed redelineations will more accurately define the flood hazard areas of stream segments. Regulations of delineated flood hazard areas are designed to preserve flood carrying capacity and to minimize the threat to the public safety, health and general welfare.

Economic Impact

The proposed amendment will have only a minor economic impact. The delineations clearly define the flood hazard areas, thus reductions in property value could result by restricting future development in the floodway and requiring elevated construction in flood fringe areas. However, minor property diminution would be offset by the savings to governmental bodies and private homeowners due to little or no future rehabilitation and rescue expenditures from flood damage in the delineated areas. This action will limit the amount of fill which may be placed within the flood hazard area. Delineations and revisions of delineations expand the scope of regulated areas and thereby increase the area to which development controls apply. In Dover, the amount of developable real estate is slightly reduced, and more stringent design standards will apply.

Environmental Impact

No adverse environmental impact is anticipated as a result of this proposed delineation and redelineation of the aforementioned bodies of water. To the extent that this proposal causes any environmental impact, such impact will be a positive one. The delineation program provides a framework within which areas subject to the various Flood Hazard Area Control Act regulations are determined. These regulations systematically restrict the scope of permissible development within the delineated area

as a means of preventing and minimizing damage to the area as a result of flooding. To the extent that flood damage causes an adverse effect on the environment, this proposal minimizes its potential impact.

Regulatory Flexibility Statement

The delineation of flood hazard areas is particularly beneficial to small businesses. Small businesses can easily determine the flood elevations and hazard areas based on the Department's detailed research and engineering. They can avoid these locations, or design their structures to exceed flood elevations. A destructive flood causing casualty loss and business interruption would be especially catastrophic to a small enterprise doing business in a single flood-prone location. Small businesses could not afford the engineering costs to determine exact flood-prone locations, absent these delineations.

All parcels in the flood hazard area are treated equally, regardless of size. Exceptions for small parcels are not feasible due to the safety and health aspects of these regulations.

AGENCY NOTE: The proposed delineations will require additions to the text of N.J.A.C. 7:13-7.1. The proposed redelineations will require no change in the text of N.J.A.C. 7:13-7.1 since only a revision of the flood hazard area delineation map is required.

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

7:13-7.1 Delineated floodways

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

(d) A list of streams in the Passaic-Hackensack Basin and a list of delineated streams in the Raritan Basin follows:

1.-54. (No change.)

55. Passaic River, Rockaway River and Tributaries, Whippany River and Tributaries, Pequannock River, Lake Hopatcong and Tributaries, Hohokus Brook, Pond Run, and Tributaries of the Rahway River

Passaic River, from the Township of Fairfield-West Caldwell municipal boundary upstream to the West Caldwell-Roseland boundary; Rockaway River, from its confluence with the Passaic River upstream to Polland Mountain Road bridge in Jefferson Township; Hatfield Creek, from its confluence with the Rockaway River upstream to Gathering Road; Crooked Brook, from its confluence with the Rockaway River upstream to Church Street; Den Brook, from its confluence with the Rockaway River upstream to 1,270 feet upstream of Shogun Road bridge; Beaver Brook, from its confluence with the Rockaway River upstream to Beach Glen Road; Fox Brook, from its confluence with the Rockaway River upstream to 960 feet upstream of Fox Lake Dam; Rockaway River Tributary No. 1, from the confluence with Rockaway River upstream 5,800 feet; Green Pond Brook, from the confluence with the Rockaway River upstream to the Rt. 80 ramp; Rockaway River Tributary No. 5, from its confluence with Rockaway River upstream to footbridge across Cozy Lake; Rockaway River Tributary 5-1, from its confluence with Rockaway River Tributary No. 5 upstream 240 feet; Rockaway River Tributary No. 6, from its confluence with Rockaway River upstream to Milton Road highway bridge; Rockaway River Tributary No. 7, from its confluence with Rockaway River upstream to Welden Road highway bridge; Whippany River, from its confluence with Rockaway River upstream to Morris Township municipal boundary; Troy Brook, from its

confluence with the Whippany River upstream to Cherry Hill Road; West Brook, from its confluence with the Troy Brook upstream to Lake Structure; Eastmans Brook, from the confluence with Troy Brook upstream to upstream end of Lake Parsippany; Black Brook, from its confluence with the Whippany River to upstream corporate limit of Hanover Township; Pinch Brook, from its confluence with Black Brook to the upstream corporate limit of East Hanover Township; Malapardis Brook, from its confluence with the Whippany River upstream to South Jefferson Road; Watnong Brook, from Rt. 10 Highway bridge upstream 8,330 feet; Pequannock River, from the downstream Jefferson municipal boundary upstream to the Oak Ridge Reservoir Dam; Lake Hopatcong; Weldon Brook Tributary, Weldon Brook from the confluence with Lake Hopatcong upstream to East Shawnee Trail; Lake Hopatcong Tributary No. 2, from the confluence with Lake Hopatcong upstream to Lorretta Long Drive highway bridge; Hohokus Brook, upstream from the Wyckoff-Franklin Lakes municipal boundary upstream to 400 feet upstream of De Yoe Pond; Pond Brook, upstream from Oakland-Franklin Lakes municipal boundary upstream to Franklin Lakes Road; Wigwam Brook, from the downstream Orange boundary upstream to Watchung Street; East Branch Rahway River, from the downstream Orange boundary to upstream municipal boundary; East Fork of the East Branch Rahway River, from the junction with East Branch Rahway River upstream to Joyce Street.

AGENCY NOTE: All relevant information and documents are available for inspection during normal working hours at the Office of the Bureau of Flood Plain Management, 1911 Princeton Avenue, Trenton, New Jersey and at the Office of Administrative Law, Quakerbridge Plaza, Building 9, Trenton, New Jersey. Approximately 70 maps are on file for these delineations.

In addition maps of the proposed delineations have been sent to Clerks of the affected municipalities. Review of the maps prior to the hearing is invited.

(a)

DIVISION OF FISH, GAME AND WILDLIFE Endangered and Nongame Species

Proposed Amendments: N.J.A.C. 7:25-4.13 and 4.17

Authorized By: Richard T. Dewling, Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 23:2A-1 et seq.

DEP Docket Number: 008-87-03.

Proposal Number: PRN 1987-115.

Submit comments by May 6, 1987 to:

Howard Geduldig, Esq.
Office of Regulatory Services
Department of Environmental Protection
401 East State Street
Trenton, N.J. 08608

The agency proposal follows:

Summary

Pursuant to The Endangered and Nongame Species Conservation Act (the "Act"), N.J.S.A. 23:2A-1 et seq., the Commissioner of the Department of Environmental Protection (the "Department") may by regulation promulgate a list of those indigenous species and subspecies of wildlife determined to be endangered, shall periodically review this list, and may by regulation amend this list. The list was last significantly amended in 1984. On the basis of information relating to populations, distribution, habitat needs, limiting factors and other biological and ecological data reviewed by the Office of Endangered and Nongame Species in the Department and by members of the Endangered and Nongame Species Committee, a committee of experts established at N.J.S.A. 23:2A-7e to advise and assist the Commissioner in carrying out the intent of Act, the following amendments are proposed (see N.J.A.C. 7:25-4.1(a) for definitions of status designations):

1. The loggerhead shrike is added to the list as endangered;
2. The designation of the silvery salamander is changed from undetermined to declining;
3. The designation of the eastern mud turtle is changed from stable to undetermined;
4. Albino specimens of the corn snake are listed separately from other color forms of the species and are designated as stable to allow their entry into commerce; non-albino forms continue to be designated as endangered;
5. The designation of the American bittern is changed from declining to threatened;
6. The designation of the northern goshawk is changed from increasing to threatened and the proper full name is provided;
7. The black rail is added to the list as threatened to correct its erroneous omission from the original list;
8. The designation of the willow flycatcher is changed from stable to increasing;
9. The designation of the migrant population of least flycatcher is changed from stable to declining;
10. The designation of the long-billed marsh wren is changed for stable to declining;
11. The designation of the eastern bluebird is changed from undetermined to stable;
12. The designation of the warbling vireo is changed from declining to stable;
13. The designation of the Tennessee warbler is changed from increasing to stable;
14. The designation of the Cape May warbler is changed from increasing to stable;
15. The designation of the bay-breasted warbler is changed from increasing to stable; and
16. The designation of the blackpoll warbler is changed from increasing to stable.

Social Impact

The adoption of these proposed amendments will have a beneficial social impact. Regular evaluation and revision of the State's endangered species list and nongame status list, when justified on the basis of scientific data, enhances the credibility of both these lists and the State endangered and nongame species program. The reporting of list revisions enhances public awareness and concern for these vital natural resources as well as the opportunity for public participation in such revisions.

Economic Impact

No significant economic impact is anticipated from the adoption of the proposal. Recognition of the albino color form of corn snake as distinct from other color forms and designation of the albino as stable will allow its entry into commerce and should, therefore provide for a limited economic benefit on participants in such commerce.

Environmental Impact

It is anticipated that the increased public confidence in the Department's endangered and nongame species program, by virtue of the Department's regular evaluation of the status and increased public participation in this program (see "Social Impact" above), should help to maintain and enhance the diversity of living natural resources essential for a healthy, stable human environment.

Regulatory Flexibility Statement

A portion of of this regulation would apply to individuals interested in possession of corn snakes. It is estimated that of the total number impacted by this proposal, 200 are "small businesses" as defined in the New Jersey Regulatory Flexibility Act (P.L. 1986, c.169) and will be impacted. The proposal legalizes the entry into commerce of the albino form of corn snake. Because those small businesses electing to enter this trade are most likely already engaged in the trade of other nongame species of wildlife and are, therefore, already subject to the reporting, recordkeeping, and other compliance requirements in connection with trading in nongame species, it is unlikely that this proposal will result in small businesses' having to institute any new procedures or recordkeeping, needing any additional professional services, or experiencing new capital costs or annual costs of compliance. Due to the need to regulate the albino corn snakes, no exemptions from coverage is provided for small businesses.

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

7:25-4.13 List of endangered species

(a) (No change.)

(b) In accordance therewith, the following species are determined to be endangered:

1.-18. (No change.)

19. Loggerhead Shrike, *Lanius ludovicianus*

Renumber existing 19.-34. as **20.-35.** (No change in text.)

7:25-4.17 Defining status of indigenous nongame wildlife species of New Jersey

(a) The following table defines the status of indigenous nongame wildlife species of New Jersey:

...

Key:

- D (declining)
- E (endangered)
- EX (extirpated)
- I (introduced)
- INC (increasing)
- P (peripheral)
- S (stable)
- T (threatened)
- U (undetermined)

AMPHIBIANS	STATUS
...	
Silvery Salamander— <i>Ambystoma platineum</i>	[U]D
...	
REPTILES	
...	
Eastern Mud Turtle— <i>Kinosternon subrubrum</i>	[S]U
...	
Corn Snake— <i>Elaphe guttata</i>	E
Corn Snake (albino specimens)—<i>Elaphe guttata</i>	S
...	
BIRDS (Note: "(b)" means breeds in New Jersey.)	STATUS
...	
American Bittern— <i>Botaurus lentiginosus</i> (b)	[D]T
...	
Northern Goshawk— <i>Accipiter gentilis</i>	[INC]T
...	
Peregrine Falcon[,]— <i>Falco peregrinus</i> (b)	E
Black Rail—<i>Laterallus jamaicensis</i>	T
...	
Willow Flycatcher— <i>Empidonax traillii</i> (b)	[S]INC
...	
Least Flycatcher— <i>Empidonax minimus</i> (b)	
[S(migrant population) D (breeding population)]	D
...	
Long-billed Marsh Wren— <i>Cistothorus palustris</i> (b)	[S]D
...	
Eastern Bluebird— <i>Sialia sialis</i> (b)	[U]S
...	
Loggerhead Shrike— <i>Lanius ludovicianus</i>	[U]E
...	
Warbling Vireo— <i>Vireo gilvus</i> (b)	[D]S

- ... Tennessee Warbler—*Vermivora peregrina* [INC]S
- ... Cape May Warbler—*Dendroica tigrina* [INC]S
- ... Bay-breasted Warbler—*Dendroica castanea* [INC]S
- ... Blackpoll Warbler—*Dendroica striata* [INC]S
- ...

(a)

**DIVISION OF ENVIRONMENTAL QUALITY
Pesticide Control Code
Proposed Amendment: N.J.A.C. 7:30-2.3**

Authorized By: Richard T. Dewling, Commissioner,
Department of Governmental Protection
Authority: N.J.S.A. 13:1B-3, 13:1D-2, specifically, N.J.S.A.
13:1F-4 and 5.
DEP Docket Number: 009-87-03.
Proposal Number: PRN 1987-115.

A public hearing concerning this proposal will be held at 2:00 P.M. on April 28, 1987 at:

Main Conference Room
Bureau of Pesticide Control
380 Scotch Road
West Trenton, N.J. 08628

Submit comments by May 6, 1987 to:
David Bosted, Esq.
Office of Regulatory Services
New Jersey Department of Environmental Protection
CN 402
Trenton, N.J. 08625

The agency proposal follows:

Summary

The Pesticide Control Act of 1971 granted to the Department of Environmental Protection the authority to formulate and promulgate rules and regulations that control the sale, purchase, transportation, labeling, use and application of pesticides which cause or may tend to cause adverse effects on man or the environment. The first regulations adopted to achieve that purpose are those known as N.J.A.C. 7:30-1, or "Subchapter 1—Pesticide Control Regulations."

Since the inception of the Office of Pesticide Control in October, 1971, the process of formulating Subchapter 1 began. The Pesticide Control Council, Department of Agriculture, Department of Health, other states, the pest control industry, private citizens, environmental groups, Rutgers University, the Extension Service, the pesticide industry, and many more concerned groups and individuals had input which shaped the original Subchapter 1. Subchapter 1 was signed by New Jersey Department of Environmental Protection Commissioner on January 18, 1974.

The prohibited and restricted pesticide list contained in the original Subchapter 1 was taken largely from the list drawn up by the State of New York and revised to fit conditions in New Jersey. The purpose of the list was to identify pesticides which by their toxicity or other properties made necessary their sale only to licensed pesticide applicators who had demonstrated the knowledge necessary to safely apply the restricted use pesticides. Subchapter 1 was repealed on December 6, 1982, revised and recodified at N.J.A.C. 7:30-2.3. On November 4, 1985, revisions to N.J.A.C. 7:30-2.3 became effective. The rule has been effective in achieving its intended purpose, but periodic changes in the restricted use list are required when new scientific data is available which supports either a pesticide inclusion on the list or deletion therefrom when the scientific data invalidates the original reason for inclusion.

The Department of Environmental Protection, Office of Pesticide Control is proposing to amend the restricted use pesticide list at N.J.A.C. 7:30-2.3 as follows:

1. The growth regulator pesticide daminozide is added to the list based on the recommendation of the New Jersey Department of Health with the concurrence of the New Jersey Pesticide Control Council.
2. The herbicide alachlor is added to the list based on the recommendation of the Department of Environmental Protection's Office of Science and Research.

3. The insecticide disulfoton at concentrations of two percent or less is deleted from the list based on the recommendations of the Robert Wood Johnson University of Medicine and Dentistry subsequent to a toxicological review of scientific data.

4. The rodenticide brodifacoum at concentrations of .005 percent or less is deleted from the list based on the recommendation of the Robert Wood Johnson University of Medicine and Dentistry subsequent to a toxicological review of scientific data.

The Pesticide Control Council was notified of the proposal by registered mail in August, 1986, to comply with N.J.S.A. 13:1F-8. The Department received no comments on the proposed amendments from the members of the Council.

In addition, omissions in the printed text of the New Jersey Administrative Code are corrected at N.J.A.C. 7:30-2.3(a)6 and 7. The omitted phrases "[[4-chloro-6-(ethylamino)-s-triazine-2-yl]amino]" in (a)6 and "resin strips not restricted" in (a)7 have been included.

Many persons among the general public are environmentally aware and concerned about exposure and/or potential exposure to pesticides. Both daminozide and alachlor are believed to create a risk of tumors. EPA sponsored research data indicates that a daminozide metabolite (UDMH) has been shown to demonstrate oncogenic responses at multiple organ sites in multiple species and strains of animals. UDMH is the breakdown product of daminozide which occurs during the processing or cooking of apple into juice, sauce, cider, and other products. These laboratory test results suggest danger to humans. Lungs, stomach and thyroid cancers were observed in laboratory animals posed to alachlor. The Federal Environmental Protection Agency (EPA) has proposed use restrictions on the pesticide alachlor until further scientific data is provided and evaluated, and has placed daminozide under "special review." Data suggest that the pesticide alachlor poses health and environmental problems through skin contact to the applicator. Applicator exposure is believed to be the most serious potential hazard from alachlor; exposure to flaggers from aerial applications has been identified by EPA as a significant health hazard. Additionally, this pesticide has a potential to contaminate groundwater. If alachlor enters groundwater as a result of spraying on corn, soybeans and other crops, and the groundwater is consumed, tumors may result. By restricting daminozide and alachlor in New Jersey, only certified and registered pesticide applicators will be able to purchase and use these pesticides. By completing the licensing process, the registered applicators have demonstrated the skill and knowledge necessary to correctly apply these pesticides to reduce adverse potential adverse exposure to the public, themselves and the environment.

As for the return to general use status of low concentration products containing disulfoton and brodifacoum, this action will return to the public use valuable pest control products which scientific review indicates present low potential risk to users. EPA has declassified disulfoton and brodifacoum from the federal restricted use list in the low classifications in this proposal, based on its review of existing data, indicating that there is no health threat from use of these products.

Social Impact

A positive social impact will result from the amendments to the list of restricted use pesticides. These changes will better protect the health and safety of those exposed to daminozide and alachlor by regulating the application of these substances. The return to use of low concentration products containing disulfoton and brodifacoum will ease regulatory requirements on their use.

Economic Impact

Approximately half of the apples grown in 1985 in New Jersey (3000 acres) were treated with daminozide. Due to public reaction, farmers voluntarily reduced use to about 10 percent of apples grown in 1986. The majority of these apple growers are already certified pesticide applicators since they use other pesticides classified as restricted use. Those applicators who are not licensed will be required to obtain a license to continue to purchase and use daminozide. The cost of a license is modest. The annual cost of a private applicator license is \$5.00. Commercial applicator licenses cost \$20.00 per year. Thus, the economic impact of restriction should not be significant since continued use of the product is not prohibited, but only limited to application by registered persons. If apple growers choose to voluntarily cease use of the pesticide because of the proposed restriction or continuing controversy surrounding daminozide, the greatest anticipated impact would be in apple production. Some spot seasonal apple shortages could occur as the lengthened storage period resultant from daminozide use would be lost. Consumer apple prices during these periods would be anticipated to rise. Substitutes for daminozide are being investigated by the chemical pesticides industry.

No adverse economic impact is anticipated from the proposed restriction of alachlor. The majority of growers applying this pesticide in New Jersey are already registered applicators. Other unlicensed farmers use or can use registered commercial applicator businesses which are and will be permitted to use alachlor. The option of completing the certification process is also available to allow continued use.

No adverse economic impact is anticipated from the deletion from restricted use classification of low concentrations of disulfoton and brodifacoum. Rather, return of these products to the general public will allow alternative pesticides for efficacious pest control. An expansion of the market for these pesticides will significantly benefit the businesses selling these products in New Jersey.

Environmental Impact

The proposed amendments to the New Jersey restricted use pesticide list should have a positive environmental impact in continuing to allow use of economically beneficial pesticides while limiting the potential risk to the environment if pesticides were misapplied by unlicensed applicators. A pesticide such as alachlor can spread through groundwater if handled carelessly or applied improperly.

Periodic revisions to the restricted use pesticide list ensure that pesticide applicators are regulated based on scientifically documented evidence of potential environmental hazards.

Regulatory Flexibility Statement

This proposal primarily affects apple, corn and soybean farmers who apply the pesticides alachlor or daminozide. If these farmers do not have a license to apply restricted pesticides, they would need to obtain this license or hire a licensed applicator. Virtually all affected farmers and applicators are small businesses with less than 100 employees; therefore, there is no basis for two sets of compliance regulations. Exemption from coverage of the rule is not feasible because it would endanger public health by allowing untrained persons to apply restricted pesticides which have been determined to be potentially harmful if misused. The reduced \$5.00 annual fee for private pesticide applicators minimizes the economic impact on small-scale or family farming operations.

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

7:30-2.3 Restricted use pesticides

(a) The following pesticides are restricted use pesticides which can be purchased and/or used only by certified and registered responsible pesticide applicators or persons working under their direct supervision. Unless it is otherwise provided, all formulations and uses of the following pesticides are restricted use.

1.-5. (No change.)

6. Any herbicides and related materials listed below:

CAS Number	Restricted Pesticides
94-75-7	2,4-Dichlorophenoxyacetic acid (high volatile esters)
7775-09-9	Sodium Chlorate
93-76-5	2,4,5-Trichlorophenoxyacetic acid
50-31-7	2,3,6-Trichlorobenzoic acid and related polychlorobenzoic acids, dimethylamine salts
21725-46-2	2-[[4-chloro-6-(ethylamino)-s-triazine-2-yl]amino]-2-methyl-propionitrile—all concentrations above 30
61-82-5	Amitrole
88-85-7	Dinoseb
7784-46-5	Sodium arsenite
15972-60-8	Alachlor
1596-84-5	Daminozide

7. Any insecticides and related materials listed below:

CAS Number	Restricted Pesticides
75-74-9	Chlordane
62-73-7	2,2-dichlorovinyl dimethyl phosphate—all concentrations above 3%, resin strips not restricted unless so classified by the EPA as referenced in 2 above.
2310-17-0	Phosalone—all concentrations above 12%
56-72-4	0,0-diethyl 0-(3 chloro-4-methyl-2-oxo-2H-1 benzopyran-7-yl) phosphorothioate—all concentrations above 5%
333-41-5	0,0-Diethyl 0-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate—all concentrations above 25%

315-18-4	Mexacarbate—all concentrations above 2%
122-10-1	Dimethyl 3-hydroxylglutaconate dimethyl phosphate—all concentrations above 1%
55-38-9	Fenthion—all concentrations above 0.5%
563-12-1	Ethion—all concentrations above 6% G; 3% all others
114-26-1	O-Isopropoxyphenyl-methylcarbamate—all concentrations above 2%; resin strips not restricted unless so classified by the EPA as referenced in 2 above.
58-89-9	Lindane (Gamma isomer of benzene hexachloride)—all concentrations above 20%
311-45-5	Paraoxon
60-51-5	Dimethoate—all concentrations above 25%
22781-23-3	Bendiocarb—all concentrations above 15%
732-11-6	N-(Mercaptomethyl) phthalimide S-(0,0-dimethyl) phosphorodithioate—all concentrations above 20%
112-56-1	Beta-Butoxy beta'-thiocyano diethyl ether—all concentrations above 10%
2032-65-7	4-(Methylthio)-3,5-xylol methylcarbamate—all concentrations above 2%
919-86-8	Metasystox—all concentrations above 7%
23103-98-2	Pirimicarb—all concentrations above 15%
23505-41-1	Pirimiphos-ethyl—all concentrations above 20%
52-68-6	Dimethyl (2,2-trichloro-1-hydroxyethyl) phosphonate—all concentrations above 15%
390-00-2	Aldrin
60-57-1	Dieldrin
76-44-8	Heptachlor
8001-35-2	Toxaphene
72-20-8	Endrin
2921-88-2	Chlorpyrifos—all concentrations above 15%
7440-38-2	Any inorganic arsenical pesticide not specifically covered elsewhere which has greater than 0.5 ounces of active ingredient
115-29-7	Endosulfan
86-50-0	Azinphos-methyl
298-04-4	Disulfoton—all concentrations above 2%
7681-49-4	Sodium fluoride
8. Any rodenticides and related materials listed below:	
CAS Number	Restricted Pesticides
117-52-2	3-(alpha-acetonylfurfuryl)-4-hydroxycoumarin—all concentrations above 3%
86-88-4	Alpha-Naphthylthiourea—all concentrations above 4%
504-24-5	4-Aminopyridine
535-89-7	2-Chloro-4-(dimethylamino)-6-methylpyrimidine
82-66-6	Diphacinone—all concentrations above 3%
7723-14-0	Phosphorus (yellow, white)
83-26-1	2-Pivalyl-1, 3-indandione—all concentrations above 3%
81-81-2	Warfarin—all concentrations above 3%
28772-56-7	3-[3-(4'-Bromo-[1,1'-biphenyl]-4-yl)-3-hydroxyl-1-phenylpropyl]-4-hydroxy-2H-1-benzopyran-2-one—all concentrations above 0.01%
3691-35-8	2-[(p-Chlorophenyl) phenylacetyl]-1,3-indandione—all concentrations above 0.2% and above.
507-60-8	Red Squill—all concentrations above 30%
1327-53-3	Arsenic Trioxide—all concentrations above 1.5% in products intended for the control of rodents.
56073-10-0	Brodifacoum—all concentrations above 0.005%

NOTE: Chemical Abstract Society (CAS) numbers of 7440-43-9, 7439-97-6, and 7440-38-2 are for the elemental form.

(b) (No change.)

HEALTH

(a)

PUBLIC HEALTH COUNCIL ENVIRONMENTAL HEALTH SERVICES

Chapter IX—State Sanitary Code Public Recreational Bathing

Proposed Amendment: N.J.A.C. 8:26-5.7

Authorized By: Evelyn Geddes, Chairperson, Public Health Council.

Authority: N.J.S.A. 26:1A-7.

Proposal Number: PRN 1987-118.

A public hearing concerning this proposal will be held on May 11, 1987 at 9:30 A.M. at:

New Jersey State Department of Health
Health-Agriculture Building
Commissioner's Conference Room, 8th Floor
John Fitch Plaza
Trenton, NJ 08625

Submit comments by May 11, 1987 to:

Arthur Verpent
Chief, Environmental Services
120 S. Stockton Street
CN 364
Trenton, NJ 08625

The agency proposal follows:

Summary

N.J.A.C. 8:26-5.7(c)1 requires that a lifeguard training program certified by the United States Lifesaving Association (USLA) be established by the owner or operator of ocean and tidal waters bathing beaches. The proposed amendment will defer implementation of this requirement until May 27, 1988. This will allow the department additional time for analysis of the requirement and provide adequate time for compliance by the affected beach owners and operators.

Social Impact

The proposed amendment to N.J.A.C. 8:26-5.7(c)1 will be beneficial to the owner/operators of ocean and tidal beaches in that it will afford sufficient time to implement a program certifiable by the USLA and/or to recommend alternatives for consideration by the Department of Health. During the time that this subsection of the regulation is deferred, the public will still be afforded the protection of trained lifesaving personnel and appliances at bathing beaches as required by N.J.S.A. 26:4A-1.

Economic Impact

The proposed amendment to N.J.A.C. 8:26-5.7(c)1 will have a positive economic impact on the affected industry in that industry will have additional time to comply with the training program requirement.

Regulatory Flexibility Statement

The proposed amendment allows owners and operators of ocean and tidal beaches additional time to comply with N.J.A.C. 8:26-5.7. No new or additional reporting, recordkeeping, or compliance requirements are imposed. Therefore, a regulatory flexibility analysis is not required by the Act.

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

8:26-5.7 Bathing beaches

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

(c) A bathing beach open for use shall establish and post hours of operation and shall be under the management of a designated adult supervisor who is familiar with these regulations and who shall be responsible for all phases of the operation, during said hours, which shall include a reasonable time period, such as 9:00 A.M. to 5:00 P.M., or similar time period, reflecting hours of maximum use.

1. A lifeguard training program certified by the United States Lifesaving Association, Office of Certification, Mid-Atlantic Region, P.O. Box 1, Avon, New Jersey 07717 shall be established by the owner or operator for ocean and tidal waters.

i. The effective date of the provision in 1 above shall be deferred until May 27, 1988.

2.-8. (No change.)

(d) (No change.)

(a)

RESEARCH, POLICY AND PLANNING

Uncompensated Care Trust Fund

Proposed New Rules: N.J.A.C. 8:31B-7

Authorized By: Molly Joel Coye, M.D., M.P.H., Commissioner,
Department of Health (with the approval of the Health Care
Administration Board)

Authority: P.L. 1986, c. 204

Proposal Number: PRN 1987-119

Submit comments and inquiries by May 6, 1987 to:
Scott Crawford, Project Manager
Uncompensated Care Trust Fund
New Jersey Department of Health
CN 360, Room 805
Trenton, NJ 08625-0360

The agency proposal follows:

Summary

The proposed new rules are designed to implement P.L. 1986, c. 204, the New Jersey Uncompensated Care Trust Fund Act, which was signed into law on January 5, 1987. This legislation established the New Jersey Uncompensated Care Trust Fund which will collect and distribute payments to and from hospitals to distribute the cost of charity care and bad debt across all the state's hospitals paid pursuant to Chapter 83 legislation.

N.J.A.C. 8:31B-7.1 states the purposes and functions of the Trust Fund. The rule emphasizes that the Trust Fund is not a payer of care and that uncompensated payments through the trust fund are available to hospitals only after alternative sources of public and private funding for uncompensated care have been identified and appropriate efforts have been made to collect from them.

As established in the New Jersey Uncompensated Care Trust Fund Act, the Trust Fund is authorized to collect and transmit payments to and from hospitals; to collect payments to repay start-up and reserve monies appropriated by the State Legislature; and to collect payment for the administration of the Trust Fund including applicable data collection and analysis, and the development and implementation of an improved audit.

N.J.A.C. 8:31B-7.2 provides definitions of terminology used throughout the subchapter.

N.J.A.C. 8:31B-7.3 specifies how the Uniform Statewide Uncompensated Care Add-on is determined. This section identifies the source for the factors that go into the Statewide Add-on. It further stipulates the timing and mechanism for restoring the Trust Fund reserve; the treatment of interest accruing to the benefit of the Trust Fund; and the timing for inclusion of costs for administering the Trust Fund and related activities.

N.J.A.C. 8:31B-7.4 specifies that all payments to and from the Trust Fund shall be made via automated clearing house by electronic fund transfer. Payments from hospitals are required by the statute to be made on the last working day of each month. Payments from the Trust Fund will normally be made on the 15th of each month or the next working day if the 15th is not a working day.

N.J.A.C. 8:31B-7.5 defines delinquent payments as insufficient funds in a hospital account which is accessible to the Department on the scheduled day of the transfer via automated clearing house. This section also establishes penalties for delinquent payments. The schedule of penalties uses the same time frames as the prompt pay discount under the Chapter 83 system. In addition, after 45 days the Department may recommend to the Commission that the uncompensated care add-on be removed from the hospital's rates until payment is received. The amount of these penalties may not be recovered from either the Uncompensated Care Trust Fund or the Chapter 83 system.

N.J.A.C. 8:31B-7.6 identifies various written documents regarding the provision of uncompensated care that must be provided to the Department on an annual basis. The Commission is given the authority to reduce a hospital's uncompensated care amount if the hospital fails to submit the information, or if the policy documents are inadequate, inappropriate or inconsistently enforced.

N.J.A.C. 8:31B-7.7 provides for uncompensated care audits pursuant to the Chapter 83 rules (8:31B-4.38 through 4.40). This section will be amended and strengthened at a later date.

The New Jersey Uncompensated Care Trust Fund Act mandates that the Commission may require hospitals that are engaging in inefficient and inappropriate provision of care to submit a cost reduction plan.

N.J.A.C. 8:31B-7.8 lays out a list of some criteria that would be used to determine whether care is being rendered in an inefficient or inappropriate manner. It also develops a time table for the submission and review of a cost reduction plan and specifies the responsibilities of the Department, the Commission and the hospital.

Social Impact

The proposed new rules implement a recently enacted statute establishing the New Jersey Uncompensated Care Trust Fund. Much of the impact of these rules is more directly attributable to the statute. The Trust Fund is designed to make the current system of paying for uncompensated care more equitable by spreading out the amounts collected through the Chapter 83 system among all hospital's rates. This allows hospitals that traditionally provide a high proportion of uncompensated care to compete more effectively for business from price conscious paying patients without having to worry about access issues.

The rules seek to assure private and governmental payers of care that their funds are being spent for services that are appropriate, effective, reasonably priced and verifiable through audit. It states a societal consensus that the legitimate cost associated with charity care and bad debt is to be paid by those paying for hospital care.

Economic Impact

The Uncompensated Care Trust Fund rules will have minimal system-wide economic impact. The Trust Fund does not provide new funding for uncompensated care services; it merely alters the way payments are collected and distributed.

The rates of hospitals with a high proportion of charity care and bad debt will be reduced because these hospitals will collect the average percentage of uncompensated care costs through the rates and receive the balance through the Trust Fund. Hospitals with a low proportion of uncompensated care will have higher rates than before because their uncompensated care add-on will increase to the average and they will pay the excess beyond their requirements to the Trust Fund. Twenty-nine hospitals will receive payments from the Fund and 60 will pay into the Trust Fund during the first six months.

The add-on will include costs of the Department of Health's administration of the Fund; research into alternatives to the Trust Fund, as required by law; and audits of hospital's uncompensated care reports. These activities are directed to reduce future amounts of uncompensated care. The rate add-on will be reduced by the amount of interest accrued by the Trust Fund.

Regulatory Flexibility Statement

The Department of Health has determined that the proposed rules affect only the 89 hospitals whose rates are established by the Hospital Rate Setting Commission. All but one of these hospitals each employ more than 100 full-time employees and therefore do not fall into the category of small businesses as defined in Section 2 of the New Jersey Regulatory Flexibility Act (P.L. 1986, c.169).

Most sections of the proposed new rules do not add reporting, recordkeeping or other compliance requirements. N.J.A.C. 8:31B-7.6 requires annual submission of several written documents to the Department. These documents should be available already in most cases and should not cause an undue burden on that one hospital.

Consistent application of these rules is necessary to preserve the public health by ensuring access to hospital services for the medically indigent.

Full text of the proposed new rule follows:

SUBCHAPTER 7. UNCOMPENSATED CARE TRUST FUND

8:31B-7.1 Purpose

(a) The Uncompensated Care Trust Fund is established to ensure equitable and appropriate collection and distribution of payment for uncompensated hospital care and thereby to protect the fiscal solvency of the State's general hospitals, and to ensure that residents who cannot pay for needed hospital care have equal access to such care. The Uncompensated Care Trust Fund is not a payer of care

(b) The intent of the Trust Fund is to collect and distribute payments made to hospitals by payers of care for bad debt and charity care for which no other source of payment is available. Hospitals are required

to make a good faith effort to identify all possible sources of public and private funding and to secure all available and appropriate payments from these sources before allocating costs for bad debt and charity care to uncompensated care.

(c) The Uncompensated Care Trust Fund has the following functions:

1. To calculate the appropriate uncompensated care add-on to hospital rates;
2. To collect from and transmit payments to hospitals for uncompensated care for a current rate year. No year end reconciliation for any year will be carried out through the Trust Fund;
3. To collect through hospital rates in order to repay any money appropriated to the Fund from the State Treasury; and
4. To collect from hospitals to pay for the administration of the Trust Fund. This includes:
 - i. Administration of the Trust Fund Advisory Committee;
 - ii. Research into causes of and solutions to uncompensated care;
 - iii. Development of strengthened uncompensated care auditing procedures.

(d) Sources of public and private payment shall include but not be limited to any revenue paid to the hospital in excess of what would have been paid pursuant to the New Jersey Chapter 83 system.

(e) Payments from the Trust Fund are not intended to constitute payments to or on behalf of individuals for the purpose of determining individual or dependent eligibility for public programs or assistance.

8:31B-7.2 Definitions

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

"Commission" means the Hospital Rate Setting Commission established pursuant to Section 5 of P.L. 1978, c. 83 (N.J.S.A. 26:2H-4.1).

"Commissioner" means the Commissioner of the State Department of Health.

"Hospital" means a general acute care hospital whose schedule of rates is approved by the Commission pursuant to Section 11 of P.L. 1978, c. 83 (N.J.S.A. 26:2H-18.1).

"Payer" means a governmental or non-governmental third-party payer or any purchaser of hospital services whose hospital reimbursement rates are established by the Commission.

"Statewide amount of uncompensated care" means the sum of the hospital-specific amounts of approved uncompensated care in all hospitals.

"Uncompensated Care Trust Fund Reserve" means an amount equal to 1/12 of the fund's total estimated annual payment for uncompensated care costs for the prior calendar year, except that during the first year of the fund the reserve shall be equal to 1/12 of the estimated annual payment for uncompensated care costs for the current calendar year.

8:31B-7.3 Determination of uniform statewide uncompensated care add-on

(a) The statewide uncompensated care add-on shall be determined by dividing:

1. The statewide amount of approved uncompensated care; plus an amount adequate to repay any direct appropriation of State funds; plus an amount to fund the reasonable cost of administering the fund; plus an amount to maintain the Trust Fund reserve, by

2. The statewide amount of approved revenue for all payers and approved revenue for medically indigent persons minus the statewide amount of approved uncompensated care.

(b) The statewide amount of approved uncompensated care and the statewide amount of approved revenue for all payers shall be determined prior to January 1 of each year and July 1 of each year from the most recent reliable aggregate group of hospital Chapter 83 actuals and rate reports available as determined by the Department.

(c) Any payments from the Trust Fund reserve made during the calendar year shall be restored through the Trust Fund during the following one calendar year period. The uncompensated care add-on shall be calculated so that the entire appropriation of \$15,000,000 is restored by the end of the calendar year 1988.

(d) Any interest payments credited to the benefit of the Trust Fund shall be used to reduce the amount of the uniform statewide uncompensated care add-on for the next period, except that, prospectively estimated interest to accrue for the period July 1 through December 31, 1988 shall be used to reduce the amount of the uniform statewide uncompensated care add-on for that period.

(e) Costs for administering the fund and for related research activities shall be included in the uniform statewide uncompensated care add-on on a current basis.

8:31B-7.4 Payments of Hospital and Trust Fund

(a) Payments to the Trust Fund shall be made on the last banking day of the month through an automated clearing house by electronic fund transfer or in any other method specified by the Commissioner.

(b) Payments from the Trust Fund shall be made on the 15th day of each month through an automated clearing house or any other method specified by the Commissioner. If the 15th day of the month falls on a weekend or holiday, payment shall be made on the first banking day after the 15th.

8:31B-7.5 Delinquent payments

(a) Payments to the Trust Fund are delinquent if there are insufficient funds in the hospital's account which is accessible to the Department by automated clearing house or other method specified by the Commissioner to pay the hospital's required payment to the Trust Fund on the last working day of the month, or if the hospital fails to provide access to an account.

(b) The penalty for any delinquent payments shall be one percent of the amount owed. The penalty will rise to two percent after 15 days, three percent after 30 days, four percent after 60 days and five percent after 90 days. After 45 days, the Department may recommend to the Commission that the delinquent hospital's rates be reduced by the amount of the uniform statewide uncompensated care add-on until all delinquent payments are received by the Department. After all delinquent payments are received, the statewide add-on may be returned to the hospital's rate by the Commission. Uncompensated Care revenues for the period when the add-on was removed will be collected through the hospital's rates not through the Trust Fund.

(c) Penalties within the stated limits shall be implemented by the Commission. Hospitals may not recover the amount of penalties from either the Uncompensated Care Trust Fund or the Chapter 83 system.

8:31B-7.6 Documentation requirements

(a) Each hospital shall submit annually, or at longer intervals at the discretion of the Department, two copies of the following written state memos to the Department in a format provided by the Department:

1. The hospital's written materials for informing individuals about its charity care policy and governmental medical aid programs including but not limited to, Chapter 83, Hill-Burton program, Medicaid, including the Medically Needy program, and Public Welfare. The written material shall include, but not be limited to, any documents given to patients written instructions for hospital personnel who determine charity care eligibility, any forms used in the eligibility determination process and the criteria used by the hospital to determine eligibility for charity use.

2. A written statement signed by the Chief Executive Officer outlining the hospital's procedures for:

- i. Determining eligibility for charity care or insurance coverage/ability to pay;
- ii. Verifying charity care eligibility or insurance coverage;
- iii. Following appropriate collection procedures; and
- iv. Determining whether to write off accounts.

3. A written statement signed by the Chief Executive Officer outlining the hospital's policies on providing charity care without respect to race, color, national origin, creed or any other ground unrelated to the individual's need for the service or the availability of the needed service, and the hospital's written patient appeals process regarding refusal to provide charity care.

4. A written statement signed by the Chief Executive Officer indicating that the hospital is not submitting unpaid items including, but not limited to, medical denials, courtesy adjustments (discounts), and unpaid Medicaid deductible and coinsurance items as uncompensated care.

5. A written statement from the Chief Executive Officer that the hospital is applying its charity care and bad debt criteria consistently and equitably.

(b) The information required under (a) above shall be submitted to the Department annually by December 1.

(c) The hospital's written statements submitted pursuant to this section shall remain in effect throughout the rate year unless the hospital informs the Commission of any changes to the policies at least 30 working days prior to implementation of the change and receives the Commission's approval for such change.

(d) The Commission may reduce a hospital's uncompensated care approved revenue if:

1. The hospital has failed to submit the required information on a timely basis; or

2. The Commission finds that the hospital's policies are inadequate or inappropriate when judged against the charity care and bad debt credit and collection requirements of N.J.A.C. 8:31B-4.38 through 4.40, and the requirements of N.J.A.C. 8:31B-7.7; or

3. The Commission finds that the hospital failed to implement its policies consistently and equitably or failed to follow its policies as submitted to the Commission without advance notice to and approval of the Commission.

8:31B-7.7 Audit

Uncompensated care audits shall be conducted pursuant to N.J.A.C. 8:31B-4.38 through 4.40.

8:31B-7.8 Cost reduction plans

(a) The Commission shall ensure that uncompensated care services financed through the Uncompensated Care Trust Fund are provided in the most appropriate and cost-effective manner which the Commission determines hospitals can reasonably be required to achieve. Criteria to define when a hospital is failing to engage in efficient and appropriate provision of care shall include but not be limited to the following:

1. Appropriateness criteria:
 - i. Presence of an effective triage system in the emergency room or other entry point into the ambulatory care services;
 - ii. Presence of an effective patient tracking and information system;
 - iii. Presence of a utilization review system for ambulatory care designed to prevent inappropriate or excessive visits;
 - iv. Presence of a system of patient management that assures appropriate ambulatory care referrals and services in the hospital and refers patients to non-hospital ambulatory providers when appropriate; and
 - v. Evidence of good faith effort to establish an appropriate relationship with primary care provider(s) outside the hospital for referral of patients needing primary care.

2. Efficiency criteria:
 - i. Presence of an effective screening and billing system to identify third party coverage, to classify patients correctly as charity care or self pay, and to maintain records which distinguish accounts by inpatient/outpatient and bad debt/charity care;
 - ii. Demonstration of effective collection efforts for non-charity care uninsured patients and third party insurers;
 - iii. Care is provided to uninsured patients in efficiently managed settings;
 - iv. The price of ambulatory services to the uninsured is reasonable and consistent with the type of services provided.
3. Additional criteria may be determined prospectively by the Commission.

(b) Based on the criteria in (a) above, the Commission will evaluate the Department's request for the Commission to issue an order for a hospital to submit a cost reduction plan. If ordered by the Commission, and unless otherwise stipulated by the Commission, the hospital must submit the cost reduction plan to the Commission within 30 working days of the issuance of the order. At the same time, copies of the cost reduction plan must be sent to the Department and the Public Advocate's office.

(c) The Department will review the hospital's cost reduction plan for compliance with the Commission's order and make a recommendation to the Commission on whether to accept the plan. The Commission will review the cost reduction plan and the Department's recommendation and decide to:

1. Accept the plan;
2. Accept the plan with modifications;
3. Direct that the hospital revise the plan; or
4. Reject the plan.

(d) The Commission will establish a timeframe not to exceed 90 days for the initial implementation of the activities required under each cost reduction plan. The Commission may reduce a hospital's uncompensated care amount in accordance with its order if:

1. The hospital fails to submit a cost reduction plan within the specified timeframe;
2. The Commission rejects the cost reduction plan for failure to comply with the Commission's order; or
3. The Commission finds that the hospital has not taken appropriate action to implement the cost reduction plan within the stated timeframes.

(a) The Department will monitor the hospital's implementation of the cost reduction plan. The hospital shall provide any information determined by the Department to be relevant to this monitoring function. The hospital shall report semi-annually to the Commission on the implementation of the cost reduction plan. Copies of the report shall be provided to the Department and the Public Advocate's office.

(f) At any time after the initial semi-annual report, the Department or the hospital may return to the Commission for a new or revised order for a cost reduction plan.

(g) The Commission may order the termination of a cost reduction plan upon a finding that the hospital is no longer engaging in inefficient and inappropriate provision of care.

(h) Reductions approved pursuant to (d) above shall be effective for the rate year for which the plan was ordered and for subsequent rate years until a plan is approved by the Commission.

(a)

NARCOTIC AND DRUG ABUSE CONTROL

Controlled Dangerous Substances: Preparations Containing both Tiletamine and Zolazepam

Proposed Amendment: N.J.A.C. 8:65-10.3

Authorized By: Molly Joel Coye, M.D., M.P.H., Commissioner,
Department of Health.

Authority: N.J.S.A. 24:21-3.

Proposal Number: PRN 1987-97.

Submit comments by May 6, 1987 to:
Lucius A. Bowser, R.P., M.P.H.
Chief, Office of Drug Control
CN 362
Trenton, New Jersey 08625-0362
(609) 984-1308

The agency proposal follows:

Summary

The Department of Health proposes to amend the schedules of the Controlled Dangerous Substances Act to add preparations that contain both Tiletamine and Zolazepam in equal weights into Schedule III. Each ingredient is a Schedule I substance, but the combination of equal weights of the two Schedule I substances has an addiction liability less than that in Schedule I, and the combination product has been issued a new animal drug application approval from the U.S. Food & Drug Administration. The Drug Enforcement Administration issued a final rule placing this combination product into Schedule III of the Federal Controlled Substances Act, published in the Federal Register at 52 FR 2221, January 21, 1987, effective February 20, 1987. This amendment will conform the State schedules with Federal regulations.

The Tiletamine in the combination is a chemical analog of phen-cyclidine and has pharmacological properties similar to that Schedule II substance, while Zolazepam is a chemical analog of Schedule IV substance benzodiazepine and produces at least some of the effects of that substance.

Social Impact

The proposed amendment of the controlled dangerous substances schedules to include this newly approved new animal drug will permit domestic marketing of products formulated with Tiletamine and Zolazepam for veterinary use. It will not dramatically impact on the availability of this combination product for humans, as it is marketed solely for animal medication.

Economic Impact

The proposed addition to Schedule II of products combining Tiletamine and Zolazepam in equal weights will have an economic impact on veterinarians allowed to use this newly approved depressant drug in veterinary practice. There will be no economic impact on other medical practitioners since the drug will not be available for human use. There will be some economic impact on pharmacies who begin to stock the medication for veterinarian availability. As a Schedule III drug, refills will be permitted for a period of up to six months, or five refills, without the need for a written prescription by a veterinarian. Bookkeeping and security requirements will conform to existing regulations for other Schedule III drugs.

Regulatory Flexibility Statement

Pursuant to Section 4, P.L. 1986, ch. 169, the Department of Health finds that this proposal does not affect small businesses since it will not result in any change in existing reporting, recordkeeping, or other compliance requirements for small businesses.

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

8:65-10.3 Controlled dangerous substances; Schedule III

(a) (No change.)

(b) The following is Schedule III listing the controlled dangerous substances by generic, established or chemical name and the controlled dangerous substances code numbers:

1. (No change.)

2. Depressants: Unless specifically excepted or unless listed in another Schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system.

i.-iv. (No change.)

v. Tiletamine and zolazepam or any salt thereof 7295

(1) **Some trade or other names for a tiletamine-zolazepam combination product: Telazol. Some trade or other names for tiletamine: 2-2-(2-thienyl)-cyclohexanone. Some trade or other names for zolazepam: 4-(2-fluorophenyl)- 6, 8-dihydro-1, 3, 8-trimethylpyrazolo-[3,4-3] [1,4] diazepin-(1H)-one. Flupyrzapon.**

3. (No change.)

HIGHER EDUCATION

For the following proposals, submit comments by May 6, 1987 to:

Grey J. Dimenna, Esq.
Administrative Practice Officer
Department of Higher Education
225 West State Street
CN 542
Trenton, NJ 08625

(a)

STUDENT ASSISTANCE BOARD

Garden State Scholars Eligibility Requirements

Proposed Amendment: N.J.A.C. 9:7-4.1

Authorized By: Student Assistance Board, M. Wilma Harris,
Vice Chairperson.

Authority: N.J.S.A. 18A:71-26.12.

Proposal Number: PRN 1987-111.

The agency proposal follows:

Summary

The proposed amendment provides for the acceptance of the American College Testing (ACT) Program scores in the determination of student eligibility for the Distinguished Scholars Program when the Scholastic Aptitude Test (SAT) scores are not available. The ACT scores are currently accepted for the Garden State Scholarship Program and the proposed amendment would extend this same provision to the Distinguished Scholars Program.

Social Impact

Historically, ACT scores were used primarily by postsecondary institutions in other regions of the country. Currently, however, there are 37 New Jersey colleges and universities that accept ACT scores in their admissions process. New Jersey residents who are applying to out-of-state institutions that require submission of ACT scores can be considered for nomination as Distinguished Scholars under the provisions of the proposed amendment. New Jersey institutions will be able to recruit these high achieving students through the Distinguished Scholars Program.

Economic Impact

The proposed amendment will have no economic impact on the funding for the Distinguished Scholars Program since the number of awards will not increase beyond already established projections. The amendment provides for more flexibility in the method of selection and qualification.

Regulatory Flexibility Statement

This proposed amendment does not require a regulatory flexibility analysis since the amendment does not impose any requirements on small businesses.

The proposal only provides for greater flexibility in the selection and qualification of students receiving Distinguished Scholarship awards.

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

9:7-4.1 Eligibility requirements

(a) (No change.)

(b) Distinguished Scholarship recipients must meet the academic requirements as defined by the Student Assistance Board. The academic requirements shall include secondary school ranking in the graduating class and/or a combination of the secondary school ranking and combined Scholastic Aptitude Test (SAT) scores. **Where SAT scores are not available, the appropriate equivalent from the American College Testing (ACT) Program may be used.** Each year the Student Assistance Board shall determine and publicize the actual academic requirements prior to the distribution of awards. Such scholarships may be awarded on the basis of indicators of academic merit defined by the Board, without consideration of financial need, and must satisfy the requirements as stipulated in N.J.A.C. 9:7-2.9. Distinguished Scholarship recipients must attend an eligible New Jersey institution and may be eligible to receive a Garden State Scholarship or an Educational Opportunity Fund Grant. Distinguished Scholarship recipients will be selected without regard to their course of study and awards will not be limited by institutions. Distinguished Scholarships are renewable for up to four or five years, depending upon the course of study and providing the student continues to achieve satisfactory academic progress. Eligible scholars may receive assistance under the Tuition Aid Grant Program.

(c) (No change.)

(b)

HIGHER EDUCATION ASSISTANCE AUTHORITY

PLUS Loans

Capitalization of Interest

Proposed Amendment: N.J.A.C. 9:9-3.5

Authorized By: New Jersey Higher Education Assistance

Authority, Jerome Lieberman, Chairman.

Authority: N.J.S.A. 18A:72-10.

Proposal Number: PRN 1987-120.

The agency proposal follows:

Summary

The Higher Education Assistance Authority is the State agency responsible for the administration of the Parent Loans to Undergraduate Students (PLUS) program in New Jersey. The PLUS program is a Federal program under which parents and independent students may obtain educational loans to attend post-secondary institutions. A recent change in Federal legislation governing the PLUS program allows for capitalization of interest accruing on such loans to occur quarterly. The current regulation provides for such capitalization no more frequently than semi-annually. The proposal seeks to change the current requirement to match the standard set forth in the Federal legislation. The proposal also eliminates the distinction in capitalization of interest of those borrowers who obtained PLUS loans prior to January 1, 1984.

Social Impact

The proposed amendment could serve to make PLUS loans a less attractive form of financial aid as the effect of the proposal could be to increase the interest paid on such loans.

Economic Impact

The proposed amendment could result in higher interest costs to PLUS borrowers. As the proposal gives lending institutions the option of capitalizing PLUS loan interest on a quarterly as opposed to semi-annually basis, those lending institutions which choose to capitalize interest on a quarterly basis will be creating greater interest costs for such PLUS borrowers.

The proposal will also allow lending institutions to capitalize interest for those borrowers who currently have PLUS loans and have interest capitalized on an annual or semi-annual basis.

Regulatory Flexibility Statement

This proposal does not require a regulatory flexibility analysis since the amendment does not impose any requirements on small businesses. The proposal only gives lending institutions participating in the PLUS program the option of capitalizing interest on PLUS loans no more frequently than on a quarterly basis as opposed to the current semi-annual basis.

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

9:9-3.5 Capitalization of accrued interest

(a) For PLUS loans insured under a guarantee agency program, a lender may add accrued interest and unpaid insurance premiums to the borrower's unpaid principal balance according to the institution's own billing cycle but in no case more frequently than on the [semi-annual] **quarterly** basis.

(b) This section shall be effective for all PLUS loans made on or after [January 1, 1984] **July 6, 1987**. For all PLUS loans made prior to [January 1, 1984] **July 6, 1987**, this section shall only be applicable upon the written consent of the borrower.

(a)

BOARD OF DIRECTORS OF THE EDUCATIONAL OPPORTUNITY FUND

Financial Eligibility for Undergraduate Grants

Proposed Amendment: N.J.A.C. 9:11-1.5

Authorized By: Board of Directors of the Educational

Opportunity Fund, T. Edward Hollander, Chairman.

Authority: N.J.S.A. 18A:71-33.

Proposal Number: PRN 1987-110.

The agency proposal follows:

Summary

The Educational Opportunity Fund Program is a program whereby educationally and economically disadvantaged individuals may receive financial aid and other educational support services while attending college. The proposed revisions raise the income eligibility criteria for participation in the EOF Program. This represents the first revision to the income ceiling since 1982. In effect, the proposed revisions update the eligibility criteria for the program.

The proposed revisions increase the income ceiling by "two levels," from \$12,000 to \$15,000 for dependent students (household size 2), and from \$4,200 to \$9,060 for independent students (family size 1), along with increments for each additional household/family member. The increments are based upon the Standard Maintenance Allowance (SMA) for dependent students, and the Independent Student Allowance (ISA) for independent students as determined annually by the College Scholarship Service. Additionally, with the proposed increases the board is recommending a reduction in the discretion for admission of over-income students from the current 20 percent to 10 percent.

Social Impact

Since the program's inception in 1968, there have been only minor adjustments to the eligibility criteria; consequently, the income ceilings failed to keep pace with changes in family income in the State. As a result, it appears that many families who meet the spirit and intent of the original legislation were being excluded from the program. This is supported by numerous studies conducted by the Department, as well as from evidence supplied by participating institutions and the public. The proposed revisions update the income eligibility criteria to reflect changes in the State's economy and recognize what it is to be low-income in New Jersey in 1987. The proposed revisions will enable the program to continue to offer higher educational opportunities to disadvantaged citizens of New Jersey consistent with the spirit and intent of the original legislation.

Economic Impact

Increasing the income eligibility criteria will extend program eligibility to a number of deserving students who were previously excluded from participation. Based upon enrollment projections, the number of students admitted through the over-income discretion, criteria to identify students with backgrounds of historical poverty and under-utilization of student allocations by many institutions, it is anticipated that any enrollment increase can be absorbed within the student allocation.

Regulatory Flexibility Statement

This proposal does not require a regulatory flexibility analysis since the amendment does not impose any requirements on small businesses.

The proposal only sets forth requirements for eligibility to participate in the Educational Opportunity Fund Program, a program for educationally and economically deprived college students.

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

9:11-1.5 Financial eligibility for undergraduate grants

(a) A dependent student is financially eligible for an initial E.O.F. grant if the gross income of his or her parent(s) or guardian(s) does not exceed the applicable amount set forth below in the E.O.F. Income Eligibility Scale, and said parent(s) or guardian(s) cannot contribute more than \$625.00 toward educational expenses as determined by the College Scholarship Service, Uniform Methodology. Where the dependent student's parent(s) or guardian(s) are receiving welfare as the primary means of family support, the student is presumed to be eligible without regard to the amount of primary welfare support.

1. E.O.F. Dependent Student Eligibility Scale:

Applicants With a Household of:	Gross Income (Not to Exceed):
2[-3] persons	\$[12,000] 15,000
[4]3	[13,670] 17,010
[5]4	[15,340] 19,020
[6]5	[16,820] 21,030
[7]6	[18,300] 23,040
[8]7	[19,780] 25,050

[For each additional member of the household, \$1,480 shall be added to this amount in order to determine eligibility for E.O.F.]

2. For each additional member of the household, an allowance of **\$2,010 shall be added to this amount in order to determine eligibility for E.O.F. for the 1987-88 Academic Year. This allowance shall be adjusted annually to reflect changes in the Standard Maintenance Allowance as published by the College Scholarship Service. In addition, the gross income level for each household size also shall be adjusted to reflect the change in the annual Standard Maintenance Allowance.**

3. The E.O.F. Executive Director shall annually inform institutions of adjustments to the Income Eligibility Scale, in accordance with the Standard Maintenance Allowance published by the College Scholarship Service.

(b) (No change.)

(c) An independent student is financially eligible for an E.O.F. grant if the gross income of his or her parent(s) or guardian(s) does not exceed income limits set forth for dependent students.

1. [Do not add the] An independent student's income is **not to be added** to that of his or her parent(s) or guardian(s)[. Consider] **but the two incomes should be considered separately.**

2.-4. (No change.)

5. Independent students who have attained the age of [25] **24** are required to provide verification of their household income only.

(d) An independent student is financially eligible for an E.O.F. grant providing his or her gross annual income (including spouse) for the calendar year prior to the academic year for which aid is requested and the calendar year during which aid is received does not exceed the following schedule:

1. [\$4,200 for a single student (household size-1)] **\$9,060 family size (including student) 1;**

2. [\$5,500 for a married student, no other dependents (household size-2)] **\$10,740 family size (including spouse) 2;**

3. [\$6,600 for a student with one additional dependent, but no spouse (household size-2)] **\$12,420 family size (including spouse) 3;**

4. [\$7,000 for a student with two additional dependents (household size-3)] **\$14,010 family size (including spouse) 4;**

5. [Add \$1,480 for each additional dependent to a maximum of the income limit set for dependent students.] **Add \$1,680 for each additional dependent. This amount should be adjusted annually to reflect changes in the Independent Student Allowance as published by the College Scholarship Service.**

6. (No change.)

(e) Where there is evidence that strict adherence to the maximum income eligibility cut-offs will not serve the purpose of the E.O.F. Program, the campus E.O.F. director may admit up to a maximum of [20] 10 percent of the annual freshmen class under a waiver pursuant to the provisions of this section. Students admitted under this provision must meet one of the following criteria:

1.-5. (No change.)

(f) (No change.)

(g) **When making awards that exceed 10 percent of the annual freshman class, permission must be granted by the Executive Director of the E.O.F. Program.**

HUMAN SERVICES

DIVISION OF PUBLIC WELFARE

The following proposals are authorized by Drew Altman, Ph.D., Commissioner, Department of Human Services.

Submit comments by May 6, 1987 to:

Audrey Harris, Director
Division of Public Welfare
CN 716
Trenton, New Jersey 08625

(a)

Assistance Standards Handbook Increase in AFDC Allowance Standards and Legally Responsible Relative Schedule Proposed Amendments: N.J.A.C. 10:82-1.2, 2.13, and 5.11

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

Proposal Number: PRN 1987-126.

The agency proposal follows:

Summary

The Department of Human Services is proposing to increase Aid to Families with Dependent Children (AFDC) payment standards by five percent. The five percent increase in AFDC standards is being proposed to provide a basic level of support, while giving recognition to increases in the cost of living. Tables and schedules directly related to AFDC payment standards are also being proposed for revision to reflect the five percent increase.

Social Impact

The increase in AFDC payments will provide recipient families with assistance benefits more closely approximating need. This will improve the ability of AFDC recipient parents to provide for the needs of the children for whom this aid is intended.

Economic Impact

The total cost of the increase in AFDC standards is estimated for Fiscal Year 1988 to be \$29.0 million. The Federal government share is estimated at \$14.3 million. The State and county shares of this cost are estimated to be \$11.0 million and \$3.7 million, respectively.

Regulatory Flexibility Statement

This proposal has been reviewed with regard to the Regulatory Flexibility Act, P.L. 1986, c.169, effective December 4, 1986. This rulemaking imposes no compliance requirements on small businesses as the AFDC program is administered by county welfare agencies.

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

10:82-1.2 Schedule of allowances

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

(c) Public Assistance Allowance Standards AFDC Program.

Schedule I AFDC-C AFDC-F	Number in Eligible Unit	Schedule II AFDC-N
\$[154] 162	1	\$[103] 108
[307] 322	2	[205] 215
[404] 424	3	[269] 283
[465] 488	4	[310] 325
[526] 552	5	[351] 368
[527] 616	6	[391] 411
[648] 680	7	[432] 453
[709] 744	8	[473] 496
[770] 808	9	[513] 539
[831] 872	10	[554] 581
Add \$[61] 64 each person	more than 10	Add \$[41] 43 each person

(d) AFDC eligibility shall not exist for any month if the total income of the eligible unit exceeds the amount indicated in Schedule III for the appropriate eligible unit size and program segment. For this purpose, total income shall include all income of the eligible unit (without benefit

of the disregards in N.J.A.C. 10:82-4.4 or 4.5) including the income of stepparents and alien sponsors determined available to the eligible unit in N.J.A.C. 10:82-2.9 and 3.13. Total income includes the earned income of the AFDC children except for earnings disregarded by provisions of N.J.A.C. 10:82-4.7(g). Child support payment, except for the first \$50.00 monthly current child support received on behalf of the eligible unit, whether received directly by the household or collected through the CSP process, shall be counted in the determination of total income. See N.J.A.C. 10:82-2.13(f) for companion cases.

1. The AFDC grant shall not be considered as income for this purpose.
2. Funds exempted under N.J.A.C. 10:82-1.7 and 3.2(b)6 through 10 and monies disregarded under N.J.A.C. 10:82-4.6 shall not be considered income for this purpose.

Schedule I AFDC-C AFDC-F	Schedule III Maximum Income Levels Number in Eligible Unit	Schedule II AFDC-N
\$[285] 300	1	\$[191] 200
[568] 596	2	[379] 398
[747] 784	3	[498] 524
[860] 903	4	[574] 601
[973] 1021	5	[649] 681
[1086] 1140	6	[723] 760
[1199] 1258	7	[799] 838
[1312] 1376	8	[875] 918
[1425] 1495	9	[949] 997
[1537] 1613	10	[1025] 1075
Add \$[113] 118 each person	More than 10	Add \$[76] 80 each person

10:82-2.13 Companion cases

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

(e) When any member of the eligible unit has income, earned or unearned, proceed as follows:

1.-2. (No change.)

3. Deduct the total income from the total allowance to determine the adjusted allowance (and grant) for the eligible unit.

Per Capita Table for Companion Cases

[Total Eligible Unit	Number in -C or -F Segment								
	1	2	3	4	5	6	7	8	9
2	\$154								
3	135	269							
4	116	233	349						
5	105	210	316	421					
6	98	196	293	391	489				
7	93	185	278	370	463	555			
8	89	177	266	355	443	532	620		
9	86	171	257	342	428	513	599	684	
10	83	166	249	332	416	499	582	665	748
Total Eligible Unit	Number in -N Segment								
2	\$103								
3	90	179							
4	78	155	233						
5	70	140	211	281					
6	65	130	196	261	326				
7	62	123	185	247	309	370			
8	59	118	177	237	296	355	414		
9	57	114	171	228	285	342	399	456	
10	55	111	160	222	277	332	443	443	499

Total Eligible Unit	Number in -C or -F Segment								
	1	2	3	4	5	6	7	8	9
2	\$161								
3	141	283							
4	122	244	366						
5	110	221	331	442					
6	103	205	308	411	513				
7	97	194	291	389	486	583			
8	93	186	279	372	465	558	651		
9	90	180	269	359	449	539	628	718	
10	87	174	262	349	436	523	610	698	785

Total Eligible Unit	Number in -N Segment								
	1	2	3	4	5	6	7	8	9
2	\$108								
3	94	189							
4	81	163	244						
5	74	147	221	294					
6	69	137	206	274	343				
7	65	129	194	259	324	388			
8	62	124	186	248	310	372	434		
9	60	120	180	240	299	359	419	479	
10	58	116	174	232	291	349	407	465	523

(f) The Maximum Income Level: Per Capita Tables below shall be used to determine AFDC income eligibility for companion cases of two to 10 members. For cases of more than 10 members the maximum income level shall be the per capita of the standard for the total eligible unit on Schedule III, N.J.A.C. 10:82-1.2, multiplied by the number of members in that segment.

Maximum Income Level—Per Capita Table

[Total Eligible Unit	Number in -C or -F Segment								
	1	2	3	4	5	6	7	8	9
2	\$284								
3	249	498							
4	215	430	645						
5	195	389	584	778					
6	181	362	543	724	905				
7	171	343	514	685	856	1028			
8	164	328	492	656	820	984	1148		
9	158	317	475	633	792	950	1108	1267	
10	154	307	461	615	769	922	1076	1230	1383

Total Eligible Unit	Number in -N Segment								
	1	2	3	4	5	6	7	8	9
2	\$190								
3	166	332							
4	144	287	431						
5	130	260	389	519					
6	121	241	362	482	603				
7	114	228	342	457	571	685			
8	109	219	328	438	547	656	766		
9	105	211	316	422	527	633	738	844	
10	103	205	308	410	513	615	718	820	923]

Total Eligible Unit	Number in -C or -F Segment								
	1	2	3	4	5	6	7	8	9
2	298								
3	261	523							
4	226	452	677						
5	204	408	613	817					
6	190	380	570	760	950				
7	180	359	539	719	899	1078			
8	172	344	516	688	860	1032	1204		
9	166	332	498	664	831	997	1163	1329	
10	161	323	484	645	807	968	1129	1290	1452

Total Eligible Unit	Number in -N Segment								
	1	2	3	4	5	6	7	8	9
2	199								
3	175	349							
4	150	301	451						
5	136	272	409	545					
6	127	253	380	507	633				
7	120	239	359	479	599	718			
8	115	230	344	459	574	689	803		
9	111	222	332	443	554	665	775	886	
10	108	215	323	430	538	645	753	860	968

10:82-5.11 AFDC supplemental payments

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

(h) AFDC supplemental payment eligibility standards.

AFDC-C	AFDC-F	Number in Eligible Unit	AFDC-N
\$[103]	108	1	\$ [69] 72
[205]	215	2	[137] 143
[269]	283	3	[179] 189
[310]	325	4	[207] 217
[351]	368	5	[234] 245
[391]	411	6	[261] 274
[432]	453	7	[288] 302
[473]	496	8	[315] 331
[513]	539	9	[342] 359
[554]	581	10	[369] 387
Add \$[41]	43	more than 10	Add \$[27] 29
each person			each person

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

(a)

DIVISION OF PUBLIC WELFARE
Assistance Standards Handbook
Disregarded Child Support (DCS) Payments
Proposed Amendment: N.J.A.C. 10:82-5.12

Authorized By: Drew Altman, Ph.D., Commissioner,
Department of Human Services.
Authority: N.J.S.A. 44:8-111(d); 45 CFR 302.51(b)(1).
Proposal Number: PRN 1987-99.

Submit comments by May 6, 1987 to:
Audrey Harris, Director
Division of Public Welfare
CN 716
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Regulations governing the Aid to Families with Dependent Children (AFDC) program relative to the Child Support and Paternity (CSP) program provide that when a child support payment is received on time by a county welfare agency for a person or family who is a recipient of AFDC, the amount of the payment up to \$50.00 per month is disregarded as income in computing the assistance grant. This usually takes the form of an extra check to the family during the month. In the implementation of that provision, an ambiguity has been brought to the Department's attention. When support payments have fallen into arrears and are later brought up to date, only one of the payments is entitled to the disregard, not one for each of the months in question. This proposed amendment clarifies the ambiguity and assures specific conformity with Federal regulations at 45 CFR 302.51(b)(1).

Social Impact

The situation in which the ambiguity could arise does not occur frequently. Most county welfare agencies have been operating according to the intended meaning of the existing rule. Accordingly, the actual number of inappropriate payments has been very small. Therefore, the proposed amendment should have little impact on county welfare agencies or its clients.

Economic Impact

The proposed amendment will have little or no economic impact either on county welfare agencies or AFDC clients since little change in assistance costs is expected as a result of the revised language.

Regulatory Flexibility Statement

This proposal does not affect small businesses because the rules do not impose reporting, recordkeeping, or other compliance requirements on small businesses.

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

10:82-5.12 Disregarded child support (DCS) payments

For any month in which an eligible unit receives AFDC and a [current] child support collection which represents a support obligation for that month has been received through the CSP process in that month, the eligible unit is entitled to a disregarded child support (DCS) payment. The amount of DCS payment shall be the total amount of current child support collection received on behalf of the entire eligible unit, not to exceed \$50.00. Current AFDC eligibility is not a prerequisite for DCS payments based on a previous month's collection.

(a)

**General Assistance Manual
Increase in General Assistance Standards and
Legally Responsible Relative Schedules
Proposed Amendments: N.J.A.C. 10:85-4.1 and 9.4**

Authority: N.J.S.A. 44:8-111(d).
Proposal Number: PRN 1987-125.
The agency proposal follows:

Summary

The Department of Human Services is proposing to increase General Assistance (GA) payment levels by five percent. The five percent increase in GA standards is being proposed to provide a basic level of support, while giving recognition to increases in the cost of living. The allowance schedules at N.J.A.C. 10:85-4.1, for employable as well as unemployable GA recipients, are revised to reflect this five percent increase.

Under the law (N.J.S.A. 44:4-101), certain relatives of public assistance recipients are legally responsible to support such recipients if they have sufficient ability. These relatives are the parents of recipients under the age of 18 and the children and spouse of a recipient of GA. A person aged 55 or over is responsible only in regard to his or her spouse and children under the age of 18 years. The schedule at N.J.A.C. 10:85-9.4 used to determine the capacity of those relatives to support GA recipients is being updated to reflect increases in the cost of living since the time the schedule was last revised in July 1985.

Social Impact

The proposed five percent increase in GA payment levels will provide recipients with increased expendable income and thus increase their ability to purchase shelter and other necessities.

Economic Impact

The full cost of the five percent increase in GA payment levels is estimated to be \$2.4 million for Fiscal Year 1988. Of that, the cost to the State is estimated at \$1.8 million. The cost to municipalities is estimated at \$0.6 million.

Regulatory Flexibility Statement

This proposal has been reviewed with regard to the Regulatory Flexibility Act, P.L. 1986, c.169, effective December 4, 1986. This rulemaking imposes no compliance requirements on small businesses as the General Assistance program is administered by municipal welfare departments.

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

10:85-4.1 State and local responsibilities

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

**Schedule I
Monthly Assistance Allowances
(Limited to persons determined unable to accept employment)**

Number in Household	Eligible Unit	
	1	2
1	[200] 210	
2	[138] 145	[275] 289
3	[124] 130	[248] 260
4	[110] 116	[221] 232
5	[102] 107	[204] 214
6	[96] 101	[191] 201
7	[82] 86	[164] 172
8	[79] 83	[158] 166
9	[75] 79	[149] 156
10	[71] 75	[143] 150
11	[70] 74	[141] 148
12	[69] 72	[139] 146
13	[67] 70	[134] 141
14	[66] 69	[132] 139
15	[65] 68	[130] 137

**Schedule II
Monthly Assistance Allowances
(For eligible units in which at least one person is employable)**

[Number in Household	Number in Eligible Unit														
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1	\$133														
2	92	183													
3	77	155	232												
4	67	134	200	267											
5	61	122	183	244	305										
6	57	114	172	229	286	343									
7	54	108	162	217	271	325	379								
8	52	104	156	208	260	312	364	416							
9	50	100	149	199	249	299	348	398	448						
10	48	96	143	191	239	287	335	382	430	478					
11	47	94	140	187	234	281	328	375	421	468	515				
12	46	92	138	184	230	276	321	367	413	459	505	551			
13	45	91	136	182	227	272	318	363	408	454	499	545	590		
14	44	89	133	178	222	267	311	355	400	444	489	533	578	622	
15	44	87	131	174	218	261	305	348	392	435	479	522	566	609	653]

Number in Household	Number in Eligible Unit														
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1	\$140														
2	97	193													
3	81	163	244												
4	70	140	210	280											
5	64	128	192	256	320										
6	60	120	180	240	300	360									
7	57	114	171	227	284	341	398								
8	55	109	164	219	273	328	382	437							
9	52	104	157	209	261	313	366	418	470						
10	50	100	151	201	251	301	351	402	452	502					
11	49	98	148	197	246	295	344	393	443	492	541				
12	48	97	145	193	241	290	338	386	434	483	531	579			
13	48	95	143	191	238	286	334	382	429	477	525	572	620		
14	47	93	140	187	233	280	326	373	420	466	513	560	606	653	
15	46	91	137	183	229	274	320	366	412	457	503	549	594	640	686

In eligible units of more than 15, add [S30] \$32.00 for each additional member.

(c) (No change.)

10:85-9.4 Determining amount of support

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

Schedule IV
Monthly Income Standards

Part A			Part B	
Spouse or Parent of Child Under Age 18	Family Size		All Other LRRS	
[\$405] 430	1		[\$1120] 1189	
[540] 574	2		[1560] 1657	
[675] 717	3		[2010] 2135	
[740] 789	4		[2455] 2607	
[810] 860	5		[2825] 3000	
[875] 932	6		[3125] 3319	
[945] 1004	7		[3420] 3632	
[1015] 1076	8		[3720] 3951	
+ \$[70] 72	Each Additional Person +		+\$[300] 319	

Schedule V
(No change.)

CORRECTIONS

(a)

THE COMMISSIONER

**Medical and Health Services
Pregnant Inmates**

Proposed New Rules: N.J.A.C. 10A:16-6

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

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

Proposal Number: PRN 1987-113.

Submit comments by May 6, 1987 to:

Elaine W. Ballai, Esq.
Special Assistant for Legal Affairs
Department of Corrections
CN 863
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Department of Corrections (Department) proposed new rules for inmate medical and health services, N.J.A.C. 10A:16, in the August 18, 1986, issues of the New Jersey Register at 18 N.J.R. 1662(a). Part of that proposal, N.J.A.C. 10A:16-6, pertained to pregnant inmates.

In this issue of the New Jersey Register, the Department has adopted the text of N.J.A.C. 10A:16 as proposed, with changes. However, after due consideration of comments on N.J.A.C. 10A:16-6 received from the Department of the Public Advocate, the Department has decided to adopt subchapter 6 without change, but simultaneously proposes the following new rules for N.J.A.C. 10A:16-6.

The proposed new rules specify, in detail, the services that are provided to pregnant inmates, which includes services that assist them in making the decision to continue or to terminate the pregnancy.

Social Impact

The proposed new rules will have no significant social impact on pregnant inmates because the new rules codify a long-standing administrative practice of permitting incarcerated expectant mothers the choice of terminating a pregnancy or carrying the child to term.

Economic Impact

The proposed new rules will not impose an economic impact because no additional costs are necessary to implement or maintain the rules.

Regulatory Flexibility Statement

The proposed new rules do not impose any reporting, recording or compliance requirements that impact upon small businesses. A regulatory flexibility analysis for this proposal is inapplicable.

Full text of the proposal follows:

SUBCHAPTER 6. PREGNANT INMATES

10A:16-6.1 Care of pregnant inmates

(a) The Department of Corrections shall provide a pregnant inmate with medical aid and social services, which shall include:

1. Prenatal medical evaluation and care;
2. Nutritional supplements and diet as prescribed by the physician;
3. Counseling regarding:
 - i. Family planning;
 - ii. Birth control;
 - iii. Termination of pregnancy; and
 - iv. Child placement services.

10A:16-6.2 Obstetrical services

When the pregnant inmate elects to carry the pregnancy to term, arrangements shall be scheduled in advance for the delivery at an appropriate medical facility.

10A:16-6.3 Termination of pregnancy

(a) As soon as possible after the pregnancy is diagnosed, the correctional facility shall provide the pregnant inmate with medical care and shall offer her religious and social counseling to aid her in making the decision to continue or to terminate the pregnancy.

(b) Should the inmate elect to proceed with terminating the pregnancy, arrangements shall be made without undue delay to schedule and complete the procedure, unless the treating physician and/or gynecologist determines that the pregnancy cannot be terminated.

(c) An inmate who elects to terminate a pregnancy shall be required to sign a form indicating her desire to terminate the pregnancy and acknowledging that she has received medical care and has been offered religious and social counseling in reaching her decision.

(d) A pregnancy shall be terminated only at a state-licensed medical facility or hospital. Appropriate follow-up medical care shall be provided in the correctional facility or by a contracted physician consultant.

10A:16-6.4 Father of the child

(a) The father, if not incarcerated, may attend the birth of his child in the delivery room.

(b) The father's presence in the delivery room is dependent upon the security risk of the mother and hospital policy.

10A:16-6.5 Placement of infants

(a) Counseling and assistance shall be provided to pregnant inmates in keeping with their expressed desires in planning for their unborn children. Counseling and social services shall be available to assist pregnant inmates in making decisions such as whether to keep their child or give the child up for adoption. Counseling shall not advocate any particular alternative to the inmate.

(b) The Division of Youth and Family Services (D.Y.F.S.), Department of Human Services, shall be contacted by the correctional facility when adoption or foster home placement is being contemplated by the prospective mother.

(c) Plans for the placement of all anticipated infants shall be developed well in advance of delivery date.

10A:16-6.6 Written procedures

Superintendents of correctional facilities housing female inmates shall be responsible for the development and implementation of written procedures consistent with the requirements of this subchapter.

INSURANCE

(b)

DIVISION OF THE REAL ESTATE COMMISSION

Contracts of Sale and Listing Agreements

Proposed Amendments: N.J.A.C. 11:5-1.16

Authorized By: New Jersey Real Estate Commission,
Daryl G. Bell, Secretary-Director.

Authority: N.J.S.A. 45:15-6.

Proposal Number: PRN 1987-117.

Submit comments by May 6, 1987 to:

Robert J. Melillo
Special Assistant to the Director
New Jersey Real Estate Commission
201 East State Street, CN 325
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 11:5-1.16 is intended to address the uncertainty which exists within the real estate community and

amongst the public at large with regard to what effect the signing of a contract or lease which is subject to attorney review has upon the continued availability of the property for sale or lease. Currently, as the result of a ruling by the New Jersey Supreme Court, certain contracts of sale and leases for certain residential premises must contain a provision providing for review of the agreement by the attorneys for the parties subsequent to the agreements having been signed. The Commission's rule concerning this attorney review provision is found at N.J.A.C. 11:5-1.16(g), the adoption of which is published in this issue of the New Jersey Register.

The proposed amendment, to be embodied in new subsection (h), will require licensees to include certain language in contracts or leases which are subject to Attorney Review. The language will require the parties to such arrangements to confirm whether the property will continue to be marketed and whether other offers to buy or lease the property will continue to be considered by the owner during the attorney review period. It will also require the parties to confirm whether the buyers or lessees will be free to submit other offers on other similar properties during that time. This proposed amendment replaces the proposal for N.J.A.C. 11:5-1.16(h) published on August 18, 1986, at 18 N.J.R. 1677(a).

Social Impact

The proposed amendments will have a favorable impact upon the public and upon real estate licensees.

The effect of the proposal will be to provide additional information to both licensees and the public with regard to the attorney review procedure. The additional information will, it is anticipated, result in a decrease in the number of disputes which arise as a result of conflicting interpretations of the obligations of the parties and of licensees during the attorney review process.

By compelling the parties to negotiate and agree on the status of the property and their own limitations, if any, as a result of their execution of a contract or lease which is subject to attorney review, an element of certainty will be returned to the contracting process. Further, all parties will be able to proceed with a complete knowledge of the extent to which they and their counterparts are bound by the agreement pending attorney review.

Economic Impact

The proposed amendment will have a favorable economic impact. The informational and disclosure purposes served by the proposed addition to N.J.A.C. 11:5-1.16 will result in parties to real estate transactions and licensees being better informed of the status of the property and the obligations of all of the actors in the transaction subsequent to the execution of the agreement. Consequently, disputes and disagreements with regard to such contracts will be reduced which will result in the avoidance of the costs and expenses of such disputes.

Regulatory Flexibility Statement

The proposed rule will apply to all licensed real estate brokers and salespersons in New Jersey, the total number of which is approximately 84,000.

In order to comply with the requirements of this proposal, licensees will have to either obtain revised printed form contracts and leases which include the required text, or compose standard riders to be attached to such agreements which contain the required language. In the event riders are utilized, it will be necessary for a reference to the rider to be entered onto the main contract document in the required location. If the rider option is used, no professional services would need to be utilized. If a licensee opts to use revised form contracts, he or she would, in all probability, need to retain the services of a printer.

The initial capital costs and annual cost of compliance with this proposal are not susceptible to estimation, since they would vary depending upon the volume of business done by each licensee. However, it is estimated that they will be minimal, regardless of volume, since they will only involve obtaining a sufficient number of revised form contracts or leases or copies of riders.

This rule is designed to minimize any adverse economic impact on small businesses in that it imposes no substantial economic impact on any licensees, regardless of the size of their business.

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

11:5-1.16 Contracts of sale, leases and listing agreements

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

(h) All licensee-prepared contracts and leases which, pursuant to (g) above are required to contain an Attorney Review provision as set forth

therein, shall contain in the paragraph which numerically next follows the paragraph containing the Attorney Review provision, the following language, which shall be modified for leases in accordance with (h)1 below:

AGREEMENT TO HONOR

It is hereby agreed and understood by both buyer and seller that:

1. *The seller agrees not to permit showings of the property and not to consider any other offers to purchase this property during the three day attorney review period, and any extension of the time for attorney review agreed to by the parties or their attorneys.*

If during the attorney review period either party's attorney disapproves this agreement by filing a Notice of Disapproval as described in the contract, the property will again be offered for sale and any deposit monies previously paid will be returned to the buyer forthwith.

2. *The seller directs their broker and all sub-agents not to show this property to other prospective purchasers and not to present additional offers to purchase the subject property to the seller or their attorney during the attorney review period of this contract and any extension of the time for attorney review agreed to by the parties or their attorneys.*

The seller further directs their broker to disclose these provisions of this contract to other brokers or their representatives.

3. *The buyer agrees that during the three day attorney review period and any agreed upon extension to it, he/she/they shall refrain from submitting any offers on any similar properties.*

4. *Both parties affirm and agree that if at the end of the attorney review period neither attorney has disapproved this contract, this contract will become final, subject only to the contingencies, if any, specified elsewhere in the contract.*

1. **In all leases which are required to contain an Attorney Review provision the words "Landlord", "Tenant" and "Lease" shall be inserted in place of the words "Seller", "Buyer", and "Contract" as applicable, in the paragraph therein containing the above language.**

OAL NOTE: The above Agreement to Honor text is italicized to distinguish its paragraph number sequence from the codification of (h) and (h)1. Italicized contract or lease language is not required by the proposal.

PUBLIC UTILITIES

BOARD OF PUBLIC UTILITIES OFFICE OF CABLE TELEVISION

The following proposals are authorized by Bernard R. Morris, Director, Office of Cable Television.

A public hearing concerning the proposals will be held on:

April 21, 1987 at 10:00 A.M.
Office of Cable Television
1100 Raymond Boulevard
Newark, New Jersey

Submit comments by May 6, 1987 to:

Bernard R. Morris, Director
Board of Public Utilities
Office of Cable Television
1100 Raymond Boulevard
Newark, New Jersey 07102

(a)

Rules of Practice and Procedure Petition to Set Aside Refusal

Proposed Amendment: N.J.A.C. 14:17-6.21

Authority: N.J.S.A. 48:5A-10, and 17(e).

Proposal Number: PRN 1987-104.

The agency proposal follows:

Summary

Pursuant to P.L. 1986, c.163 amending N.J.S.A. 48:5A-17(e), effective December 2, 1986, franchised cable television operations may appeal to the Board of Public Utilities when a county governing body has refused a cable company's request for any authorization or permission needed to locate, expand or operate a facility within the county. This course of action previously was available only in the case of municipal refusals.

The procedure for a petition to set aside such a refusal is set forth in N.J.A.C. 14:17-6.21. The purpose of the proposed amendment is to amend N.J.A.C. 14:17-6.21(a) and 14:17-6.21(a)4i to reflect the change in Section 17(e) of the Cable Television Act.

Social Impact

The proposed amendment would provide cable television companies an opportunity to seek to have county refusals set aside when the Board finds that such a refusal interferes with the cable operator's ability to provide safe, adequate and proper cable television to its subscribers.

Economic Impact

The proposed amendment would require cable operators to submit to the Board of Public Utilities an application for an order setting aside a county refusal accompanied by the statutory filing fee of \$200.00.

Regulatory Flexibility Statement

A regulatory flexibility analysis is inapplicable to this proposal. The proposed amendment would not impose any new reporting, record keeping or other compliance requirements on small businesses. This proposal is a procedural rule amendment necessitated by a legislative mandate expanding existing rights of a cable operator when a governing body has refused a cable company's request for authorization to locate or expand a facility within a certain area.

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

14:17-6.21 Petition to set aside refusal pursuant to N.J.S.A. 48:5A-17(e)

(a) Petition for an order setting aside municipal or county refusal for zoning variance, or other act or necessary authorization pursuant to N.J.S.A. 48:5A-17(e), shall conform to N.J.A.C. 14:17-5 (Pleadings Generally), and N.J.A.C. 14:17-6.1 through 6.5 to the extent applicable, and shall include, but not be limited to the following:

1. A map or site plan for the proposed facility showing the location of any other potential alternative sites or existing CATV facilities in relation to the one in question;
2. A listing of alternative sites, if any, investigated or considered;
3. A copy of the decision or order below denying the requested approval;
4. Proof of concurrent service and a copy of the petition upon each of the following:
 - i. The municipal and, where applicable, the county governing body;
 - ii. The agency, authority, board or other entity which denied the requested approval;
 - iii. Any adjoining property owners within 200 feet of the property for which approval is sought.

(b) The petition pursuant to this section must be filed with the Office within 60 days of written notice of the denial to the petitioner.

(c) The Board or Administrative Law Judge shall hold a hearing on the matter in the community affected.

(a)

Rules of Practice and Procedure Notice of Rate Change Notice of Alteration in Channel Allocation Proposed New Rules: N.J.A.C. 14:18-14.5 and 14:18-14.6

Authority: N.J.S.A. 48:5A-10.

Proposal Number: PRN 1987-103.

The agency proposal follows:

Summary

Pursuant to the Federal Cable Communications Policy Act of 1984, ("CCPA") 47 U.S.C.A. sec. 541 et seq., and Title 47 of the Code of Federal Regulations, 47 CFR sec. 76.33, New Jersey cable television systems that are deemed by the FCC to be subject to effective competition are no longer subject to rate regulation after December 28, 1986. Presently, all cable communities in New Jersey are subject to effective competition as defined by 47 CFR sec. 76.33. Therefore, at the present time the Board does not have the ability to regulate the rates of any cable television operator in this state.

In the past, cable TV companies which elected to be governed by the provisions of the "Common Tariff" approach to rate regulation, N.J.A.C. 14:17-18, were required to submit to the Office, subscribers, and affected

municipalities written notice of a rate change at least 60 days prior to the effective date. If cable operators elected to be governed by the traditional rate base/rate of return methodology of N.J.A.C. 14:17-6.17, similar prior notification was required.

The proposed new rules would continue the requirement that cable companies provide notice of rate changes to the Office, subscribers and affected municipalities in instances where cable television rates are not subject to regulation. In addition, each cable TV company would be required to submit to the Office, subscribers and affected municipalities written notice of any alteration in channel allocation. Although the CCPA and the rules and regulations of the FCC have abrogated the authority of the Office to regulate cable TV rates in those cable communities experiencing effective competition, the Office still retains the authority to require all cable operators to notify the Office of rate changes and alteration in channel allocation.

Social Impact

The proposed new rules will affect the Board of Public Utilities, Office of Cable Television, all New Jersey cable television operators, municipalities with franchised cable television operators and cable TV subscribers. These rules will serve the public interest since affected parties will be given reasonable notice of any rate changes or alterations in channel allocation and may respond thereto. They also provide a mechanism for monitoring rates for periodic revisitation of rate issues as suggested by the legislative history of the Cable Communications Policy Act of 1984.

Economic Impact

The proposed new rules would require cable operators to incur administrative and mailing expenses necessary to provide notice of rate changes and channel line-up changes to the Office of Cable Television, subscribers and affected municipalities. This represents no increase over past requirements.

Regulatory Flexibility Statement

The proposed new rules will affect approximately five small businesses as defined by the Regulatory Flexibility Act, P.L. 1986 c.169. These small businesses are cable television operators subject to regulation by the Board of Public Utilities, Office of Cable Television.

These small businesses will be required to provide advance notice to the Office, subscribers and municipalities of planned changes in rates or channel allocation. To comply, cable operators must take the actions necessary to prepare and mail the required notices. This will involve administrative and mailing expenses which are anticipated to be in approximate proportion to the size of the system served by the company. No extraordinary initial capital costs are expected to be incurred and the annual costs will be determined by the number of times such changes are made and the number of subscribers affected by the changes.

Full text of the proposed new rules follows:

14:18-14.5 Notice of rate change

(a) If the rates and charges of a cable operator are not subject to prior approval by the Board:

1. A cable TV company implementing a change in its rates shall file with the Office revised tariff sheets reflecting any rate changes at least 45 days prior to the effective date.

2. Each cable TV company shall individually notify, in writing, its subscribers and affected municipalities of a rate change at least 30 days prior to the effective date, with a copy of the notice to the Office.

14:18-14.6 Notice of alteration in channel allocation

(a) Each cable TV company shall file with the Office written notice of an alteration in channel allocation, on a form prescribed by the Director, at least 45 days prior to the effective date.

(b) Each cable TV company shall individually notify in writing its subscribers and affected municipalities of an alteration in channel allocation at least 30 days prior to the effective date.

(c) When timely notice pursuant to this section cannot be met because of factors beyond the cable operator's control, the operator shall provide the earliest possible notice.

Recodify existing 14:18-14.5 (Authority) and 14:18-14.6 (Prior regulations) as **14:18-14.7** and **14:18-14.8**, respectively. (No change in text.)

TRANSPORTATION

(a)

NEW JERSEY TRANSIT CORPORATION Bus Allocation Guidelines and Procedures Proposed Amendments: N.J.A.C. 16:75

Authorized By: Jerome C. Premo, Executive Director, New Jersey Transit.

Authority: N.J.S.A. 27:25-5(e), 5(h) and 5(k).

Proposal Number: PRN 1987-108.

Submit comments by May 6, 1987, to:

Albert R. Hasbrouck, III
Assistant Executive Director
New Jersey Transit Corporation (NJ TRANSIT)
P.O. Box 10009
Market Street and McCarter Highway
Newark, New Jersey 07101

The agency proposal follows:

Summary

On September 6, 1983, the New Jersey Transit Corporation (NJ TRANSIT) adopted rules establishing guidelines and procedures to lease buses to private bus carriers. After three years of administering the program, NJ TRANSIT believes it is necessary to amend the existing rules to respond to the experience gained and to incorporate new or modified bus procurement programs initiated since the original adoption of the rules.

In addition, the amended rules provide guidelines for establishment of a Statewide bus fleet and the leasing of buses for new services. Finally, the amended rules make clear what was always intended; that is, that the rules establish general guidelines for the distribution of buses and do not entitle any carrier which meets the aged bus criteria to receive buses.

Social Impact

The general purpose of NJ TRANSIT'S bus procurement program is to replace overaged motorbuses used in the State of New Jersey with newer equipment that will provide improved and more reliable mass transit service to the public. The rules are designed to distribute the buses to both public and private carriers generally based on the age of buses presently in use so that the buses are made available to riders who will benefit the most from new buses. While it is anticipated that most carriers with overaged buses will be allocated buses, the proposed amendments would still permit NJ TRANSIT to consider the capabilities and responsibility of carriers requesting buses and to consider whether the leasing of buses to specific carriers would be consistent with an efficient, effective, coordinated and coherent public transportation system. Thus, there may be situations where overaged buses of some carriers will not be replaced because the lease of buses to such carriers is not consistent with sound transportation policy. There are procedures for consideration of the impact of not leasing buses in specific circumstances where NJ TRANSIT staff makes a preliminary determination that a carrier is not eligible to receive buses. The amended rules also provide guidelines to be followed when a private carrier applies for buses for new services.

Economic Impact

The primary economic impact of the existing rules and proposed amendments would be to improve the financial condition of private bus carriers receiving buses from NJ TRANSIT. By reducing the need of carriers to use financial resources for capital requirements and by increasing ridership, the new buses may result in holding fares down. It may also result in lower subsidies thus benefiting the taxpayers of the State. It is possible that some carriers not receiving buses may be at a disadvantage where they compete with carriers receiving buses.

Regulatory Flexibility Statement

The proposed amendments impose no additional reporting, recordkeeping or other compliance requirements on small businesses then existed in the original rules. NJ TRANSIT presently leases, pursuant to the rules proposed to be amended, approximately 358 buses to 134 separate small businesses, as such businesses are defined by the Regulatory Flexibility Act. In addition, NJ TRANSIT leases 349 buses to eight carriers who employ more than 100 people. As set forth above, the proposed amendments will have no impact on these businesses as the amendments are designed to assist NJ TRANSIT in administering the

bus allocation program, based upon the experience gained by NJ TRANSIT in the operation of the bus leasing program since the original rules were promulgated in 1983.

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

SUBCHAPTER 1. GENERAL PROVISIONS

16:75-1.1 Purpose

NJ TRANSIT was established by the New Jersey Public Transportation Act of 1979 (N.J.S.A. 27:25-1 et seq.) as the instrumentality of the State government to establish and provide for the operation and improvement of a coherent public transportation system in the most efficient and effective manner. One of the programs by which NJ TRANSIT fulfills this responsibility is through the leasing of buses purchased with funds provided by the State, the Federal government or the Port Authority of New York and New Jersey. This chapter is designed to provide guidelines and procedures pursuant to which NJ TRANSIT will allocate these buses.

16:75-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings.

["Additional Regular Route Service" means the operation of any new intrastate or interstate regular route or the extension or alteration of any such existing services which affects 10 percent or more of the number of route miles of that route.]

"Affiliate" means any individual, company, proprietorship, corporation, trust or partnership where by reason of the relationship of such entity with the carrier (whether by reason of the method of, or circumstances surrounding organization or operation, or whether established through common directors, officers, stockholders, a voting trust or trusts, a holding or investment company or companies, family relationships, or any other direct or indirect means) there is a reason to believe that the affairs of the carriers may be managed in the interest of such individual, company, proprietorship, corporation, trust or partnership.

"Board" means the Board of Directors of NJ TRANSIT.

"Carrier" means any individual, co-partnership, association, corporation, joint stock company, affiliate or affiliates, trustee or receiver operating or controlling regular route peak bus service on established routes within the State or between points in this State and points in adjacent states.

"Executive Director" means the Executive Director of NJ TRANSIT or his designee.

"Fleet" means the specific buses designated by the carriers and approved by NJ TRANSIT that are needed to meet the peak period service needs (including up to 15 percent spares) for all eligible services and carriers.

"NJ TRANSIT" means the New Jersey Transit Corporation.

"Regular route peak services" means the operation of any motor bus or motor buses on streets, public highways or other facilities, over a fixed route and between fixed termini on a regular schedule for the purpose of carrying passengers for hire or otherwise, in this State or between points in this State and points in other states generally during the times of 6:00 A.M. to 9:30 A.M. and 4:00 P.M. to 7:00 P.M. but also including such other times as NJ TRANSIT may deem appropriate.

SUBCHAPTER 2. GUIDELINES

16:75-2.1 [Eligibility] Replacement of buses

(a) Carriers have no right to the receipt of buses pursuant to the bus leasing programs and the receipt of buses shall always be at the discretion of NJ TRANSIT.

[(a)](b) A carrier must be authorized to provide regular route peak service by NJ TRANSIT, the New Jersey Department of Transportation, the Interstate Commerce Commission (ICC), a municipality or any other duly authorized regulatory body. The fact that a carrier is authorized to provide regular route peak service by any such regulatory body does not in and of itself make a carrier eligible for the leasing of buses. To be eligible, the service must be provided on a regular and continuing basis and may not be exclusionary or personal in nature. Service to special purpose areas or that which is exclusionary in nature such as to casinos or special events, is not eligible. Carriers will be asked to indicate the procurement programs in which they would like to participate. A decision not to participate in one program will not qualify a carrier for greater participation in another program. In addition, after NJ TRANSIT has determined bus allocation eligibility and if an operator chooses not to accept all buses which are allocated, NJ TRANSIT will view the status of that operator's fleet as if it had accepted all buses allocated. For new buses, a 12 year

useful life is assumed for determining fleet composition[.], [F]for rehabilitated buses, a five year useful life period is presumed, and for refurbished buses a 10 year useful life period is presumed. The determination of whether a bus is to be rehabilitated or refurbished will be based on the scope and manner of work required but generally a refurbished bus is one that can be restored to the original equipment manufacturer's condition because of low mileage or use.

[(b)](c) Except as provided in (k) below, [T]the allocation of buses will be based on the need to replace buses which [are 12 years of age or older,] have or will reach their useful life as defined in (b) above and which are needed to meet a carrier's["] peak period requirement on its motor bus regular route services. [Peak period requirements will be those operated for eligible services described in (a) above as of a date certain to be determined by the Executive Director with respect to each procurement. Decreases in peak requirements due to service cutbacks which might occur after that date certain, and before the specific allocations are finalized, will be factored into final allocations. Increases in peak requirements due to fleet service expansion after the date certain will not be considered. Fleet expansion is not meant to include additional service due to the assumption of new service rights where such additional service does not duplicate existing service. Allocations will not be made for spare vehicle requirements until the peak period requirements of all carriers are met.]

(d) The Fleet will be reviewed as of July 1 of each year. Existing services considered eligible as of July 1, 1985 would be grandfathered and considered eligible for replacement unless such services are materially changed or expanded. Those services initiated between July 1, 1985 and the date of adoption of these rules would be considered eligible for replacement buses with the approval of the Executive Director or his designee. In the event a carrier is denied eligibility for such services, the decision is reviewable in accordance with the procedures established for new services in (i) below.

(e) The Fleet will include all publicly owned buses leased to a carrier plus those private carrier owned or leased buses permanently designated to meet a carrier's eligible peak hour bus requirement plus 15 percent spares. The Fleet will be based on data submitted by eligible carriers as verified by NJ TRANSIT and updated each year. All participating carriers would be required to submit documentation as to their peak needs. Based upon such verified documentation each participating carrier would be required to identify specific buses to be included in the Fleet which would cover these peak needs plus the approved percentage of spares. Buses identified are to be the newest buses from the carrier's fleet (excluding affiliates whose buses are not regularly used in the carriers eligible service) and are to be of the type used for the services provided. Titles to such vehicles would remain with the operating carrier who would be obligated to inform NJ TRANSIT whenever a bus is sold or permanently removed from the Fleet and to identify a replacement bus or buses. In no event would a privately owned vehicle be eligible for replacement in the Fleet with a bus of greater age.

[(e)](f) Allocations will generally not be made for spare vehicles until the peak period requirements of all eligible carriers are met. Until such time as bus purchases are sufficient to replace all qualified overage buses in the State, individual allocations will generally be made on a percentage basis. This will be according to the relative need each qualified carrier has to replace its overage buses as compared to the total need of all qualified carriers to replace all overage buses. This percentage will be calculated for each bus procurement program.

[(d)] Buses which are not registered in the fleet of a carrier requesting participation in the program but which are leased or otherwise used occasionally by the carrier must be counted in the fleet of buses of the carrier which are used to meet its peak period requirements. If such buses are not used for regular route peak services on a regular or full time basis, they will be counted only according to the percentage of time that such buses are used for regular route peak services. This percentage will be calculated by determining the hours of service such buses are used for regular route peak services on an average daily basis as compared to the total hours of regular route peak services operated by the carrier on a daily basis. For the purpose of determining an age of these buses, the average age of all buses leased or otherwise used on an occasional basis by a carrier requesting participation in the program will determine a base age. Then, all such buses will be counted in a descending order of age (for example, buses that are older than the average age, with the newest ones being counted first).]

[(e)](g) Buses will be allocated for different types of services according to service based characteristics. Generally, transit-type buses will be used for local urban services and commuter-type buses will be used for long

haul intrastate or interstate services. Generally, cruiser-type buses ([for example] that is, deck and a half) will be [used] allocated for commuter services which meet the following criteria:

1. The trips originate a minimum of 12 miles from the major point of destination, and express service is offered for at least the last four miles to the point of destination; or

2. The route to major point of destination requires substantial under-floor baggage capacity[.]; and

3. [Generally,] [t]The major point of destination for the trips (and routes) must be a major trip generator such as a bus or rail terminal.

[(f)](h) It will be expected that carriers will make every effort to ensure that allocated [these] buses are used in all day services first before they are used for other types of services, such as AM/PM trippers, split assignments, extras, etc. This should be done to the extent that it makes practical operating sense and should not interfere with the scheduling of maintenance for the bus.

(i) Buses for new services or major modification of existing services will be eligible for inclusion in the Fleet only after a determination by the Executive Director or his designee that such services are an integral part of the State transportation system based on the public need, coordination, competition and other relevant factors. Such a determination of eligibility shall take place prior to the initiation of any new or major modification of service. Nothing in this determination will relate to the carrier's right to operate such service but only to its right to obtain buses for such service. Carriers who initiate new or major modifications of services and apply for buses for that service will be required to submit information regarding such service prior to any subsequent allocation of buses. In the event a carrier, public or private, is denied eligibility pursuant to this subsection by the Executive Director or his designee, such decision may be reviewed by the Board of Directors upon request of the carrier in accordance with N.J.A.C. 16:75-3.1 et seq.

(j) Information provided by a carrier to NJ TRANSIT with regard to a request for a determination of eligibility pursuant to (i) above shall be confidential. NJ TRANSIT shall utilize such information solely to render a determination of eligibility and shall not initiate plans for substantially similar competitive services. In the event NJ TRANSIT approves the request for eligibility and a carrier initiates the approved service, NJ TRANSIT, its subsidiaries or other carriers contracting with NJ TRANSIT pursuant to Section 6 of the New Jersey Public Transportation Act of 1979 to the extent that such operation by contract carriers is within the control of NJ TRANSIT, shall not initiate and operate substantially similar, competitive service so long as the carrier continues to provide the service and is not in default under any agreements with NJ TRANSIT.

(k) Exceptions: The bus industry in New Jersey is diverse and includes local transit and commuter services, long haul commuter services, intercity services and services to special areas such as airports and sports centers. The carriers who provide these services are also diverse and include small closely held corporations operating one bus to large multi-corporate holding companies operating large fleets of buses from numerous operating locations. In order to deal with the diverse nature of the industry there may be extenuating circumstances where it is appropriate to lease buses to a carrier or carriers who may not otherwise qualify on age based criteria. No buses shall be leased under this provision unless the buses replaced have been included by NJ TRANSIT in the Fleet and unless the proposed lease has been approved by the Board and such approval shall be at the Board's discretion.

16:75-2.2 Buses in a rehabilitation pool

(a) If a carrier wishes to participate in a bus rehabilitation program and it has buses which are in the age category of the program, then its privately owned bus will first be considered for use in the pool of buses to be included in the rehabilitation program. The inclusion of a privately owned vehicle in the rehabilitation pool will be based on an inspection of the condition of the bus by NJ TRANSIT to determine the cost-effectiveness of rehabilitating the bus. Title may be retained for the vehicle, but[,] there will be an agreement for lease of the improvement of the bus due to rehabilitation (rehabilitated bus must be kept in regular route peak services at least five years, which is expected extension of the useful life of the bus). After rehabilitation, the bus will be counted as a seven-year old bus.

(b) If a carrier wishes to participate in a bus rehabilitation program and it has buses which are older than [16] 12 years of age, then it will qualify to lease a rehabilitated bus owned by NJ TRANSIT.

16:75-2.3 Disposal of buses

(a) For each NJ TRANSIT owned bus that an operator receives under these programs, it must agree to take one of its overage buses out of service. It may not use that bus to expand its regular route peak or charter or special services. [It may dispose of the bus, and keep any proceeds that it might receive or it may keep the vehicle and use it for parts requirements for its regular route services.] **Except for previously approved Federal grants that may contain special terms to the contrary, when a Federally funded bus is disposed of, funds must be remitted to the Urban Mass Transportation Administration in an amount equal to the Federal share of the fair market value of the property or of the net sales proceeds. The local share of proceeds from the sale of assets that were funded with Federal assistance will be retained by NJ TRANSIT.**

(b) **Proceeds from the sale of assets not funded with Federal assistance will be retained by the operator. However, proceeds from the sale of operator or locally financed assets that are replaced under a Federal grant must be retained for mass transit purposes.**

(c) **With NJ TRANSIT'S approval, an operator may elect to use a bus which is taken out of service for parts requirements for its regular route services.** In such cases, the operator should officially notify the Office of Regulatory Affairs of the New Jersey Department of Transportation that the buses which will be used for spare parts are being scrapped and request that the Certificate of Operation for the vehicle be revoked. However, it must use the proceeds for [capital expenditures for use] **mass transit purposes** on its regular route peak services. An operator may not transfer the vehicle to any affiliate unless the vehicle was originally purchased with private funds ([for example] that is, no Federal or State funds were involved) and unless the fair market value of the vehicle is credited to the line service company and proceeds used for eligible [capital expenditures] **mass transit purposes**. An operator may request that the vehicle be set aside in an active reserve fleet for emergency purposes, in which event the vehicle may only be used for such purposes.

[(b)](d) In all instances, an operator must submit a plan for any such disposition to NJ TRANSIT for its approval. If a bus to be replaced is leased, then the lessor must agree that the vehicle will be taken out of regular route peak services in the State of New Jersey. In such cases, the lessor may keep the proceeds of a disposed vehicle for its use.

(e) **Buses disposed of by any public or private carrier pursuant to this section will not be replaced again under any circumstances. Excess buses from the NJ TRANSIT Fleet and publicly owned buses replaced from private fleets would be placed into a contingency pool, to the extent needed, to maintain the Fleet at a sufficient level to provide for emergencies and increases in ridership of either public and private participating carriers during the period from the previous annual survey and the actual delivery of buses.**

(f) **Private carriers would have the option of utilizing buses from the contingency pool, from their spare vehicles, or from other buses owned or leased to provide for increases in ridership on eligible services during the intervening period between one survey and the next. Decisions by NJ TRANSIT to lease or not lease carriers buses from the contingency pool shall be at the discretion of NJ TRANSIT.**

(g) **In the event the subsequent annual survey concludes that the peak needs of a participating carrier had increased, the carrier would become eligible for the additional buses needed to meet these demands without having to replace overaged buses, provided, however, that overaged buses will be replaced first. In the event the subsequent survey concludes that the peak needs of a participating carrier had decreased, NJ TRANSIT may at its option transfer the appropriate number of publicly owned buses to the contingency fleet or another carrier. Nothing would preclude a private carrier from operating buses it owns in other services or from operating buses not part of the Fleet, in approved service, provided that the use of such buses not part of the Fleet, older than those of the Fleet, shall not result in an adjustment of the average age of the buses operated in eligible service unless such buses are used to meet increased peak needs.**

16:75-2.4 Other requirements

(a) A carrier must agree to abide by all requirements, in force at the time the lease is executed, of NJ TRANSIT, and the [Urban Mass Transportation Authority (UMTA). Also, the requirements of the] Port Authority of New York and New Jersey [will be applicable] to the extent that Port Authority funds are used for each purchase. **In addition, a carrier must agree to abide by all requirements of the Urban Mass Transportation Administration (UMTA), in force at the time the lease is executed or implemented at any time during the life of the lease.** Of particular note are maintenance and insurance requirements and toll, platform, and departure fees, as applicable. A draft lease stating the required terms and conditions will be provided to eligible participants.

(b) Port Authority funds are generally used for the purchase of the new commuter buses which are used for services entirely within the Port Authority "regional bus area". This "regional bus area" is defined as a 75 mile radius of the Port Authority Bus Terminal in midtown Manhattan.

16:75-2.5 [Ineligibility] Eligibility

(a) A carrier or any of its affiliates which is not current in any and all accounts it has with NJ TRANSIT and/or its predecessors, as well as with the State of New Jersey and all of its agencies, will be included in appropriate allocations but will not be able to receive any buses until such time as any outstanding sums are paid.

(b) Consideration will be given to the adequacy of performance by the carrier or any of its affiliates under prior vehicle leasing or other contractual arrangements with NJ TRANSIT and/or its predecessors. A carrier or any of its affiliates which have demonstrated a negative performance in the past may not be considered eligible under these programs.

(c) Consideration will also be given to a carrier's ability to maintain and operate advance design, articulated and other technologically complex types of buses that require sophisticated and expensive maintenance systems. Carriers may **not** be considered [ineligible] **eligible** for the receipt of such buses based on [its] **their** apparent inability to maintain and operate such equipment.

(d) A carrier may **not** be [declared ineligible] **eligible** under any of these programs if NJ TRANSIT determines that the lease of buses or the continued lease of buses to the carrier is inconsistent with its statutory obligation to provide efficient, effective, coordinated and coherent [s]State transportation systems.

SUBCHAPTER 3. PROCEDURE

16:75-3.1 Notification

(a) When NJ TRANSIT contemplates [declaring] **finding that** [an operator] **a carrier is not** [ineligible] **eligible** under any of its bus procurement programs pursuant to N.J.A.C. 16:75-2.5, a designee of the Executive Director shall notify the carrier of the preliminary decision, the reasons therefore and allow the carrier the opportunity to respond.

(b) The Executive Director shall consider the carrier's response and all other relevant material including the applicable provisions of N.J.S.A. 27:25-1 et seq., and any other applicable law and shall render a decision. A carrier may seek a review of such decision by an **Administrative Law Judge, pursuant to N.J.A.C. 16:74-2.3 and 16:74-2.5(b) and in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Practice Rules, N.J.A.C. 1:1-1 et seq., or the Board directly** by filing a notice of such intention within 10 days after receipt of the Executive Director's decision. **However, a review of denial of eligibility of new and modified services pursuant to N.J.A.C. 16:75-2.1(i) shall be conducted only by the Board.**

(c) No final action shall be taken by NJ TRANSIT regarding [an operator's] **a carrier's** eligibility to receive buses until the **carrier** [operator] has had the opportunity to exhaust his right to respond to NJ TRANSIT'S preliminary decision or seek review of the Executive Director's decision pursuant to N.J.A.C. 16:74-2.3 or by an appeal **directly** to the Board of Directors. **Any decision by NJ TRANSIT to lease buses, which a carrier would otherwise be entitled to receive if deemed eligible, prior to the exhaustion of such carrier's administrative remedies, must be made by the Board of Directors upon notice to the carrier.**

16:75-3.2 Factors to be considered

(a) The factors to be considered by the Executive Director in determining whether a carrier is eligible to lease buses shall include, but not be limited to:

1. Whether a carrier or its affiliates are current in its accounts with NJ TRANSIT or its predecessor as well as with the State of New Jersey and all of its agencies and the Port Authority of New York and New Jersey;

2. The adequacy of performance by a carrier [or its affiliates] under prior leasing or other contractual arrangements with NJ TRANSIT or its predecessor;

3. Whether a carrier has the ability to maintain and operate advance design, articulated or other technologically complex types of buses;

4. The public need for all or a portion of the service operated by the carrier;

5. The impact of the service operated by the carrier on other carriers, the riding public and the taxpayers of the State;

6. The extent to which the carrier operates a complete array of service, or only operates on the more profitable routes and at the more profitable times, leaving other service to be operated by NJ TRANSIT or other carriers;

7. The extent to which the carrier has other equipment available for its use and not otherwise eligible for replacement under the NJ TRANSIT Bus Purchase Programs; and

8. Whether based on past actions of the carrier the lease should be conditioned on a carrier agreeing that it [or any present or future affiliate] shall not provide additional regular route services without NJ TRANSIT's approval. [This paragraph shall not apply to additional intrastate regular route service which is approved in accordance with the procedures of the New Jersey Department of Transportation.]

TREASURY-GENERAL

(a)

STATE PLANNING COMMISSION

Municipal and County Cross-Acceptance of State Development and Redevelopment Plan

Proposed New Rules: N.J.A.C. 17:32

Authorized By: State Planning Commission, John W. Epling,
Secretary and Principal Executive Officer.

Authority: N.J.S.A. 52:18A-203.

Proposal Number: PRN 1987-112.

Submit comments by May 6, 1987 to:

John W. Epling, Secretary and Principal Executive Officer
State Planning Commission
New Jersey Department of the Treasury
150 West State Street
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The State Planning Act of 1985 (N.J.S.A. 52:18A-196 et seq.) creates a State Planning Commission and an Office of State Planning in the Department of Treasury for the purposes of establishing a cooperative planning process that involves the full participation of State, county and local governments. According to the Act, New Jersey needs integrated and coordinated planning in order to conserve its natural resources, to revitalize its urban centers, to provide affordable housing and adequate public facilities at a reasonable cost, to promote equal social and economic opportunity for New Jersey's citizens, and to prevent sprawl and promote the suitable use of land.

The primary duty and responsibility of the State Planning Commission is the preparation of a "State Development and Redevelopment Plan" within 18 months after the adoption of the Act (January 2, 1986). N.J.S.A. 52:18A-202 establishes parameters for preparation and approval of the Plan. Prior to adoption, the Commission is required to distribute a "preliminary plan" to each county planning board, each municipal planning board, and other requesting agencies, including state agencies and metropolitan planning organizations. In conjunction with the distribution of preliminary plans, the Commission is required to hold, no sooner than 45 days after distribution and no later than 90 days after distribution, a "public informational meeting" in each county to provide information on the plan, to respond to inquiries concerning the plan, and to receive informal comments and recommendations from county and municipal planning boards, local public officials, and other interested parties.

The centerpiece of the Act's program for promoting vertical coordination and integration of state, county and local plans is the "cross-acceptance" process. The new proposed rules set forth the procedures and standards to govern the cross-acceptance process. The Act contemplates that the Commission will prepare the preliminary plan, submit it to county and municipal governments, and then attempt to negotiate a resolution of any disagreement which exists between the preliminary plan and county and municipal plans.

Through "cross-acceptance," the Act and the proposed rules seek to afford county and municipal government a full and open opportunity to be involved in reconciling conflicts between state and local policies. The Act presumes that the Commission will negotiate cross-acceptance with the planning boards of each of the counties and that each of the county planning boards will in turn negotiate cross-acceptance with each of the municipalities in each county. This process is to ensure a vertically integrated set of local, regional and state plans.

The Act allows a county planning board to opt out of the municipal cross-acceptance process by so notifying the Commission within 45 days of receipt of the preliminary plan. When this occurs, the Commission

may either designate any appropriate agency to negotiate cross-acceptance with the affected municipalities, or negotiate municipal cross-acceptance itself. The county planning boards, or agencies designated by the Commission, are required to complete the cross-acceptance process within six months of receiving the preliminary plan and are required to submit to the Commission a formal report of findings, recommendations and objections concerning the Plan. Each municipality is also authorized under the Act to submit its own report to the Commission if the municipality's plan is inconsistent with the State Development and Redevelopment Plan after completion of the cross-acceptance process.

After the cross-acceptance process is completed and the formal reports of participating counties have been considered, the Commission is required to prepare and distribute a final plan.

Social Impact

It is anticipated that these rules will establish a process for cooperative, coordinated planning among all levels of government in New Jersey which will promote the public health, safety, welfare and convenience, through beneficial growth, development and renewal of New Jersey's communities.

Economic Impact

The proposed new rules will have an economic impact on the municipalities and the counties in that commitment of staff and/or consultant resources to the cross-acceptance process will be required.

Positive economic benefits may be expected to result from the development of the State Plan which is the goal of the cross-acceptance process, although economic impact may be positive or negative in certain instances as a result of changes in policy and implementation of the State Plan itself.

Regulatory Flexibility Statement

The proposed rules affect the planning activities of State, county and local governments and their planning agencies and boards and will not impose recording, recordkeeping, or other compliance requirements on small businesses.

Full text of the proposed new rules follows:

CHAPTER 32

SUBCHAPTER 1. GENERAL PROVISIONS

17:32-1.1 Title and Citation

This chapter shall be known and may be cited as N.J.A.C. 17:32, Rules for Municipal and County Cross-Acceptance of the State Development and Redevelopment Plan.

17:32-1.2 Purpose and authority

(a) This chapter is promulgated by the State Planning Commission pursuant to N.J.S.A. 52:18A-203 of the State Planning Act, N.J.S.A. 52:18A-196 et seq., to establish an orderly, efficient and substantively complete and appropriate process for carrying out the municipal and county cross-acceptance process provided for in N.J.S.A. 52:18A-202 and to provide municipalities and counties with a full opportunity to negotiate cross-acceptance with the State Planning Commission. In support thereof it is determined that:

1. Municipal and county cross-acceptance is a critical element in achieving the objective of the State Planning Act to establish a vertically integrated, compatible and consistent set of local, county and State plans for the future of New Jersey;

2. The timing and character of the cross-acceptance process is described in the State Planning Act only in general terms;

3. Participation of counties in the municipal and county cross-acceptance process will enhance the substantive integrity, integration, compatibility and consistency of local, county, regional and State plans;

4. Participation of counties in the municipal and county cross-acceptance process will be encouraged by early establishment of definitive procedures, standards and criteria for the municipal and county cross-acceptance process;

5. Existing regional entities and metropolitan planning organizations should be encouraged to participate in the municipal and county cross-acceptance process pursuant to the legal framework established in N.J.S.A. 52:18A-202;

6. The structure, detail and substance of the Preliminary State Development and Redevelopment Plan must be determined in the context of a specific program for municipal and county cross-acceptance; and

7. Promulgation of rules formalizing the municipal and county cross-acceptance process will encourage municipal, county and regional participation in the preparation of a State Development and Redevelopment

Plan, and will provide interested persons with a procedural and substantive framework for meaningful participation in the State planning process.

17:32-1.3 Definitions

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

“Cross-acceptance” means the result of comparison of planning policies among governmental levels with the purpose of attaining compatibility among local, county and State plans.

“Cross-acceptance process” means a process of negotiating compatibility between levels of government where individual perspectives and prerogatives are reconciled with due respect for local, regional and State perspectives. The result of the cross-acceptance process will be a written statement in the form of a formal report by the negotiating entity specifying areas of agreement or disagreement and areas requiring modification by parties to the cross-acceptance.

“Negotiating entity” means a county or an entity designated by the State Planning Commission to carry out cross-acceptance negotiation where a county has declined to participate in the cross-acceptance process.

“Policy of general application” means a principle or other statement of purpose or position that has a greater than local application or is not limited in its perspective or application to a unique set of circumstances.

17:32-1.4 Applicability

This chapter applies to and controls actions of municipalities, counties, regional entities, metropolitan planning organizations, the State Planning Commission and any other entity including State agencies in regard to the municipal and county cross-acceptance process established by N.J.S.A. 52:18A-202.

SUBCHAPTER 2. COUNTY AND MUNICIPAL PARTICIPATION

17:32-2.1 Voluntary county participation

The Director of the Office of State Planning shall transmit a written solicitation to the governing body of each of the counties in the State, and a copy of the solicitation to each county planning board. The solicitation shall contain a schedule of required actions and events for the municipal and county cross-acceptance process, a copy of these rules, and the name of a contact person on the staff of the Office of State Planning. The solicitation shall encourage each of the counties to participate in the municipal and county cross-acceptance process individually, in cooperation with other counties, or in conjunction with an existing regional agency or metropolitan planning organization that is designated a negotiating entity pursuant to N.J.A.C. 17:32-2.4. The solicitation shall specify that those counties which advise the Commission in advance of the receipt of the Preliminary State Development and Redevelopment Plan of their intention to participate in negotiating municipal and county cross-acceptance in conjunction with a work program and schedule for negotiating cross-acceptance will be accorded scheduling priority during the cross-acceptance process and priority for such other assistance as the Office of State Planning can and will provide to all counties during the preparation and adoption of the State Development and Redevelopment Plan.

17:32-2.2 Statutory county participation

(a) In conjunction with the distribution of the Preliminary State Development and Redevelopment Plan to counties and municipalities, the Office of State Planning shall transmit to each county that has not previously advised the State Planning Commission, pursuant to N.J.A.C. 17:32-2.1, of its intention to participate in the municipal and county cross-acceptance negotiation process a request for either a Notice of Participation or a Notice of Waiver.

1. A Notice of Waiver may be submitted from any county that intends to waive the county's statutory authority to negotiate municipal and county cross-acceptance.

2. A Notice of Participation shall include a work program and schedule for negotiating municipal and county cross-acceptance.

(b) The notices of participation or waiver shall be returned to the Office of State Planning not later than 45 days after receipt of the Preliminary State Development and Redevelopment Plan.

(c) In the event that a county transmits a Notice of Waiver or fails to transmit a Notice of Participation within 45 days after receipt of the Preliminary State Development and Redevelopment Plan, the State Planning Commission shall designate a negotiating entity for municipal cross-acceptance in each such county that files a Notice of Waiver or fails to file a Notice of Participation.

17:32-2.3 Optional joint municipal cross-acceptance agreements

The Office of State Planning shall encourage the governing bodies of the several counties, especially those located in areas within existing regional planning agencies and metropolitan planning organizations, to

enter into intergovernmental agreements for consolidated or coordinated negotiation of municipal and county cross-acceptance. If a county notifies the Office of State Planning of that county's desire to participate in a consolidated or coordinated negotiation of municipal and county cross-acceptance or to involve a regional planning agency or metropolitan planning organization in the negotiation of municipal and county cross-acceptance, the Office of State Planning shall provide technical assistance in the preparation of appropriate intergovernmental agreements and designations of negotiating entities at the county's request.

17:32-2.4 Designation of entity to negotiate municipal and county cross-acceptance

(a) In the event that a county planning board advises the Office of State Planning within 45 days after receipt of the Preliminary State Development and Redevelopment Plan that the governing body of the county has determined not to participate in the negotiation of municipal and county cross-acceptance, nor in a joint process involving more than one county, a regional planning entity or a metropolitan planning organization, the State Planning Commission shall designate an appropriate entity to negotiate municipal and county cross-acceptance in the non-participating county. The Commission shall first consult with the entity to be designated and secure that entity's commitment to participate in the cross-acceptance process.

1. If a county requests that a specific entity, including a joint program subject to an intergovernmental agreement, be designated as the negotiating entity for that county, the State Planning Commission shall designate the recommended entity as the negotiating entity for the county, unless the Commission finds that the recommended designation is contrary to the intent of the State Planning Act.

17:32-2.5 Municipal cross-acceptance

(a) Each of the municipalities in the State shall participate in the cross-acceptance process by:

1. Providing to the negotiating entity a current copy of municipal master plans, land development regulations and all information required for the cross-acceptance factors set out in N.J.A.C. 17:32-3.4; and

2. Participating through official representation during cross-acceptance negotiations.

(b) In the event that any municipality fails to participate, the State Planning Commission shall take whatever steps are appropriate to carry out the provisions of this rule and the State Planning Act.

17:32-2.6 Public informational meetings

Within 15 days after the distribution of the Preliminary State Development and Redevelopment Plan, the Office of State Planning shall establish a schedule for joint public informational meetings in each county in the State to be held not less than 45 days and not more than 90 days after the date of distribution of the Preliminary State Development and Redevelopment Plan. The schedule shall give priority to counties that have previously advised the Office of State Planning of their intention to participate in the negotiation of municipal and county cross-acceptance pursuant to N.J.A.C. 17:32-2.1. Priority in the meeting schedule shall thereafter be given according to the date of receipt of Notices of Participation and Notices of Waiver pursuant to N.J.A.C. 17:32-2.2.

SUBCHAPTER 3. PROCEDURES FOR NEGOTIATING CROSS-ACCEPTANCE

17:32-3.1 Technical assistance during the negotiation of cross-acceptance

(a) During the negotiation of cross-acceptance, the Office of State Planning shall provide technical assistance to the negotiating entities in regard to the factors for comparison for cross-acceptance and cross-acceptance standards. In the event the work program for negotiating cross-acceptance which is submitted to the Commission as a part of the Notice of Participation is determined to be inadequate by the Commission, the Office of State Planning shall provide the negotiating entity with recommended work program changes to ensure effective and efficient cross-acceptance.

(b) The Office of State Planning shall prepare appropriate publications defining terms and prescribing minimum methodologies to be employed during negotiation of municipal and county cross-acceptance.

17:32-3.2 General procedures for the negotiation process

Cross-acceptance negotiations shall be carried out in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq. Due consideration shall be given to the general public and the need for public input; however, the county or other negotiating entity may determine whether it is appropriate that every cross-acceptance meeting include an opportunity for public comment and input.

17:32-3.3 Cross-acceptance reports

(a) Within six months of the receipt of the Preliminary State Development and Redevelopment Plan, each negotiating entity shall prepare and file with the State Planning Commission a formal report of findings, recommendations and objections concerning the Plan, in the form specified by the Office of State Planning, including specific references to section and page numbers of the Preliminary State Development and Redevelopment Plan.

1. The final reports of each county that participates in the negotiation of municipal and county cross-acceptance shall not be filed with the State Planning Commission until the governing body of such county has authorized the transmittal of the formal report.

2. The report shall include a matrix of sections of the Preliminary State Development and Redevelopment Plan indicating conflicts with county or local plans.

3. Graphics shall be included in the formal report where feasible and shall be at a scale consistent with local needs and recommendations.

(b) Formal reports shall be transmitted by each negotiating entity to each municipality within the area for which each negotiating entity is responsible.

17:32-3.4 Cross-acceptance factors for comparison of local, county, regional and State plans

(a) To ensure that the municipal and county cross-acceptance process is a means whereby local, county, regional and state plans can be further refined in response to particular conditions in municipalities, counties and regions; and so that municipalities, counties, regional entities and metropolitan planning organizations can be active participants in the state planning process through the concept of cross-acceptance, cross-acceptance shall be negotiated on the basis of the following factors:

1. Compatibility between policies of general application contained in the Preliminary State Development and Redevelopment Plan and the policy elements of municipal and county plans and municipal and county development regulations, in regard to:

i. Protection of natural resources, including but not limited to surface and subsurface waters, fresh water and saltwater wetlands, steep slopes, unique flora and fauna and natural and man-made hazards including floodways and other flood hazards.

ii. Protection of agricultural areas.

iii. The extent to which growth and development is directed to areas where adequate public facilities are available or scheduled for installation at public expense or will be installed at private expense.

iv. Provision of needed housing, including but not limited to affordable housing in accordance with the provisions of N.J.S.A. 52:27D-301 et seq., in conjunction with and in relation to employment opportunities.

v. Protection of areas with scenic, historic, cultural, and recreational values as identified in the Preliminary Development and Redevelopment Plan.

vi. Promotion of the maintenance and revitalization of urbanized areas.

2. Consistency between the Preliminary State Development and Redevelopment Plan and municipal and county plans, programs and local land use controls, in regard to:

i. Population and employment projections for discrete periods of time identified in the Preliminary State Development and Redevelopment Plan.

ii. The character, location and magnitude of growth and development contemplated in the Preliminary State Development and Redevelopment Plan, including zoning and subdivision regulations, in terms of numbers of dwelling units and square footage of nonresidential development permitted.

iii. The availability and distribution of public facilities, including water, sewer, transportation, solid waste, drainage, flood protection, shore protection, and related capital facilities.

iv. The designation of growth, limited growth, agriculture, open space conservation and other designations.

(b) Nothing in this section shall prevent any negotiating entity from further delineation of land use designations, levels of service appropriate to a particular location or condition, or other refined applications of general policy as part of the negotiation of municipal and county cross-acceptance.

17:32-3.5 Individual municipal reports

If a municipality is not satisfied with the cross-acceptance report prepared by the negotiating entity, the municipality may file a separate report in the same format as the formal report of the negotiating entity not later than 30 days after the negotiating entity for the county in which

the municipality is located files its formal report of findings, recommendations and objections pursuant to N.J.S.A. 52:18A-202. Should a municipality fail to participate in the negotiation of cross-acceptance and/or fail to file an individual municipal report, the municipality shall be deemed to have concurred in the final report filed by the negotiating entity regarding the State Development and Redevelopment Plan and to have waived its statutory right to file a separate report under N.J.S.A. 52:18A-202.

SUBCHAPTER 4. PRESUMPTIONS AND STANDARDS FOR CROSS-ACCEPTANCE

17:32-4.1 Cross-acceptance standards

(a) To ensure that the municipal and county cross-acceptance process affords each municipality and each county a full opportunity to participate in the State planning process and to provide local government with a full opportunity to refine the details of the State Development and Redevelopment Plan in regard to each such municipality and county, the negotiation of municipal and county cross-acceptance shall conform to the following presumptions and standards:

1. The municipal and county cross-acceptance process shall presume that goals, objectives, strategies and policies of general application will not be modified during the cross-acceptance negotiation or be amended during the adoption of the State Development and Redevelopment Plan. This presumption may be overcome by a substantial and compelling demonstration that the policy statement of general applicability is not appropriate to a particular condition or falls inequitably on a discrete class of individuals or areas.

2. Definitional standards in the Preliminary State Development and Redevelopment Plan for implementation of goals, objectives, strategies and policies of general application shall be presumed to be subject to modification, as applied to a particular set of conditions, where it is demonstrated that the modified standards will be equally effective in achieving the goals, objectives, strategies and policies of the State Development and Redevelopment Plan.

3. It shall be presumed that local prerogatives in the application of state policy and definitional criteria to specific land areas and the delineation of specific boundaries are compatible with the Preliminary State Development and Redevelopment Plan. A cross-acceptance formal report shall not indicate an inconsistency between a municipal or county plan or municipal development regulation and the Preliminary State Development and Redevelopment Plan unless it is demonstrated by substantial competent evidence that municipal or county plans and land development regulations unreasonably conflict with the Preliminary State Development and Redevelopment Plan and the State Planning Act.

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Cigarette Tax

Purchase of Tax Stamps on a Credit Basis

Proposed Amendments: N.J.A.C. 18:5-3.6, 3.7, 3.8

Authorized By: John R. Baldwin, Director, Division of Taxation.

Authority: N.J.S.A. 54:40A-1 et seq., particularly 54:40A-20.

Proposal Number: PRN 1987-106.

Submit comments by May 6, 1987 to:

Nicholas Catalano
Assistant Chief Tax Counselor
Division of Taxation
50 Barrack Street, CN 269
Trenton, NJ 08646

The agency proposal follows:

Summary

The proposed amendments to N.J.A.C. 18:5-3.6, 3.7 and 3.8 relate to the Cigarette Tax Act, N.J.S.A. 54:40A-1 et seq., which authorizes both resident and nonresident distributors to purchase tax stamps on a credit basis by the issuance of an irrevocable letter of credit. The proposed amendments would comply with the amendment to the Cigarette Tax Act (N.J.S.A. 54:40A-13) effective January 17, 1983. N.J.A.C. 18:5-3.7 and 3.8 will apply now to all licensed distributors whether resident or nonresident.

Social Impact

The proposal would allow a resident or nonresident cigarette distributor the option of purchasing tax stamps by either posting a bond or a letter of credit. Inasmuch as bonds required a high premium, distributors can comply with the law and obtain stamps on credit by having the bank issue a letter of credit as a supposedly more reasonable rate.

Economic Impact

There is no economic impact to the general public attributable to the proposed amendments. State revenue is not affected by this proposal which is only intended for cigarette distributors' assistance. The cigarette distributors, both resident and nonresident, are no longer required to post a bond, but may have a letter of credit issued, and are benefitted by the lower financial requirements.

Regulatory Flexibility Statement

The proposed rule amendments will not result in any change in existing reporting, recordkeeping or other compliance requirements for any small business, therefore, a regulatory flexibility analysis is not required.

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

18:5-3.6 Purchase of stamps on a credit basis

(a) Licensed [resident] distributors, **both resident and nonresident**, upon the discretionary approval of the Director, may make purchases of cigarette revenue tax stamps on a credit basis, provided that Cigarette Tax Form CD-4, Distributors Tax Stamp Credit Bond, **or an Irrevocable Letter of Credit issued by a State or federally chartered bank, that is satisfactory to the Director**, has been filed with the Director in an amount not less than the gross sales price of such stamps which the distributor intends to purchase.

1. The Stamp Credit Bond or Irrevocable Letter of Credit must remain in effect for a period of 90 days after the expiration of the license period.

[(b) Licensed nonresident distributors may not make purchases of cigarette revenue tax stamps on a credit basis.]

[(c) This regulation shall take effect June 1, 1972.]

18:5-3.7 Decalomania tax stamps purchased on credit

Licensed [resident] distributors, so authorized, acting in compliance with [section 3.6 (Purchase of stamps on a credit basis) of this chapter] **N.J.A.C. 18:5-3.6**, may make credit purchases of cigarette decalomania tax stamps at the Division of Taxation, Trenton, New Jersey, by presenting, in person, or by forwarding, a properly completed Distributors Stamp Order Form.

18:5-3.8 Meter impression tax stamps purchased on credit

(a) Licensed [resident] distributors, acting in compliance with [section 3.6 (Purchase of stamps) of this chapter] **N.J.A.C. 18:5-3.6**, may make credit purchases of meter impression tax stamps at the Division of Taxation, Trenton, New Jersey, by presenting, in person or by duly authorized representative, or by forwarding by mail or express, the metering machine, together with a properly completed Distributors Stamp Order Form.

(b) Licensed [resident] distributors so authorized, acting in compliance with [section 3.6 (Purchase of stamps) of this chapter] **N.J.A.C. 18:5-3.6**, may make credit purchases of meter impression tax stamps at an agent bank designated in [section 3.3(b) (Purchase of stamps) of this chapter] **N.J.A.C. 18:5-3.3(b)**, by forwarding the completed Distributors Stamp Order Form to the Division of Taxation, Trenton, New Jersey, where it is ascertained whether the credit position of the distributor is secure, and not exceeded by the order.

(c) (No change.)

OTHER AGENCIES

(a)

HACKENSACK MEADOWLANDS DEVELOPMENT COMMISSION

Official Zoning Map

Proposed Amendment: N.J.A.C. 19:4-6.28

Authorized By: Hackensack Meadowlands Development Commission, Anthony Scardino, Jr., Executive Director.
Authority: N.J.A.C. 13:17-1 et seq., specifically 13:17-6(i), and 19:4-6.27.

Proposal Number: PRN 1987-105.

A **public hearing** concerning this rule will be held on April 23, 1987 at 10:00 A.M. at:

Hackensack Meadowlands Development Commission
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071

Submit comments by May 6, 1987 to:

Thomas R. Marturano, Acting Chief Engineer
Hackensack Meadowlands Development Commission
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071

The agency proposal follows:

Summary

The proposed amendment to the Hackensack Meadowlands District Official Zoning Map will change the zoning designation of Block 106, Lot 12B in the Borough of Little Ferry from Park and Recreation to Low Density Residential.

Social Impact

The site in question is privately owned property zoned for public use. The proposed rezoning would change the use to that of the adjacent properties, Low Density Residential, thus giving the private owner use of his property. This will cause minimal impact since the subject site, approximately five acres, is part of a much larger tract of publicly owned Park and Recreation property.

Economic Impact

The proposed zoning amendment will give the property owner an economical use for his property which does not exist as it is presently zoned. The proposed development is consistent and compatible with the adjacent lands. Development of this site will not cause undue hardship to the Borough of Little Ferry.

Regulatory Flexibility Statement

The effect of this proposal would be to rezone certain property in the Borough of Little Ferry. The proposal will have no impact on small businesses other than the uses that would be permitted in the rezoned property. There being no regulation over small businesses in any other manner, no regulatory flexibility analysis is required.

Full text of the proposal follows.

19:4-6.28 Official Zoning Map

The zoning designation of Block 106, Lot 12 in Little Ferry, New Jersey is changed from Park and Recreation to Low Density Residential.

OAL NOTE: A map showing the proposed change in zoning designation was submitted as part of the Commission's notice of proposed rule.

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF RURAL RESOURCES

State Soil Conservation Committee Vegetative and Structural Standards

Adopted Amendment: N.J.A.C. 2:90-1.3

Proposed: October 20, 1986 at 18 N.J.R. 2081(a).

Adopted: March 12, 1987 by the State Soil Conservation Committee, Arthur R. Brown, Jr., Chairman.

Filed: March 16, 1987 as R.1987 d.171, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 4:24-3 and 4:24-42.

Effective Date: April 6, 1987.

Expiration Date: June 24, 1990.

Summary of Public Comments and Agency Responses:

Vegetative Standards

COMMENT: It was suggested that the absolute requirement for mulch with all seedings is too rigid and that under certain conditions, acceptable vegetation can be established without mulch.

RESPONSE: Language has been added to the vegetative standards to clarify that the existence of either satisfactory vegetative cover or mulch will satisfy the requirement.

COMMENT: A request was made to permit combined application of mulch with grass seed for certain hydroseeding operations.

RESPONSE: When seed and mulch are combined in hydroseeding, substantial amounts of the seed adhere to the mulch medium and do not survive. Because of the potential for failure, it was determined that the requirement for mulching as a separate operation be retained in the standards as proposed.

Structural Standards

COMMENT: A commenter questioned the basis for the proposed reduction in the design maximum allowable velocity for diversions and grassed waterways which could result in excessive channel design width.

RESPONSE: For diversions, the proposed reduced maximum allowable velocity for non-vegetated diversions on sands has been retained in the standards because of the potential for excessive erosion. The allowable velocity for grassed waterways has not been reduced and in some instances may be increased with use of synthetic materials and would not result in excessive channel width.

COMMENT: It was suggested that the Standard for Detention Basin be deleted to avoid conflict with other agencies establishing such requirements.

RESPONSE: Structural criteria have been deleted from the proposed detention basin standard. Hydraulic criteria have been retained to assure that stable outlets are designed. No conflict with other agency regulations is anticipated.

COMMENT: A commenter questioned if the proposed peak discharge rate under the Detention Basin Standard supersedes other regulatory agency requirements.

RESPONSE: Other applicable agency requirements for peak discharge shall apply, provided that a stable outlet condition is achieved. The criteria are retained as proposed.

COMMENT: A commenter questioned the proposed requirement for eight inches of crushed stone for construction entrance stabilization.

RESPONSE: The requirement for eight inches has been reduced to six inches to reflect an editorial error.

COMMENT: A respondent suggested that the gravel curb inlet sediment filter be utilized only when other methods cannot be employed.

RESPONSE: It was agreed that this proposal is one of several alternative practices and that applicability and use will be based upon site conditions. The practice is retained in the standard as proposed.

COMMENT: It was suggested that references to the Dam Safety Act and other statutes regulating disturbance at stream corridors be included in applicable standards.

RESPONSE: Appropriate references have been included in the standards.

COMMENT: A respondent suggested the Standards for Rooftop Storage and Underground Tanks be deleted because of their limited applicability.

RESPONSE: It was determined to retain these Standards as options for controlling soil erosion and sedimentation. Any design criteria included are for guidance and only hydraulic criteria will be evaluated with respect to establishment of stable outlets.

COMMENT: A commenter suggested that design criteria referred to as the "24 hour duration, Type III" storm be deleted from most Standards because such would preclude use of other acceptable design criteria.

RESPONSE: Such language has been deleted from all the standards except the Standard for Sedimentation Basin.

GENERAL COMMENT: All technical criteria included in the Standards as adopted herein were developed in consultation with a technical advisory committee comprised of representatives of virtually all agencies and groups possessing expertise or impacted by these standards. The technical criteria and language herein adopted by reference reflect the consensus of this advisory group. The designation of certain standards as "Revised June, 1986" in the proposal was erroneous, as the revisions approved in June, 1986 are only effective as revisions upon this adoption. The revision dates have been corrected to April 6, 1987.

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

2:90-1.3 Standards **for Soil Erosion and Sediment Control***

(a) The State Soil Conservation Committee adopts and hereby incorporates into these rules by reference as standards for soil erosion and sediment control those standards published in the "Standards for Soil Erosion and Sediment Control in New Jersey", **and identified*** as adopted or revised September 9, 1974, September 1979 and **[June 1986]* *April 6, 1987*** as **[a]* *the*** technical basis for local soil conservation district certification of soil erosion and sediment control plans. Specifically, these standards include the following.

1. Vegetative Standards:

Temporary Vegetative Cover for Soil Stabilization	3.1.1
Revised [June 1986]* *April 6, 1987*	
Permanent Vegetative Cover for Soil Stabilization	3.2.1
Revised [June 1986]* *April 6, 1987*	
Stabilization with Mulch Only	3.3.1
Revised September 1979	
Permanent Stabilization with Sod	3.4.1
Revised September 1979	
Topsoiling	3.5.1
Revised September 1979	
Maintaining Vegetation	3.6.1
Adopted September 1974	
Dune Stabilization	3.7.1
Revised [June 1986]* *April 6, 1987*	
Trees, Shrubs and Vines	3.8.1
Adopted June 1974	
Protecting Trees During Construction	3.9.1
Revised [June 1986]* *April 6, 1987*	

2. Structural Standards:

Land Grading	4.1.1
Revised [June 1986]* *April 6, 1987*	
Diversions	4.2.1
Revised [June 1986]* *April 6, 1987*	
Grassed Waterway	4.3.1
Revised [June 1986]* *April 6, 1987*	
Sediment Basin	4.4.1
Revised [June 1986]* *April 6, 1987*	
Slope Protection Structures	4.5.1
Revised [June 1986]* *April 6, 1987*	
Channel Stabilization	4.6.1
Revised [June 1986]* *April 6, 1987*	
Detention Basin	4.8.1
Revised [June 1986]* *April 6, 1987*	
Subsurface Drainage	4.8.1
Revised [June 1986]* *April 6, 1987*	
Traffic Control	4.9.1
Revised [June 1986]* *April 6, 1987*	

Dust Control 4.10.1
 Revised *[June 1986]* *April 6, 1987*

Lined Waterway 4.11.1
 Revised *[June 1986]* *April 6, 1987*

Riprap 4.12.1
 Revised *[June 1986]* *April 6, 1987*

Sediment Barrier 4.13.1
 Revised *[June 1986]* *April 6, 1987*

Conduit Outlet Protection 4.14.1
 Revised *[June 1986]* *April 6, 1987*

Stabilized Construction Entrance 4.15.1
 Revised *[June 1986]* *April 6, 1987*

Storm Sewer Inlet Protection 4.16.1
 Revised *[June 1986]* *April 6, 1987*

Grade Stabilization Structure 4.17.1
 Adopted *[June 1986]* *April 6, 1987*

Parking Lot Storage 4.18.1
 Adopted *[June 1986]* *April 6, 1987*

Rooftop Storage 4.19.1
 Adopted *[June 1986]* *April 6, 1987*

Underground Tanks 4.20.1
 Adopted *[June 1986]* *April 6, 1987*

3. Copies of the Standards may be obtained by contacting the State Soil Conservation Committee or any of the soil conservation districts as follows:

i.-xvi. (No change.)

(b) Where it can be satisfactorily demonstrated by the applicant that unique or innovative control measures or procedures not specified in this chapter may be applicable to specific sites, such measures may be proposed for consideration and utilized subject to approval by the soil conservation district and the State Soil Conservation Committee. Such approval may be granted only where it is determined that strict application of the standards as herein specified will not result in the most practical and effective control of soil erosion, sedimentation and storm-water damages.

(c) The location*,* address, and telephone number of the local soil conservation district may be obtained from the State Soil Conservation Committee, CN 330, Trenton, New Jersey 08625, 609-292-5540.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF HAZARDOUS WASTE MANAGEMENT

Interim Environmental Cleanup Responsibility Act Rules

Readoption: N.J.A.C. 7:1-3

Proposed: January 5, 1987 at 19 N.J.R. 10(a).

Adopted: February 25, 1987 by Richard T. Dewling,

Commissioner, Department of Environmental Protection.

Filed: February 27, 1987 as R.1987 d.147, **without change.**

Authority: N.J.S.A. 13:1K-6 et seq., specifically 13:1K-10.

Effective Date: February 27, 1987.

Expiration Date: September 16, 1990.

DEP Docket Number: 056-86-12.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 7:1-3.

HIGHER EDUCATION

BOARD OF HIGHER EDUCATION

(b)

Licensing and Degree Program Approval Rules Financial Statements

Adopted Amendment: N.J.A.C. 9:1-1.4

Proposed: December 1, 1986 at 18 N.J.R. 2364(a).

Adopted: March 2, 1987 by the Board of Higher Education,
T. Edward Hollander, Chancellor and Secretary.

Filed: March 3, 1987 as R.1987 d.150, **without change.**

Authority: N.J.S.A. 18A:3-14, 18A:3-15, 18A:3-16 and 18A:3-21.

Effective Date: April 6, 1987.

Expiration Date: January 17, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

9:1-1.4 Finances

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

(e) Each independent institution shall furnish to the Chancellor a copy of the institution's audited financial statement. With the exception of those independent institutions receiving funding under the Independent College and University Assistance Act (ICUAA), N.J.S.A. 18A:72B-15 et seq., all other independent institutions, including special purpose and theological institutions, shall submit these statements to the Chancellor on or before December 31 of each year. The ICUAA institutions shall furnish the audited financial statements to the Chancellor on or before November 1 of each year in accordance with N.J.A.C. 9:14-1.2(d).

(f) Each institution shall carry insurance or provide for self-insurance to maintain the solvency of the institution in case of loss by fire or other causes, to protect the institution in instances of personal and public liability and to assure the continuity of the institution.

(c)

Licensing and Degree Program Approval Rules Out-of-State Institutions

Adopted Amendment: N.J.A.C. 9:1-6.1

Proposed: December 1, 1986 at 18 N.J.R. 2365(a).

Adopted: March 2, 1987 by the Board of Higher Education,
T. Edward Hollander, Chancellor and Secretary.

Filed: March 3, 1987 as R.1987 d.151, **without change.**

Authority: N.J.S.A. 18A:3-14, 18A:3-15, 18A:3-16, 18A:3-21 and
18A:68-6.

Effective Date: April 6, 1987.

Expiration Date: January 17, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

9:1-6.1 Review of petitions

(a) (No change.)

(b) Programs may be approved for periods of one to five years. Initially, programs will not be approved for longer than a three-year period. With respect to requests to offer credit-bearing courses, but not with a degree program, approval will be for a period of only one year, with the exception of those institutions meeting the criteria of (c) below.

(c) Institutions which have been providing credit-bearing courses in New Jersey with the approval of the Board of Higher Education for at least five consecutive years, may have courses approved by the Board of Higher Education for a period of up to five years, if the institution during this five-year period annually provides to the Department of Higher Education, six months prior to desired implementation, an update of the information required pursuant to N.J.A.C. 9:1-6.2(c). If during the five-year approval period the Department determines, in conjunction with the Licensure and Approval Advisory Board (LAAB), from a review of

the annual materials submitted by the institution, that there is a significant change in the offerings and/or additional or different resources are needed to provide educational services of quality or if there is a change in the status of the institution, the Department shall have the option of submitting the matter to the Board of Higher Education for its review. The Board of Higher Education's denial of such a modification shall serve to revoke approval for the period of time remaining in the existing five-year approval period.

(a)**Community Colleges; Chargeback****Adopted Amendment: N.J.A.C. 9:4-1.5**

Proposed: January 5, 1987 at 19 N.J.R. 14(a).

Adopted: March 2, 1987 by the Board of Higher Education,

T. Edward Hollander, Chancellor and Secretary.

Filed: March 3, 1987 as R.1987 d.152, **without change**.

Authority: N.J.S.A. 18A:64A-7.

Effective Date: April 6, 1987.

Expiration Date: October 30, 1991.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

9:4-1.5 Chargeback

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

(g) Students required to enroll in a comprehensive remedial program, as defined by the Chancellor, must take that full sequence of remediation in the home county. Each academic year, the Chancellor shall determine and distribute to the county colleges a definition of comprehensive remedial program for such students which shall be based upon severe deficiencies in reading, writing and mathematics as evidenced by New Jersey College Basic Skills Placement Test results. After the successful completion of such remediation, students will be eligible to take the intended courses of study on a chargeback basis at the out-of-county institution.

(h) Students not required to enroll in a comprehensive remedial program as defined in (g) above may take such remediation as part of the program of student at the out-of-county institution on a chargeback basis.

(i)-(l) (No change.)

STUDENT ASSISTANCE BOARD**(b)****Student Assistance Programs****Dependent/Independent Student Defined****Adopted Repeal and New Rule: N.J.A.C. 9:7-2.6**

Proposed: January 20, 1987 at 19 N.J.R. 176(a).

Adopted: March 13, 1987 by the Student Assistance Board,

Joseph Streit, Chairman.

Filed: March 16, 1987 as R.1987 d.169, **without change**.

Authority: N.J.S.A. 18A:71-26.8 and 18A:71-48.

Effective Date: April 6, 1987.

Expiration Date: April 13, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

9:7-2.6 Dependent/independent student defined

(a) The term independent, when used with respect to a student, means any individual who:

1. Is 24 years of age or older by December 31 of the award year; or
2. Meets the requirements of (b) below.

(b) Except as provided in (c) below an individual meets the requirements of this section if such individual:

1. Is an orphan or ward of the court; or
2. Is a veteran of the Armed Forces of the United States; or

3. Is a graduate or professional student who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year; or

4. Is a married individual who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year; or

5. Has legal dependents other than a spouse; or

6. Is a single undergraduate student with no dependents who was not claimed as a dependent by his or her parents (or guardian) for income tax purposes for the two calendar years preceding the award year and demonstrates to the student financial aid administrator total self-sufficiency during the two calendar years preceding the award year in which the initial award will be granted by demonstrating an annual total income of at least \$4,000; or

7. Is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances. For purposes of receiving State student assistance as an independent student due to unusual circumstances, at least one of the following criteria must be met:

i. The student has been separated from his or her parents due to an unsafe home environment or has been institutionalized in a correctional facility. Documentation of such status must be received from a court, social service agency, or other similar source acceptable to the director of the applicable student assistance program within the Department of Higher Education.

ii. The student is a recipient of either Aid to Families with Dependent Children (AFDC) or general assistance in his or her own name and complies with the provisions of (b)6 above except for the income requirement set forth therein.

iii. The student is from a foreign country but has established permanent residency in the United States, is a refugee or has received political asylum, and complies with the provisions of (b)6 above except for the income requirement set forth therein. For the purposes of eligibility under this subparagraph, the student's parents must reside outside of the United States.

iv. The student has been separated from his or her parents and comes from a documented background of historical poverty as set forth in N.J.A.C. 9:11-1.5 (or as attested to by a social service agency or respected member of the student's community and acceptable to the director of the applicable student assistance program within the Department of Higher Education), is living with a relative who is providing support to the student, and complies with the provisions of (b)6 above except for the income requirement set forth therein.

v. The student was considered as an independent student for the purposes of New Jersey State student assistance programs during the 1986-87 academic year, and complies with the provisions of (b)6 above except for the income requirement set forth therein. This provision will be effective for the 1987-88 academic year only.

vi. The student's economic and personal circumstances are of such a unique or unusual nature that denial of independent student status would create an unjust hardship upon the student. Eligibility under this subparagraph is subject to the approval of the director of the applicable student assistance program within the Department of Higher Education.

(c) An individual may not be treated as an independent student described in (b)3, 4, and 6 above if the financial aid administrator determines that such individual was treated as an independent student during the preceding award year, but was claimed as a dependent by any other individual (other than a spouse) for income tax purposes for the first calendar year of such award year.

(d) The financial aid administrator may certify an individual described in (b)3, 4, and 6 above on the basis of a demonstration made by the individual but no disbursement of an award may be made without documentation.

(e) A dependent student shall be any student who does not meet any of the eligibility criteria listed in (a) or (b) above for independent student status.

(a)

**Tuition Aid Grant Program
1987-88 Award Table**

Adopted Amendment: N.J.A.C. 9:7-3.1

Proposed: January 20, 1987 at 19 N.J.R. 177(a).
Adopted: March 13, 1987 by the Student Assistance Board,
Joseph Streit, Chairman.

Filed: March 16, 1987 as R.1987 d.170, **without change.**

Authority: N.J.S.A. 18A:71-47(b) and 18A:71-48.

Effective Date: April 6, 1987.

Expiration Date: April 13, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

9:7-3.1 Tuition Aid Grant Award Table

(a) The value of the grant is related to the tuition charges of the various institutional sectors in New Jersey and the student's ability to pay for educational costs. The award tables below show approximate award levels depending upon tuition and ability to pay:

**1. TUITION AID GRANT (TAG) AWARD TABLE FOR 1986-87
APPROXIMATE TUITION AID GRANT VALUES
NEW JERSEY COLLEGES AND UNIVERSITIES**

NJ Eligibility Index (NJEI)	County Colleges	State Colleges	Independent Institutions	Rutgers Univ. & UMDNJ ¹	NJ Inst. of Tech.
A	B	C	D	E	F
Under 950	\$890	\$1280	\$2650	\$1852	\$2132
950-1349	890	1280	2650	1852	2132
1350-1749	840	1230	2500	1800	2040
1750-2149	740	1130	2350	1700	1920
2150-2549	640	1030	2200	1600	1800
2550-2949	540	930	2050	1500	1680
2950-3349	290	680	1750	1250	1410
3350-3749	200	580	1600	1150	1290
3750-4149	0	480	1450	1050	1170
4150-4549	0	380	1300	950	1050
4550-4949	0	280	1150	850	930
4950-5349	0	200	1000	750	830
5350-5749	0	0	850	650	730
5750-6149	0	0	700	550	630
6150-6549	0	0	550	200	530
6550-6949	0	0	400	0	200
6950-7349	0	0	250	0	0
7350-7749	0	0	200	0	0
Over 7749	0	0	0	0	0

¹Rutgers Engineering, Pharmacy, and Cook College students will have their awards increased to offset the higher tuition charged for these programs of study. Students enrolled in eligible programs at UMDNJ contact the financial aid office for details.

**2. TUITION AID GRANT (TAG) AWARD TABLE FOR 1987-88
APPROXIMATE TUITION AID GRANT VALUES¹
NEW JERSEY COLLEGES AND UNIVERSITIES**

NJ Eligibility Index (NJEI)	County Colleges	State Colleges	Independent Institutions	Rutgers Univ. & UMDNJ ¹	NJ Inst. of Tech.
Under 950	100% of tuition	100% of tuition	40-50% ²	100% of tuition	100% of tuition
950-1349	80-99%	90-99%	91-99% ³	91-99%	91-99%
1350-1749	70-79%	80-89%	86-90%	86-90%	86-90%
1750-2149	60-69%	75-79%	81-85%	81-85%	81-85%
2150-2549	50-59%	68-74%	76-80%	76-80%	76-80%
2550-2949	40-49%	62-67%	71-75%	71-75%	71-75%
2950-3349	30-39%	55-61%	66-70%	66-70%	66-70%
3350-3749	Minimum	48-54%	61-65%	61-65%	61-65%
3750-4149	0	41-47%	56-60%	56-60%	56-60%

4150-4549	0	34-40%	51-55%	51-55%	51-55%
4550-4949	0	28-33%	46-50%	46-50%	46-50%
4950-5349	0	21-27%	41-45%	41-45%	41-45%
5350-5749	0	Minimum	36-40%	36-40%	36-40%
5750-6149	0	0	31-35%	31-35%	31-35%
6150-6549	0	0	26-30%	26-30%	26-30%
6550-6949	0	0	21-25%	21-25%	21-25%
6950-7349	0	0	16-20%	Minimum	Minimum
7350-7749	0	0	11-15%	0	0
7750-8149	0	0	5-10%	0	0
8150-8549	0	0	Minimum	0	0
Over 8549	0	0	0	0	0

¹In accordance with State guidelines, the value of your grant may decrease dependent upon appropriated funds, your college budget, your available resources, and your estimated family contribution. You will be notified of any increase in your grant if additional funds become available. Additional eligibility (NJEI) cells may be added below the minimum award level dependent upon the current tuition charges and estimated family contribution. For purposes of N.J.A.C. 9:7-3.1, *Tuition Aid Grant Award Table*, the minimum award for all institutional sectors shall be \$200.00.

²Students enrolled in eligible programs at UMDNJ contact your financial aid office for details.

³Pursuant to N.J.S.A. 18A:71-47, the maximum award for a student attending an independent institution of higher education is 50 percent of the average tuition normally charged students attending those institutions. The FY88 Budget Request contains a recommended \$3,000 maximum award level in the independent sector for students with an NJEI under 950.

⁴Percentages listed for NJEI categories 950 and above represent percentages of the first cell award.

(b)

Carl D. Perkins Scholarship Program

Adopted New Rules: N.J.A.C. 9:7-9

Proposed: November 3, 1986 at 18 N.J.R. 2174(b).

Adopted: March 13, 1987 by the Student Assistance Board,
Joseph Streit, Chairman.

Filed: March 16, 1987 as R.1987 d.168, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3) and **with a portion of the proposal not adopted.**

Authority: N.J.S.A. 18A:71-15.3, Title V, Part E of the Higher Education Act of 1965, as amended by the Human Services Reauthorization Act of 1984, 20 U.S.C. 1119d-1119d-8.

Effective Date: April 6, 1987.

Expiration Date: April 13, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

While no public comments were received, it was necessary that the language in the proposal be amended to coincide with regulatory changes adopted by the Federal government. Other technical amendments were made to more clearly define the eligibility requirements as well as certain terminology associated with the program.

Language revisions in proposed N.J.A.C. 9:7-9.8, 9.10, 9.11 and 9.13, necessitated by changes in the applicable Federal regulations, were of such a nature as to substantially alter the effect of those rules as proposed. Pursuant to N.J.A.C. 1:30-4.3, these four rules as changed will be proposed as new rules in a future issue of the New Jersey Register, and their codification reserved in this adoption as N.J.A.C. 9:7-9.9, 9.11, 9.12 and 9.15, respectively.

The revision of N.J.A.C. 9:7-9.5 upon adoption was done to clarify the scholarship amount provisions mandated by the Federal government. The Board's intent in adopting N.J.A.C. 9:7-9.5(b) was to expressly condition the amount of the scholarship upon the amount of other financial aid received. This change does not alter the effect of the rule as proposed, since a scholarship grant which, combined with other financial aid, exceeded the cost of college attendance would have caused a reduction in other financial aid sources, pursuant to Federal financial aid regulations, to enable total aid received to match attendance cost.

The proposed language, "In no case shall awards be made of less than \$2,000 per year," was revised in N.J.A.C. 9:7-9.5(c) to clarify the Board's intention to establish a qualifying lower limit to the amount of scholarship that could be awarded, pursuant to Federal regulations.

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

SUBCHAPTER 9. [CARL D. PERKINS SCHOLARSHIP PROGRAM]* *CONGRESSIONAL TEACHER SCHOLARSHIP PROGRAM*

OLD CITATION	NEW CITATION
9:7-9.1	9:7-9.1
—	9:7-9.2
9:7-9.2	9:7-9.3
9:7-9.3	9:7-9.4
9:7-9.4	9:7-9.5
9:7-9.5	9:7-9.6
9:7-9.6	9:7-9.7
9:7-9.7	9:7-9.8
9:7-9.8 (Deleted)	—
—	9:7-9.9
9:7-9.9	9:7-9.10
9:7-9.10 (Deleted)	—
9:7-9.11	(Reserved)
	9:7-9.12 (Reserved)
9:7-9.12	9:7-9.13
9:7-9.13 (Reserved)	9:7-9.14
	9:7-9.15 (Reserved)

9:7-9.1 *[General provisions]* *Rules incorporated by reference*

[General Provisions for all Programs Administered by the Student Assistance Board (N.J.A.C. 9:7-2) which pertain to residency, foreign nationals, payment to students, check endorsements, appeals, and fiscal responsibilities shall be in effect for the Carl D. Perkins Scholarship Program.]

The provisions of the following sections of subchapter 2 of this chapter, N.J.A.C. 9:7-2.2 residency, 2.3 foreign nationals, 2.11 payment to students, 2.14 check endorsements, 2.15 appeals and 2.16 fiscal responsibilities, governing the programs administered by the Student Assistance Board, shall also apply to this program unless they are inconsistent with or otherwise excepted within the provisions of this subchapter.

*9:7-9.2 Definitions

(a) "Alternate route" shall mean the method of receiving approval from the New Jersey Department of Education to teach at the elementary or secondary school level pursuant to the provisions of N.J.A.C. 6:11-5.3, 5.4, 5.5, 5.6 and 5.7.

(b) "Degree program leading to teacher certification" shall mean an undergraduate teacher preparation degree program which curriculum leads to a recommendation for a New Jersey instructional certificate awarded by the New Jersey Department of Education or any other undergraduate degree program in which the student enrolled has expressed the intention to utilize such degree for the purpose of securing a New Jersey instructional certificate awarded by the New Jersey Department of Education, including any graduate study required to obtain an initial instructional certificate.

(c) "Installment promissory note" shall mean the promissory note signed by the scholar which sets forth the specific terms of repayment of previously received scholarship monies and interest in lieu of reduction of scholarship balances through teaching service pursuant to N.J.A.C. 9:7-9.9.

(d) "Interim promissory note" shall mean the promissory note signed by the scholar upon receipt of each disbursement of scholarship funds whereby the scholar promises to repay such funds plus interest unless teaching service is performed pursuant to N.J.A.C. 9:7-9.9.*

9:7-9.2**9.3* Academic requirements for application

*(a) In order to be eligible for a scholarship, an applicant must rank in the top 10 percent of his or her secondary school graduating class.

(b) In addition to (a) above, upperclass students must also have a cumulative grade point average (GPA) of at least 2.5.]*

*[a) An applicant for the program must:

1. Rank in the top 10 percent of his or her secondary school graduating class; and

2. If a collegiate student at the sophomore level or above, have a cumulative grade point average (GPA) of at least 2.5.*

9:7-9.3**9.4* Attendance in an eligible institution

An applicant must be enrolled or plan to enroll in an accredited New Jersey college or university on a full-time basis in a degree program leading to a teaching certificate or *[in a degree program in a specialized field of study leading to a teaching certificate through the "Alternative Route".]* *has indicated an intent to seek employment in the teaching field through the "Alternate Route" method but not including graduate study that is not required for initial teacher certification.*

9:7-9.4**9.5* Amount of scholarship

[Awards may be made without regard to need and shall be \$5,000 per year, although a recipient may not receive an amount which shall exceed the cost of college attendance as defined by the institution. In no case shall awards be made of less than \$2,000 per year. Awards will be made on a semester or term basis, and half-year awards are permissible.]

*(a) The Student Assistance Board may award scholarships without regard to the need of the recipient.

(b) The amount of each scholarship shall be \$5,000 per year; provided, however, a recipient shall not receive an amount which, when combined with other financial aid, would exceed the cost of college attendance as defined by the institution.

(c) A scholarship shall not be awarded if the application of the provisions of (b) above would result in an award of less than \$2,000 for the academic year.

(d) Awards may be made on a semester, term, or half-year basis.*

9:7-9.5**9.6* Application procedures

(a) An applicant must submit the following information:

1. An application to participate in the program including a statement indicating the applicant's intent to pursue a teaching career*[*]; and]* *at the preschool, elementary or secondary school level; and*

2. Two written recommendations from *college or* secondary school *[or college]* administrators, guidance counselors or teachers attesting to the applicant's interest in and aptitude for teaching; and

3. An official secondary school transcript*[*],* including class rank*;* *and SAT scores; and]*

4. An official transcript of college grades including the cumulative grade point average (GPA), if applicable*[*].* *; and*

5. Scholastic Aptitude Test (SAT) scores or the equivalent of the American College Test (ACT) for those applicants who have not yet attended college.

(b) All application forms and information must be submitted to the following authorized State agency:

New Jersey Department of Higher Education
Office of Student Assistance
4 Quakerbridge Plaza
CN 540
Trenton, NJ 08625

9:7-9.6**9.7* *[Selection]* *Criteria for scholarships*

*(a) The Distinguished Scholars Committee will apply the selection criteria to the applications received according to a formula which will consider:

Class Rank + Scholastic Aptitude Test (SAT) Scores + Grade Point Average (GPA) + Other Documents Provided by the Applicant.]*

*[a) The Student Assistance Board will consider the following criteria in determining scholarship recipients:

1. Class rank; and

2. Scholastic Aptitude Test (SAT) or American College Test (ACT) scores; and

3. Grade point average (GPA); and

4. Other documents provided by the applicant.*

(b) Scholarships will be awarded without regard to sex, race, handicapping condition, creed, or economic background.

9:7-9.7**9.8* Renewal of scholarship eligibility

(a) In order to maintain eligibility for a scholarship a scholar must be:

1. Enrolled as a full-time student in a New Jersey postsecondary institution that is currently accredited by a nationally recognized accrediting agency or association; and

2. Pursuing a course of study leading to certification as a teacher at the *preschool,* elementary or secondary level, as determined by the State in which the postsecondary institution the student is attending is located; and

3. Maintaining satisfactory progress as determined by the *[New Jersey postsecondary]* *attending* institution and *in accordance with* Federal regulations*[*].* *as established in 34 C.F.R. 668.16(e).*

(b) The scholar shall provide the *[authorized State agency, as it requires,]* ***Department of Higher Education, Office of Student Assistance*** with evidence of compliance with the above requirements.

***[9:7-9.8 Teaching obligations of the scholarship recipient**

(a) The scholar shall teach on a full-time basis for a period of not less than two years for each year for which he or she received a Carl D. Perkins Scholarship in a public elementary or secondary school or education program in any State; in a private nonprofit elementary or secondary school located and serving students in a district eligible for assistance under Chapter 1 of the Education Consolidation and Improvement Act of 1981; or handicapped children, or children with limited English proficiency, in a private nonprofit elementary or secondary school.

1. The requirement to teach two years for each year of scholarship assistance is reduced by one-half if the scholar teaches on a full-time basis:

i. In a school which is designated by the Secretary as meeting the provisions of 34 CFR 674.54(a) of the National Direct Student Loan Program regulations for the year in which the individual is teaching at the school or the prior year; or

ii. Handicapped children, or children with limited English proficiency, in an education program or school referred to in N.J.A.C. 9:7-9.8(a).

(b) The scholar shall fulfill the teaching obligation described above within ten years after completing the postsecondary education degree program for which the scholarship was awarded.

(c) The scholar shall provide the authorized State agency, as it requires, with evidence of compliance with the above requirements.]*

9:7-9.9 *(Reserved)*

9:7-9.10* Reduction of scholarship balance

(a) ***[Redemption of this loan]* *Reduction of the scholarship balance*** is predicated upon obtaining a baccalaureate degree and providing teaching service as specified in N.J.A.C. 9:7-9.8. Depending upon the location and duration of the teaching assignment, the total principal sum of the Interim Promissory Note including any accrued, capitalized interest will be ***[cancelled]* *reduced*** for ***[the]*** service rendered within 10 years after completing the postsecondary education degree program for which the scholarship was awarded.

(b) Total ***[cancellation of loan indebtedness will]* *reduction of scholarship balance shall*** not exceed the maximum of \$20,000 plus accrued, capitalized interest. ***[Any other loans received in addition to those loans obtained through the Carl D. Perkins Scholarship Program will not be eligible for redemption.]***

(c) The scholar's ***[loan indebtedness will be redeemed annually]* *total scholarship balance shall be reduced each year*** based on the submission ***on an annual basis*** of a notarized copy of:

1. The signed contract between the district board of education ***or its equivalent*** and the borrower indicating a full-time teaching agreement is in force, submitted by a ***[specified date; and]* *date specified by the Department of Higher Education, Office of Student Assistance; and***

2. A letter from the chief school administrator submitted by a ***[specified date]* *date specified by the Department of Higher Education*** indicating a year of service has been completed.

***[9:7-9.10 Repayment schedule for failure to meet teaching obligations or withdrawal from undergraduate degree program**

(a) If the scholar fails to meet the teaching obligations described in N.J.A.C. 9:7-9.8, or if the scholar ceases to pursue the postsecondary degree program for which the scholarship is awarded, the scholar shall:

1. Repay the amount of the scholarships received, prorated according to the fraction of the teaching obligation not completed, as determined by the authorized State agency; and

2. Pay a simple per annum interest charge on the outstanding principal; and

3. Pay all reasonable collection costs as determined by the authorized State agency but not to exceed 25 percent of the amount of the unpaid principal and accrued interest.

(b) The interest charge accrues from the date of the initial scholarship payment if the scholar has ceased to pursue the postsecondary education degree program for which the scholarship was awarded, or the day after that portion of the scholarship period for which the teaching obligation has been fulfilled.

(c) The interest charge is adjusted annually, from the time interest begins to accrue to the time the repayment period begins (as described in (d) below), and is set at a rate which is the greater of 14 percent annually or 5 percent above the average of the bond equivalent rates of 91-day Treasury bills auctioned during the most recent quarter ending March 31. The interest charge applicable during the repayment period is the greater of these rates as determined when the repayment schedule is established.

(d) The scholar shall enter repayment status on the first day of the calendar month after:

1. The State has determined that the scholar has ceased to pursue the postsecondary education degree program for which the scholarship was awarded; or

2. The date the scholar informs the agency he or she does not plan to fulfill the teaching obligation; or

3. The latest date on which the scholar must have begun teaching in order to have completed the teaching obligation within ten years after completing the postsecondary education for which the scholarship was awarded, as determined by the authorized State agency.

i. A scholar covered by N.J.A.C. 9:7-9.10(d)3. could apply for a deferment upon obtaining a full-time teaching position eligible for redemption.

(e) The scholar shall make payments to the State which cover principal, interest, and collection costs according to a schedule established by the State which calls for complete repayment within ten years after the scholar enters repayment status and which amount annually is no less than \$1,200 or the unpaid balance, whichever is less with the following exceptions:

1. The State agency shall extend the ten-year scholarship repayment period by a period equal to the length of time a scholar meets any of the conditions in N.J.A.C. 9:7-9.11.

2. The State agency shall not require scholarship repayments amounting to more than \$1,200 annually unless higher payments are needed to complete the entire repayment within the ten-year period.

(f) The scholar will notify the Department of Higher Education, Office of Student Assistance, by certified mail within 15 days of termination in the program. The Department of Higher Education, Office of Student Assistance, will then authorize the New Jersey Higher Education Assistance Authority (NJHEAA) to issue a statement of total loan indebtedness.

(g) The particular terms and conditions of loan indebtedness will then follow in a separate document known as the repayment schedule that will be provided to the scholar prior to the repayment period by the NJHEAA. The repayment schedule will consolidate all loan amounts borrowed through the program and will include all accrued interest capitalized to the principal balance at the time of repayment. The scholar will be required to repay the entire capitalized principal balance, plus accruing interest at the assigned rate determined by the Department of Higher Education, Office of Student Assistance, in equal monthly installments over a repayment period that generally lasts no more than ten years.]*

9:7-9.11 *[Exceptions to repayment schedule]* *(Reserved)*

***[(a) A scholar is not considered in violation of the repayment schedule and need not make scholarship repayments nor will interest accrue during the time he or she is:**

1. Engaging in a full-time course of study at an institution of higher education as defined in 34 CFR 668.2 of the Student Assistance General Provisions regulations as verified by the submission of official certification of full-time enrollment; or

2. Serving, not in excess of three years, as a member of the armed services of the United States as verified by the submission of documentation of enlistment; or

3. Temporarily totally disabled, for a period not to exceed three years, as established by a sworn affidavit of a qualified physician; or

4. Unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled as evidenced by a qualified physician's sworn affidavit; or

5. Seeking and unable to find full-time employment for a single period not to exceed 12 months; or

6. Seeking and unable to find full-time employment as a teacher in a public elementary or secondary school or public education program as evidenced by notarized copies of letters of application for teaching positions and any other documents as required by the Department of Higher Education, Office of Student Assistance.

(b) Scholars submitting documentation attesting to any of the conditions in (a) above will be reviewed individually by the Office of Student Assistance and final determination will be made by the Office of Student Assistance, Student Assistance Board. The final decision will be forwarded to the scholar within 60 days of the written request for postponement or cancellation of the loan obligation.]*

9:7-9.12 (Reserved)

9:7-9.13* Cancellation of repayment schedule

(a) The ***[authorized State agency]* *Student Assistance Board*** shall cancel a scholar's repayment obligations if it determines:

1. On the basis of a sworn affidavit of a qualified physician that the scholar is unable to teach on a full-time basis because of an impairment that is expected to continue indefinitely or result in death.

2. On the basis of a death certificate or other evidence of death that is conclusive under State law that the scholar has died.

***[9:7-9.13 Default**

(a) This loan will be considered in default and become immediately due and payable if the scholar fails to meet any of the following conditions:

1. Notify the Department of Higher Education, Office of Student Assistance, of termination in the program within the 15-day time period (see N.J.A.C. 9:7-9.10(f)); or

2. Execute and deliver an installment note prior to the repayment date; or

3. Make any installment payment that is due for a period of 120 days.

(b) The Department of Higher Education, Office of Student Assistance, will then authorize the NJHEAA to take the necessary steps to ensure the return of monies as permitted by federal law and regulations. Default on this loan may be reported to credit bureau organizations which may significantly and adversely affect the scholar's credit rating.

(c) The scholar will also be required to pay all charges and other costs, including attorney's fees, for the collection of the defaulted amounts. If this loan is referred for collection to an agency that is subject to the Fair Debt Collection Practices Act (15 U.S.C. 1692) the scholar will pay those collection costs which do not exceed 25 percent of the unpaid principal and accrued interest.]*

***9:7-9.14 Determination of postponement or cancellation of repayment schedule**

Documentation submitted in support of a request by a scholar for postponement or cancellation of the loan obligation attesting to any of the above conditions shall be reviewed individually by the Department of Higher Education, Office of Student Assistance and final determination will be made by the Student Assistance Board. The final decision will be forwarded to the scholar within 60 days of the written request for postponement or cancellation of the loan obligation.*

9:7-9.15 (Reserved)

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Manual for Dental Services

HCPCS Codes for Dental Services

Adopted Repeal and New Rule: N.J.A.C. 10:56-3

Proposed: January 5, 1987 at 19 N.J.R. 15(b).

Adopted: March 12, 1987 by Drew Altman, Ph.D.,

Commissioner, Department of Human Services.

Filed: March 12, 1987 as R.1987 d.166, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 30:4D-6a2, b3, 4, 6; 30:4D-6(g)1 through 4; 30:4D-7, 7(a) through (c); 30:4D-12; 42 CFR 440.100.

Effective Date: April 6, 1987.

Expiration Date: September 26, 1991.

Summary of Public Comments and Agency Responses:

No comments received.

A procedure code is being added upon adoption. The code is 00110 22, initial oral examination for EPSDT (Early and Periodic Screening and Diagnosis and Treatment). Federal regulations require that EPSDT services, which includes dentistry, be provided to Medicaid patients under age 21 (42 CFR 440.40(b)). This procedure code is necessary to identify those patients who are EPSDT referrals.

Procedure codes 09940, 90051, 09952, 09999 concerning occlusal guards or adjustment, have also been added upon adoption. These codes did not appear in the proposal as printed in the New Jersey Register due to an oversight.

Full text of the adopted repeal can be found at N.J.A.C. 10:56-3.

Full text of the adopted new rules follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*).

SUBCHAPTER 3. HCFA COMMON PROCEDURE CODING SYSTEM (HCPCS)

10:56-3.1 Introduction

(a) The New Jersey Medicaid Program has adopted the Health Care Financing Administration's (HCFA) Common Procedure Coding System (HCPCS). Dental HCPCS follows the American Dental Association's Codes on Dental Procedures and Nomenclature in order to "identify and categorize dental procedures covered under all types of third party programs. It is intended to facilitate the filing and processing claims, data tabulation, and the collection of statistics for third party program operation." The HCFA assigned codes and modifiers may contain both alphabetic and numeric characters.

(b) The HCPCS codes listed in this subchapter are divided into 11 sections:

- N.J.A.C. 10:56-3.2 —Diagnostic
- N.J.A.C. 10:56-3.3 —Preventive
- N.J.A.C. 10:56-3.4 —Restorative
- N.J.A.C. 10:56-3.5 —Endodontics
- N.J.A.C. 10:56-3.6 —Periodontics
- N.J.A.C. 10:56-3.7 —Prosthodontics, Removable
- N.J.A.C. 10:56-3.8 —Maxillofacial Prosthetics
- N.J.A.C. 10:56-3.9 —Prosthodontics, Fixed
- N.J.A.C. 10:56-3.10—Oral Surgery
- N.J.A.C. 10:56-3.11—Orthodontics
- N.J.A.C. 10:56-3.12—Adjunctive General Services

(c) The basic categories and their assigned code series are as follows:

Category of Service	Code Series	Code Series
I. Diagnostic	00100-00999	Y2000-Y2099
II. Preventive	01000-01999	Y2100-Y2199
III. Restorative	02000-02999	Y2200-Y2299
IV. Endodontics	03000-03999	Y2300-Y2399
V. Periodontics	04000-04999	Y2400-Y2499
VI. Prosthodontics, Removable	05000-05899	Y2500-Y2599
VII. Maxillofacial Prosthetics	05900-05999	Y2600-Y2699
VIII. Prosthodontics, Fixed	06000-06999	Y2700-Y2799
IX. Oral Surgery	07000-07999	Y2800-Y2899
X. Orthodontics	08000-08999	Y2900-Y2999
XI. Adjunctive General Services	09000-09999	Y3000-Y3099

¹Journal of the American Dental Association, Volume 85, October 1972 page 789.

(d) Specific elements of the HCPCS Coding System which require the attention of the dental provider.

The lists of HCPCS code numbers in the 11 separate sections of this subchapter are arranged in tabular form with specific information for a code given under columns with titles such as: "IND", "HCPCS CODES", "MOD", "DESCRIPTION", AND "MAXIMUM FEE ALLOWANCE". The information given under each column is summarized below:

COLUMN TITLE

1. IND—(Indicator) Lists symbols used to refer provider to information concerning the New Jersey Medicaid Program's qualifications and requirements when a procedure or service code is used.

Explanation of indicators used in this column is given below:

i. "*" An asterisk (*) denotes those procedures which normally require prior authorization in order to be eligible for reimbursement under the New Jersey Medicaid Program.

ii. "**" A double asterisk (**) denotes those procedures which may be treated in an emergency situation when prior authorization is not feasible. These procedures must receive authorization prior to payment.

iii. "d" The letter (d) denotes those procedures which require that a diagnosis be entered in the appropriate item on the Dental Services Claim form (MC-10) in order to be eligible for reimbursement.

2. HCPCS CODES—Lists the HCPCS procedure code numbers.

3. MOD—(Modifier) Lists alphabetic or numeric characters. Services and procedures may be modified under certain circumstances. When applicable, the modifying circumstance is identified by the addition of alphabetic or numeric characters at the end of the code. The New Jersey

Medicaid Program's recognized modifier codes are listed with appropriate procedure codes in this Subchapter 3. The Modifiers "22" and "52" are the copyright 1985, American Medical Association, Physicians' Current Procedural Terminology, Fourth Edition. The modifiers with definitions as designated for use in the New Jersey Medicaid Dental Manual are as follows:

i. 22—Unusual Services: When the service(s) provided is greater than that usually required for the listed procedure, it may be identified by adding modifier "22" to the usual procedure number. A report may also be appropriate.

NOTE: This modifier has also been applied when a dental laboratory procedure is used in conjunction with specified chairside procedures or where an adjunctive service is rendered in addition to the basic service.

ii. 52—Reduced Services: Under certain circumstances a service or procedure is partially reduced or eliminated at the practitioner's election. Under these circumstances the service provided can be identified by its usual procedure number and the addition of the modifier "52", signifying that the service is reduced.

iii. YL—Mandibular-Lower.

iv. YU—Maxillary-Upper.

When it is necessary for the New Jersey Medicaid Program to distinguish between services rendered in the mandibular arch as opposed to the maxillary arch and the basic codes do not make this differentiation, the modifiers "YL" and "YU" have been assigned to make this distinction.

4. DESCRIPTION—Lists the code narrative.

5. MAXIMUM FEE ALLOWANCE—Lists the New Jersey Medicaid Program's maximum reimbursement schedule for Specialist and Non-Specialist.

i. S—Denotes Specialist fee.

ii. NS—Denotes Non-Specialist fee.

iii. BR—Denotes By Report (Individual Consideration of Procedure and Fee).

This means that additional information will be required in order to properly evaluate the service and determine an appropriate fee. A copy of this report must be attached to the Dental Services Claim form (MC-10).

(e) Alphabetic and numeric symbols under "IND" & "MOD" and notes under "DESCRIPTION"

1. These symbols and notes when listed under the "IND", "MOD" and "DESCRIPTION" columns are elements of the HCPCS coding system. They assist the dentist in determining the appropriate procedure codes to be used, the area to be covered, the minimum requirements needed, and any additional parameters required for reimbursement purposes.

2. These symbols and/or letters and/or notes must not be ignored because in certain instances requirements are created in addition to the narrative which accompanies the HCPCS code. **THE PROVIDER WILL THEN BE LIABLE FOR THE ADDITIONAL REQUIREMENTS AND NOT JUST THE HCPCS CODE NARRATIVE.** These requirements must be fulfilled in order to receive reimbursement.

3. If there is no identifying symbol or note listed, the HCPCS code narrative prevails.

(f) Policies and procedures regarding use of HCPCS

Listed below and throughout Subchapter 3, are both some general and specific policies of New Jersey Medicaid Program relevant to HCPCS. These are not necessarily complete but may have been paraphrased from the complete policies as outlined in Subchapter 1. (Chapter II, 3/78) and Subchapter 2. (Chapter III, 3/78). This has been done so that the provider will have pertinent information available in conjunction with the procedures to be requested and/or delivered. For complete and specific policies in addition to those outlined herein, the practitioner must consult Subchapter 1. and/or 2.

1. General Requirements

i. When requesting authorization or filing a claim, the HCPCS Codes, including the referenced modifiers, must be used in conjunction with the narratives in this Subchapter.

ii. The use of a procedure code will be interpreted by the New Jersey Medicaid Program as evidence that the dentist personally furnished, as a minimum, the service for which it stands.

iii. For purposes of reimbursement, a dentist, dental group, shared health care facility or dentists sharing a common record are considered as a single provider.

iv. When billing, the provider must enter into the procedure code column (Item 15B) of the Dental Services Claim form (MC-10), a HCPCS code as listed in this subchapter. If an appropriate code cannot be found,

leave the procedure code column blank and submit a narrative description of the service for authorization and fee assignment.

v. Date(s) of service(s) must be indicated on the Dental Services Claim form (MC-10), in the records of a facility when treatment is rendered to one of its residents, and in the practitioner's own record for each service billed.

vi. When submitting a claim, the dentist must always use her or his usual and customary fee. The fee designated for the HCPCS procedure codes represents the New Jersey Medicaid Program's maximum reimbursement for the given procedure.

10:56-3.2 00100-00999 I. DIAGNOSTIC

IND	HCPCS CODE	MOD	PROCEDURE DESCRIPTION	MAXIMUM FEE ALLOWANCE	
				S	NS
(a)	Clinical		Oral Examination		
	00110		Initial Oral Examination	7.00	6.00
			NOTE 1: This is the code to be used for a Comprehensive Clinical Oral Examination of Medicaid recipients, both Initial and Periodic.		
			NOTE 2: This code requires a thorough observation of all conditions present in the oral cavity and contiguous structures to include:		
			a. Charting of all abnormalities;		
			b. Development of a complete treatment plan to be recorded in its entirety on the Dental Services Claim form (MC-10).		
			NOTE 3: for reimbursement of the examination:		
			a. A comprehensive clinical oral examination shall be limited to once every six months for those patients through age 17, and once every 12 months for those patients 18 years of age or older except as authorized by a Dental Consultant of the New Jersey Medicaid Program;		
			b. All items on the Dental Services Claim form (MC-10) must be completed;		
			c. If No Other Treatment is Necessary, this fact must be noted on the Dental Services Claim form (MC-10) in the diagnosis box. The abbreviation "NOTN" may be used.		
*00110	22		Initial Oral Examination	8.00	7.00
			NOTE 1: This code is only to be used for EPSDT DENTAL EXAMINATIONS (FORMERLY CODE 0119).		
			NOTE 2: Reimbursement is contingent upon:		
			a. The completed MC-19D Form (Fiscal Agent's Copy) must accompany the Dental Services Claim form (MC-10) when submitted to the Fiscal Agent for reimbursement.		
			b. For reimbursement, the Dental Services Claim form (MC-10) must be received by		

the Fiscal Agent no later than 30 days from the date of service of that exam.
c. Failure to attach the MC-19D Form to the Dental Service Claim form (MC-10) or to meet the timely billing requirement will result in reduction of the reimbursement by \$1.00.*

d 00130 Emergency Oral Examination 4.00 3.00
NOTE: For diagnosis and/or observation of a specific complaint—make note of diagnosis and/or observation(s) on Dental Service Claim form (MC-10). This code is not reimbursable as an adjunct to any reimbursable service except for diagnostic radiographs.

(b) Radiographs
1. Radiographs should be limited to those normally required to make a diagnosis, but must show all areas where treatment is anticipated with the exception of soft tissue lesions. The originals of all radiographs must be forwarded to the Dental Consultant for evaluation of the treatment or treatment request.
a. For complete limitations according to age and time, see 2.b. below;
b. As part of an examination, posterior bitewings and single anterior films may be taken as needed;
c. In an emergency situation, a radiograph(s) may be taken at any time in order to establish a diagnosis.
2. Intraoral Radiographs: (Periapical/Bitewing/Occlusal)
a. Indicate number of films in items 13 and 15F of the Dental Services Claims form (MC-10);
b. For a complete series of radiographs, limitations pertaining to age are found in the first note below each code, and the maximum number of radiographs reimbursable as a single radiographic study every three years without prior authorization is found in the second note below each code.

00210 52 Intraoral—Complete Series (including bitewings) 9.00 9.00
NOTE 1: Limited to patients up to and including age 6.
NOTE 2: 8 films.

00210 Intraoral—Complete Series (including bitewings) 13.00 13.00
NOTE 1: Limited to patients age 7 up to and including age 14.
NOTE 2: 12 films.

00210 22 Intraoral—Complete Series (including bitewings) 17.00 17.00
NOTE 1: Limited to patients age 15 or older.
NOTE 2: Minimum of 16 films.

00220 Intraoral—Periapical—First Film 2.00 2.00
NOTE: Or bitewing.

00230 Intraoral—Periapical—Each Additional Film 1.00 1.00
NOTE 1: Or each additional bitewing.
NOTE 2: Indicate complete number of films (00220 Plus 00230) in items 13 and 15F.

00240 Intraoral—Occlusal Film 5.00 5.00
NOTE 1: Per film (maximum—two (2) films).
NOTE 2: Indicate number of films in item 15F.

3. Extraoral Radiographs

00250 52 Extraoral, First Film 10.00 10.00
NOTE 1: Indicate number of views in item 15F of the Dental Services Claim form (MC-10).
NOTE 2: Code to be used for lateral, anteroposterior, temporomandibular radiographs, etc. (one view).

00260 Extraoral—Each Additional Film 5.00 5.00
NOTE: Maximum reimbursable—2 additional views.

00310 Sialography 15.00 15.00

00310 *22* Sialography 30.00 30.00
NOTE: Includes injection of contrast material (filling and/or emptying phases).

00330 Panoramic Film 10.00 10.00

* 00340 Cephalometric Film 10.00 10.00

* 00340 22 Cephalometric Film 15.00 15.00
NOTE: Includes tracing.

(c) Test and Laboratory Examinations

* 00470 Diagnostic Casts 11.50 10.00
NOTE: Casts must have bases and be trimmed to permit articulation, per cast.

* 00471 Diagnostic Photographs 1.00 1.00
NOTE: Or slide, per view.

d 00501 Histopathologic Examination 10.00 —
NOTE 1: The gross and microscopic examination of oral tissues, both hard and soft.
NOTE 2: Limited to specialists in oral pathology, and Oral Diagnosis (Pathology) Department of dental schools.

d* 00999 Unspecified Diagnostic Procedure, By Report BR BR
NOTE: Complete description of procedure and why.

10:56-3.3 01000-01999 II. PREVENTIVE

(a) Dental Prophylaxis

1. Dental prophylaxis is the removal of calculus and stains from the supragingival and subgingival surfaces of the teeth by scaling and polishing.

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

IND	HCPCS CODE	MOD	PROCEDURE DESCRIPTION	MAXIMUM FEE ALLOWANCE	
				S	NS
	01110		Prophylaxis—Adult NOTE: Patients 16 years of age or older, maxillary and mandibular arches.	11.00	10.00
	01110	52	Prophylaxis—Adult NOTE 1: Patients 16 years of age or older, maxillary or mandibular arch. NOTE 2: Code to be used if patient is edentulous in one arch.	5.50	5.00
	01120		Prophylaxis—Child NOTE: Patients up to and including 15 years of age, maxillary and mandibular arches.	8.00	7.00

2. Scaling over and above that necessary under prophylaxis (see codes 01110 and 01110 52 above), the calculus must be abnormally heavy and visible to the Dental Consultant on radiograph(s). Such scaling must be authorized.

*	Y2105		*ADDITIONAL SCALING* *NOTE:* Patients 16 years of age or older, maxillary and mandibular arches	11.00	11.00
*	Y2105	52	*ADDITIONAL SCALING—ONE ARCH* *NOTE 1:* Patients 16 yrs of age or older, maxillary or mandibular arch NOTE *2*: Code to be used if patient is edentulous in one arch.	5.50	5.00

(b) Topical Fluoride Treatment (Office Procedure)

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

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

	01201		Topical Application of Fluoride (Including Prophylaxis)—Child NOTE: Patients up to and including 15 years of age, maxillary and mandibular arches.	14.00	12.00
	01202		Topical Application of Fluoride (Including Prophylaxis)—Adult NOTE: Patients age 16, up to and including 20 years of age, maxillary and mandibular arches.	17.00	15.00
	01202	52	Topical Application of Fluoride (Including Prophylaxis)—Adult NOTE: Patients age 16, up to and including 20 years of age, maxillary and mandibular arch. Code to be used if patient is edentulous in one arch.	8.50	7.50

(c) Other Preventive Services					
01351	Sealant—Per Tooth	7.00	6.00		
	NOTE 1: Application of sealants is limited to a one time application to caries free and restoration free first and second permanent molars as follows: a. First molars: Sealants are reimbursable when applied upon eruption at ages six (6) or seven (7); b. Second molars: Sealants are reimbursable when applied upon eruption, at ages twelve (12) or thirteen (13). NOTE 2: Sealants applied other than as detailed above are not reimbursable unless authorized by a Medicaid Dental Consultant. A complete explanation of the request must be attached. NOTE 3: Since the sealants may be reimbursed only once for each tooth, the provider should make certain that sealants have not been applied previously.				
(d) Space Maintenance (Passive Appliances)					
*	01510	Space Maintainer—Fixed—Unilateral	40.00	35.00	
		NOTE: Utilizing band(s).			
*	01510	22	Space Maintainer—Fixed—Unilateral	59.00	51.00
			NOTE: Utilizing single stainless steel crown.		
*	01515	Space Maintainer—Fixed—Bilateral	61.00	53.00	
			NOTE: Lingual or palatal arch utilizing bands.		
*	01515	22	Space Maintainer—Fixed—Bilateral	105.00	91.00
			NOTE: Lingual or palatal arch utilizing stainless steel crowns.		
*	Y2115	Tooth Processed to Arch Bar (Wire), Per Tooth	6.00	5.00	
*	01525	Space Maintainer—Removable—Bilateral	69.00	60.00	
	01550	Recementation of Space Maintainer	7.00	6.00	
*	Y2125	Unspecified Preventive Procedure, By Report	BR	BR	
		NOTE: Complete description of procedure(s) and why.			

10:56-3.4 02000-02999 III. RESTORATIVE

(a) Reimbursement for restorations in deciduous teeth is limited to deciduous cuspids and molars of children up to and including age 9 or in deciduous incisors up to and including age 5, but not where exfoliation is imminent.

1. Exception: Prior authorization by a Medicaid Dental Consultant.

(b) Amalgam Restorations (Including Polishing)

1. Reimbursement for a restoration will include treatment of pulp exposure, lining or base, restoration, polishing of restoration, and local anesthesia or analgesia.

2. Procedure code must be selected on the basis of the number of surfaces restored per individual tooth (not on the basis of individual restorations); therefore, the fee for any surface will include one or more restorations on that surface.

3. Only one code is reimbursable per tooth except when amalgam and resin restorations are placed on the same tooth.

4. Reimbursement for an occlusal restoration includes any extensions onto the occlusal one-third of the buccal or lingual surface(s) of the tooth.

5. Extensions of interproximal fillings into self cleansing areas will not be considered as additional surfaces. An additional surface will be reimbursable only when the buccal (facial) or lingual margin extends beyond the proximal one-third (1/3) of the buccal (facial) and/or lingual surface(s).

IND	HCPCS CODE	MOD	PROCEDURE DESCRIPTION	MAXIMUM FEE ALLOWANCE	
				S	NS
	02110		Amalgam—One Surface, Primary	9.00	7.50
	02120		Amalgam—Two Surfaces, Primary	14.50	13.00
	02130		Amalgam—Three Surfaces, Primary	20.00	18.50
	02131		Amalgam—Four Surfaces, Primary NOTE: Code to be utilized for four or more surfaces.	25.50	24.00
	02140		Amalgam—One Surface, Permanent	9.00	7.50
	02150		Amalgam—Two Surfaces, Permanent	14.50	13.00
	02160		Amalgam—Three Surfaces, Permanent	20.00	18.50
	02161		Amalgam—Four or More Surfaces, Permanent	25.50	24.00

(c) Silicate Restorations

Silicate restorations are NOT a covered service of the New Jersey Medicaid Program.

(d) Filled or Unfilled Resin Restorations

1. Filled or unfilled resin filling material is reimbursable only when that material is utilized for teeth numbers 4 through 13 and 20 through 29 and/or C through H and M through R in each arch.

a. Exception: Prior authorization by a Medicaid Dental Consultant.

2. Proximal restorations in anterior teeth are normally considered to be single surface restorations. When access to a proximal cavity is gained by involvement of a second surface, reimbursement will be permitted for only one surface. A two (2) or three (3) surface proximal restoration will be reimbursed only when the facial and/or lingual margin(s) of the restoration extends beyond the proximal one-third (1/3) of the facial and/or lingual surface(s).

3. Extension of proximal fillings into self-cleansing areas will not be considered as additional surfaces.

4. In selecting the code to be submitted for an individual tooth, please note that only one code is reimbursable per tooth except when amalgam and resin restorations are placed on the same tooth.

5. The fee for any surface will include one or more restorations on that surface.

6. Reimbursement for an occlusal one-third of the buccal (facial) or lingual surface(s) of the tooth.

7. Reimbursement for a restoration will include treatment of pulp exposure, lining or base, restoration, polishing of restoration, and local anesthesia or analgesia.

8. Reimbursement will include acid etch where appropriate.

	02330		Resin—One Surface	11.00	10.00
	02331		Resin—Two Surfaces	18.00	16.00
	02332		Resin—Three Surfaces	25.00	22.00
	02335		Resin—Four or More Surfaces or Involving Incisal Angle	31.50	28.00

(e) Gold Foil Restorations

1. Primarily for use in Dental Colleges.

*	02410		Gold Foil—One Surface	9.00	8.00
*	02420		Gold Foil—Two Surfaces	18.00	16.00

*	02430		Gold Foil—Three Surfaces	27.00	24.00
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NOTE: Code to be used for three or more surfaces.

(f) Inlay Restorations

1. Primarily for use in Dental Colleges.

*	02510		Inlay—Metallic—One Surface	31.00	27.00
*	02520		Inlay—Metallic—Two Surfaces	56.00	49.00
*	02530		Inlay—Metallic—Three Surfaces NOTE: Code to be used for three or more surfaces.	75.00	65.00
*	02540		Onlay—Metallic—Per Tooth (In Addition to Inlay)	23.00	20.00

(g) Crowns—Single Restoration Only

1. Authorization for crowns will be granted only when substantial loss of tooth structure exists and conditions of remaining teeth and supporting tissues justify this treatment.

2. Acrylic or porcelain veneer on metal will be authorized only when esthetically necessary.

3. There is only one fee for each type of crown. Use the type of alloy most appropriate for the patient's needs.

4. The Noble Metal Classification System has been adopted as a more precise method of reporting various alloys used in dentistry. The alloys are defined on the basis of the percentage of noble metal content.

Classification	Weight %	High Noble Alloy	Noble Alloy	Predominantly Base Alloy
		Au., Pd. and/or Pt.*≥*60% (with at least 40% Au)	Au., Pd. and/or Pt.*≥*25%	Au., Pd. and/or Pt.*≥*25%
*	02710		Crown—Resin (Laboratory)	98.00 85.00
			NOTE: Laboratory processed.	
*	02720		Crown—Resin with High Noble Metal	161.00 140.00
			NOTE: Acrylic veneer.	
*	02721		Crown—Resin with Predominantly Base Metal	161.00 140.00
			NOTE: Acrylic veneer.	
*	02722		Crown—Resin with Noble Metal	161.00 140.00
			NOTE: Acrylic veneer.	
*	02750		Crown—Porcelain Fused to High Noble Metal	201.00 175.00
*	02751		Crown—Porcelain Fused to Predominantly Base Metal	201.00 175.00
*	02752		Crown—Porcelain Fused to Noble Metal	201.00 175.00
*	02790		Crown—Full Cast High Noble Metal	161.00 140.00
*	02791		Crown—Full Cast Predominantly Base Metal	161.00 140.00
*	02792		Crown—Full Cast Noble Metal	161.00 140.00
(h) Other Restorative Services				
	02910		Recement Inlay	7.00 6.00
	02920		Recement Crown	7.00 6.00
*	02930		Prefabricated Stainless Steel Crown—Primary Tooth	41.00 35.00
			NOTE: Authorized only for deciduous teeth.	

*	02931	Prefabricated Stainless Steel Crown—Permanent Tooth NOTE: Generally authorized only for permanent posterior teeth up to and including 17 years of age.	41.00	35.00
*	02932	Prefabricated Resin Crown NOTE: E.G., Polycarbonate—generally authorized only for deciduous and permanent anterior teeth up to and including 15 years of age.	40.00	35.00
*	02950	Crown Buildup Including Any Pins NOTE 1: And/or post. NOTE 2: Core of composite or amalgam.	34.00	30.00
	02951	Pin Retention—Per Tooth, In Addition To Restoration NOTE 1: Per pin. NOTE 2: Maximum reimbursable—three (3) pins.	4.00	3.00
*	02952	Cast Post And Core In Addition To Crown NOTE: Post and core fabricated (cast) and cemented as a separate unit from crown.	52.00	45.00
*	02954	Prefabricated Post And Core In Addition To Crown	34.00	30.00
*	02970	Temporary (Fractured Tooth) NOTE: Temporary crown—not reimbursable in conjunction with any other restorative procedure on same tooth.	29.00	25.00
*	02999	Unspecified Restorative Procedure, By Report	BR	BR

10:56-3.5 03000-03999 IV. ENDODONTICS

(a) Authorization of endodontic treatment will be at the discretion of the Medicaid Dental Consultant, and will be influenced by the:

1. Age and general health of the patient;
2. Status of the tooth in the arch; and
3. Condition of the remaining dentition and supporting structures.

(b) Pulp Capping—Direct/Indirect

1. Pulp Capping is no longer a separately covered service under the Medicaid Program.

(c) Therapeutic Pulpotomy

1. A pulpotomy will be limited to a deciduous tooth, or a permanent tooth with incompletely formed roots.

		MAXIMUM FEE		
IND	HCPCS CODE MOD	PROCEDURE DESCRIPTION	ALLOWANCE S	NS
d*	03220	Therapeutic Pulpotomy (Excluding Final Restoration)	15.00	13.00

(d) Pulpectomy

1. A pulpectomy for deciduous teeth includes extirpation, treatment and filling of all the root canal(s) with resorbable filling material. Post-operative radiograph(s) must be available. Reimbursable only for deciduous teeth with permanent successors.

*	Y2310	Pulpectomy (Excluding Final Restoration)	17.00	15.00
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(e) Root Canal Therapy (Including Treatment Plan, Clinical Procedures, and Follow-Up Care)

1. The fee for root canal therapy includes the extirpation, treatment (complete filling of all the root canal(s) with permanent material), all necessary radiographs during treatment and post-operatively, and follow-up care (excludes final restoration).

		2. For emergency endodontic procedures, use code 09110.	
d*	03310	One Canal (Excluding Final Restoration) NOTE: Code to be used for incisors and cuspids (permanent).	103.00 90.00
d*	03320	Two Canals (Excluding Final Restoration) NOTE: Code to be used for bicuspids and all deciduous teeth without permanent successors.	132.00 115.00
d*	03330	Three Canals (Excluding Final Restoration) NOTE: Code to be used for molars (permanent).	172.00 150.00
d*	03350	Apexification (Per Treatment Visit) NOTE 1: Treatment may extend over a period of 6 to 18 months. NOTE 2: Maximum—two (2) visits.	31.00 27.00

(f) Periapical Services

1. Apicoectomy will be considered for authorization and reimbursement only if one or more of the following conditions exist:

- a. Overfilled canal (previously treated tooth);
- b. Canal cannot be filled properly because of excessive root curvature or calcification;
- c. Fractured root tip that cannot be reached endodontically;
- d. Broken instrument in canal;
- e. Perforation of apical third of canal;
- f. Broken root canal filling lying free in periapical tissues and acting as an irritant;
- g. Periapical pathology not resolved by previous endodontic therapy;
- h. Periapical pathology which will not be resolved by endodontic therapy alone;

2. Apicoectomy should not be performed for convenience. If endodontic treatment is necessary, but none of the above conditions exist, authorization for the apicoectomy will not be granted.

3. When more than one apical curettage and/or apicoectomy is performed through the same operative site, the maximum amount reimbursable by the New Jersey Medicaid Program shall be the amount specified in this schedule with the greater allowance, plus one-half of the amounts specified for each of the other procedures.

4. Retrograde filling(s) will be inserted when necessary in conjunction with appropriate endodontic treatment, but not in lieu of a properly filled canal.

5. The fee includes those post-treatment radiographs determined necessary by the practitioner and must be available to the Medicaid Program upon request.

d*	03410	Apicoectomy (Per Tooth)—First Root	55.00	48.00
d*	03411	Apicoectomy (Per Tooth)—Each Additional Root NOTE: Maximum—two (2) additional roots.	28.00	24.00

(g) Apicoectomy performed in conjunction with endodontic procedure

		1. Single stage nerve extirpation and canal filling. Services provided at same visit.	
d*	03410	22 Apicoectomy/Endodontic Procedure (Per Tooth)—First Root	111.50 98.50

d*	03411	22	Apicoectomy/Endodontic Procedure (Per Tooth)—Each Additional Root	44.00	36.00
			NOTE: Maximum—two (2) additional roots.		
d*	03430		Retrograde Filling—Per Root	9.00	7.50
			NOTE 1: On addition to apicoectomy.		
			NOTE 2: Maximum—per tooth—three (3) roots.		
d*	03440		Apical Curettage	49.00	42.00
			NOTE: Per tooth.		
*	03450		Root Amputation—Per Root	55.00	48.00
			NOTE 1: Surgical resection of entire root(s).		
			NOTE 2: Per tooth.		
(h) Other Endodontic Procedures					
*	03920		Hemisection (Including Any Root Removal), Not Including Root Canal Therapy	55.00	48.00
*	03950		Canal Preparation and Fitting of Prefomed Dowel or Post	16.00	14.00
			NOTE: Without cementation.		
*	03950	22	Canal Preparation and Fitting of Prefomed Dowel or Post	23.00	20.00
			NOTE: With cementation.		
*	03960		Bleaching Discolored Tooth	11.00	10.00
			NOTE 1: Limited to non-vital teeth.		
			NOTE 2: Per visit.		
			NOTE 3: Reimbursement limited to 2 visits.		
d*	03999		Unspecified Endodontic Procedure, By Report	BR	BR

10:56-3.6 04000-04999 V. PERIODONTICS

(a) Treatment for periodontics will be authorized on a very selective basis. Detailed description, radiographs, and periodontal charting are required. Reimbursement will be based upon quadrants, a portion thereof or the equivalent thereof as determined by the Medicaid Dental Consultant.

(b) Surgical Services (Including Usual Postoperative Services)

IND	HCPCS CODE	MOD	PROCEDURE DESCRIPTION	MAXIMUM FEE ALLOWANCE	
				S \$	NS
*	04210		Gingivectomy or Gingivoplasty—Per Quadrant	43.60	37.50
*	04211		Gingivectomy or Gingivoplasty—Per Tooth	6.00	5.50
*	04220		Gingival Curettage, By Report	22.60	19.50
			NOTE: Per quadrant.		
*	04260		Osseous Surgery (Including Flap Entry and Closure)—Per Quadrant	75.00	64.50
*	04261		Osseous Graft—Single Site (Including Flap Entry, Closure, and Donor Sites)	BR	BR

*	04262		Osseous Graft—Multiple Sites (Including Flap Entry, Closure and Donor Sites)	BR	BR
*	04270		Pedicle Soft Tissue Graft Procedure	32.00	28.00
			NOTE: Per site.		
*	04271		Free Soft Tissue Graft Procedure (Including Donor Site)	49.00	42.00
			NOTE: Per site.		
*	04272		Apically Repositioning Flap Procedure	36.00	31.50
			NOTE: Per quadrant.		
(c) Adjunctive Periodontal Services					
*	04320		Provisional Splinting—Intra-coronal	18.00	16.00
			NOTE: Per tooth.		
*	04321		Provisional Splinting—Extra-coronal	11.00	10.00
			NOTE 1: Per tooth.		
			NOTE 2: This code may also be used for stabilization of traumatized teeth.		
*	04340		Periodontal Scaling and Rooting Planing—Entire Mouth	102.00	90.00
*	04341		Periodontal Scaling and Root Planing—Per Quadrant	25.50	22.50
*	04999		Unspecified Periodontal Service, By Report	BR	BR

10:56-3.7 05000-05899 VI. PROSTHODONTICS (REMOVABLE)

(a) Dentures, both partial and complete, may be authorized when submitted evidence indicates masticatory deficiencies likely to impair the general health of the patient.

(b) Normally, there must be a three month wait (for healing) between the date of the last extraction and initiation of the denture(s), partial and/or complete, except immediate denture(s).

(c) The fee for partial and complete dentures will include necessary adjustments, relines and/or rebases for a six month period following insertion.

(d) The fee for immediate dentures will also include the necessary adjustments, relines and/or rebases for a six month period following insertion.

(e) Partial dentures must be described on the Dental Services Claim form (MC-10) indicating material to be used, position of clasps, and teeth to be replaced.

(f) PAYMENT FOR DENTURES WILL BE DENIED UNLESS ALL DENTAL PROCEDURES IN BOTH ARCHES ARE COMPLETED BEFORE IMPRESSIONS ARE TAKEN FOR AUTHORIZED DENTURES (COMPLETE AND PARTIAL).

(g) Denture relining, rebasing (jumping), or repairing are reimbursable. No additional reimbursement will be made for repair procedures in conjunction with a rebase or reline of a denture except for the replacement of missing or fractured teeth and/or clasp(s) and/or welding, and then only code(s) 05520, 05620, 05640, and/or Y2510 can be used.

1. The fee will include all necessary adjustments for a six (6) month period following insertion for relining and rebasing, and three (3) months for repairs.

(h) The patient's name must be processed into all dentures during the original fabrication or where possible during any subsequent processing procedure (repair, rebase, reline, and so forth). The Social Security number must also be included if space permits. This is MANDATORY and complies both with New Jersey Medicaid regulations in effect since May, 1978 and the "Denture I.D. Law" which became effective April 16, 1984 (N.J.S.A. 45:6-19.1 et seq.).

(i) Complete Dentures (Including Routine Post Delivery Care)

IND	HCPCS CODE	MOD	PROCEDURE DESCRIPTION	MAXIMUM FEE ALLOWANCE	
				\$	NS
*	05110		Complete Upper NOTE: Maxillary.	197.00	171.00
*	05120		Complete Lower NOTE: Mandibular.	202.00	176.00

(j) Immediate Complete Dentures (Including Six Months Post Delivery Care)

1. Reimbursement also includes necessary rebases and/or relines, and so forth.

2. In order to qualify for immediate denture reimbursement, the denture must involve the immediate replacement of anterior teeth which may include first bicuspid (teeth nos. 5 through 12 and 21 through 28 only). Second bicuspid and molars must not be included among the qualifying teeth. The date of insertion of a denture and the extractions must carry an identical date of service. List tooth code(s) of teeth involved.

*	05130		Immediate Upper NOTE 1: Maxillary. NOTE 2: 1 through 4 teeth.	215.00	186.00
*	05130	22	Immediate Upper NOTE 1: Maxillary. NOTE 2: 5 through 8 teeth.	239.00	206.00
*	05140		Immediate Lower NOTE 1: Mandibular. NOTE 2: 1 through 4 teeth.	220.00	191.00
*	05140	22	Immediate Lower NOTE 1: Mandibular. NOTE 2: 5 through 8 teeth.	244.00	211.00

(k) Partial Dentures (Including Routine Post Delivery Care)

1. For additional clasp(s), see Code Y2510.

*	05211		Upper Partial—Acrylic Base (Including Any Conventional Clasps and Rests) NOTE: Includes two (2) cast chrome clasps with rests.	161.00	140.00
*	05211	52	Upper Partial—Acrylic Base—Without Clasps (Flipper)	86.00	75.00
*	05212		Lower Partial—Acrylic Base (Including Any Conventional Clasps and Rests) NOTE: Includes two (2) cast chrome clasps *with rests*	161.00	140.00
*	05212	52	Lower Partial—Acrylic Base—Without Clasps (Flipper)	86.00	75.00
*	05213		Upper Partial—Predominantly Base Cast Base with Acrylic Saddles (Including any Conventional Clasps and Rests) NOTE: Includes two (2) cast chrome clasps with rests.	213.00	185.00
*	05214		Lower Partial—Predominantly Base Cast Base with Acrylic Saddles (Including any Conventional Clasps and Rests) NOTE: Includes two (2) cast chrome clasps with rests.	201.00	175.00

(l) Immediate replacement of anterior teeth in conjunction with partial dentures (codes 05211 through 05214 only) in addition to denture, maximum six teeth (Teeth #s 6 through 11 and 22 through 27 only).

1. Immediate partial dentures also include necessary rebases and/or relines, and so forth.

*	Y2505	Immediate Replacement of Anterior Teeth—Per Tooth	6.00	5.00
		NOTE: List tooth code(s) of tooth being replaced.		

(m) Adjustments to Dentures—other than dentist providing denture or after the required period of post delivery care (for example, new dentures, relines, rebases—six months; repairs—three months, and so forth).

05410	Adjust Complete Denture—Upper	7.00	6.00
05411	Adjust Complete Denture—Lower	7.00	6.00
05421	Adjust Partial Denture—Upper	7.00	6.00
05422	Adjust Partial Denture—Lower	7.00	6.00

(n) Repairs to Complete Dentures—includes adjustments for three (3) months. Prior authorization is not normally necessary when Medicaid reimbursement for a repair to a denture does not exceed *[\$55.00]* ***\$53.00*** specialist fee or \$48.00 non-specialist fee.

1. Repair Broken Complete Denture Base

a. Includes replacing undamaged teeth on denture.

05510	YU	Repair Broken Complete Denture Base	34.50	30.00
		NOTE: Maxillary—Upper.		
05510	YL	Repair Broken Complete Denture Base	34.50	30.00
		NOTE: Mandibular—Lower.		
05520		Replace Missing or Broken Teeth—Complete Denture (Each Tooth)	5.00	5.00
		NOTE 1: Code may be used in addition to codes 05510 YU or YL above.		
		NOTE 2: List tooth codes of teeth being replaced.		

(o) Repairs To Partial Denture—includes adjustments for three (3) months. Prior authorization is not normally necessary when Medicaid reimbursement for a repair to a denture does not exceed \$53.00 specialist fee or \$48.00 non-specialist fee.

05610	YU	Repair Acrylic Saddle or Base	34.50	30.00
		NOTE: Maxillary.		
05610	YL	Repair Acrylic Saddle or Base	34.50	30.00
		NOTE: Mandibular.		
05620		Repair Cast Framework	23.00	20.00
		NOTE: Welding in addition to repair procedure(s), limit two (2) per denture.		
05630	YU	Repair or Replace Broken Clasp	52.50	48.00
		NOTE: Maxillary.		
05630	YL	Repair or Replace Broken Clasp	52.50	48.00
		NOTE: Mandibular.		
05640		Replace Broken Teeth—Per Tooth	5.00	5.00
		NOTE: Code 05640 may be used in addition to repair procedure(s).		

05650		Add Tooth to Existing Partial Denture	46.00	40.00
		NOTE: To replace extracted tooth (list tooth being replaced).		
05660	YU	Add Clasp to Existing Partial Denture	52.50	48.00
		NOTE: Maxillary.		
05660	YL	Add Clasp to Existing Partial Denture	52.50	48.00
		NOTE: Mandibular.		
Y2510		Each Additional Clasp—For Repair	21.00	18.00
		NOTE 1: List tooth being clasped.		
		NOTE 2: Code Y2510 may be used in addition to repair procedure(s).		
		NOTE 3: Code 2510 may be used for addition clasp(s) during initial fabrication of partial denture(s), maximum two (2) per denture.		

(p) Denture Rebase Procedures

1. Rebasings is the process of refitting a denture by the complete replacement of the denture base material without changing the occlusal relationship of the teeth. Includes adjustments for six (6) months.

* 05710		Rebase Complete Upper Denture	92.00	80.00
* 05711		Rebase Complete Lower Denture	92.00	80.00
* 05720		Rebase Upper Partial Denture	86.00	75.00
* 05721		Rebase Lower Partial Denture	86.00	75.00

(q) Denture Reline Procedures

1. Relining is the process of resurfacing the tissue side of a denture with new base material to make it fit more accurately.

* 05730		Reline Upper Complete Denture (Chairside)	20.00	17.00
* 05731		Reline Lower Complete Denture (Chairside)	20.00	17.00
* 05740		Reline Upper Partial Denture (Chairside)	20.00	17.00
* 05741		Reline Lower Partial Denture (Chairside)	20.00	17.00
* 05750		Reline Upper Complete Denture (Laboratory)	69.00	60.00
* 05751		Reline Lower Complete Denture (Laboratory)	69.00	60.00
* 05760		Reline Upper Partial Denture (Laboratory)	63.00	55.00
* 05761		Reline Lower Partial Denture (Laboratory)	63.00	55.00

(r) Other Removable Prosthetic Services

1. Insertion of name and Social Security number of recipient into base material of complete or partial denture during initial fabrication, rebasing, relining or repair, per denture. This is required to comply with New Jersey Medicaid regulations in effect since May, 1978 and the "Denture I.D. Law" which became effective April 16, 1984. (N.J.S.A. 45:6-19.1 et. seq.)

Y2515	YU	Insertion of Identification into Denture—Maxillary—Upper	4.00	4.00
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Y2515	YL	Insertion of Identification into Denture—Mandibular—Lower	4.00	4.00
* 05899		Unspecified Removable Prosthodontic Procedure, By Report	BR	BR

10:56-3.8 05900-05999 VII. MAXILLOFACIAL PROSTHETICS

(a) Treatment Protheses				
** 05982		Surgical Stent	50.00	43.00
* 05999		Unspecified Maxillofacial Prosthesis, By Report	BR	BR

10:56-3.9 06000-06999 VIII. PROSTHODONTICS, FIXED

(a) Each Abutment and Each Pontic Constitutes a Unit in a Bridge
1. The Noble Metal Classification System has been adopted as a more precise method of reporting-various alloys used in dentistry. The alloys are defined on the basis of the percentage of noble metal content.

Classification	High Noble Alloy	Noble Alloy	Predominantly Base Alloy
Weight %	Au., Pd. and/or Pt.*≥*60% (with at least 40% Au)	Au., Pd. and/or Pt.*≥*25%	Au., Pd. and/or Pt.*≥*25%

2. There is only one fee for each type of pontic or crown. Use the type of alloy most appropriate for the patient's needs.

(b) Bridge Pontics

IND	HCPCS CODE	MOD	PROCEDURE DESCRIPTION	MAXIMUM FEE ALLOWANCE	
				S \$	NS
*	06210		Pontic—Cast High Noble Metal	76.00	66.00
*	06211		Pontic—Cast Predominantly Base Metal	76.00	66.00
*	06212		Pontic—Cast Noble Metal	76.00	66.00
*	06240		Pontic—Porcelain Fused to High Noble Metal	115.00	110.00
*	06241		Pontic—Porcelain Fused to Predominantly Base Metal	115.00	110.00
*	06242		Pontic—Porcelain Fused to Noble Metal	115.00	110.00
*	06250		Pontic—Resin with High Noble Metal	90.00	80.00
*	06251		Pontic—Resin with Predominantly Base Metal	90.00	80.00
*	06252		Pontic—Resin with Noble Metal	90.00	80.00

(c) Bridge Retainers—Crowns

* 06720		Crown—Resin with High Noble Metal	161.00	140.00
* 06721		Crown—Resin with Predominantly Base Metal	161.00	140.00
* 06722		Crown—Resin with Noble Metal	161.00	140.00
* 06750		Crown—Porcelain Fused to High Noble Metal	201.00	175.00
* 06751		Crown—Porcelain Fused to Predominantly Base Metal	201.00	175.00
* 06752		Crown—Porcelain Fused to Noble Metal	201.00	175.00
* 06790		Crown—Full Cast High Noble Metal	161.00	140.00

*	06791	Crown—Full Cast Predominantly Base Metal	161.00	140.00
*	06792	Crown—Full Cast Noble Metal	161.00	140.00
(d) Other Fixed Prosthetic Services				
	06930	Recement Bridge NOTE 1: One abutment. NOTE 2: Code may be used when recementing facing.	8.00	7.00
	06930 22	Recement Bridge NOTE: Two or more abutments.	14.00	12.00
*	06970	Cast Post and Core in Addition to Bridge Retainer NOTE: Post and core fabricated (cast) and cemented as a separate unit from crown.	52.00	45.00
*	06972	Prefabricated Post and Core in Addition to Bridge Retainer	34.00	30.00
*	06980	Bridge Repair, By Report	BR	BR
*	06999	Unspecified Fixed Prosthodontic Procedure, By Report	BR	BR

10:56-3.10 07000-07999 IX. ORAL SURGERY

(a) In the event that the oral surgery service to be performed is of an emergency nature and prior authorization is normally required but not feasible, then the Dental Services Claim form (MC-10) with all necessary information should be forwarded to the Dental Consultant for authorization after completion of the service but prior to submission for reimbursement.

(b) Exodontia

1. Reimbursement for dental extraction(s) will include local anesthesia, indicated alveoloplasty, and routine postoperative care.

2. Reimbursement will be denied for the following treatment rendered without prior authorization:

- a. Extraction of teeth other than those classified as non-restorable;
- b. Extraction of one or more teeth which will necessitate a dental prosthesis; or
- c. All extractions preparatory to or in conjunction with orthodontic care.

3. Extractions in more than one quadrant of the mouth must be justified as an emergency procedure.

(c) Extractions—Includes Local Anesthesia and Routine Postoperative Care

IND	HCPCS CODE	MOD	PROCEDURE DESCRIPTION	MAXIMUM FEE ALLOWANCE	
				S	NS
	07110		Single Tooth	10.50	9.00
**	07130		Root Removal—Exposed Roots NOTE 1: Per tooth. NOTE 2: Root partially imbedded in bone.	15.00	13.00
	07130		Root Removal—Exposed Roots NOTE 1: Per tooth. NOTE 2: Root completely located in soft tissue.	10.50	9.00

(d) Surgical Extractions—Includes Local Anesthesia and Routine Postoperative Care

1. Reimbursement will not be made for extraction of impacted teeth which have not been prior authorized.

2. Authorization will be granted only when conditions arising from such impactions warrant their removal. Extraction of asymptomatic impacted teeth or those teeth where dental/medical necessity cannot be demonstrated will not be authorized or accepted for reimbursement.

3. In order to qualify for a surgical removal of a tooth with partial or complete bone impaction, the following is required:
a. Incision of overlying soft tissue;
b. Removal of bone; and/or
c. Sectioning of tooth.

**	07210	Surgical Removal of Erupted Tooth Requiring Elevation of Mucoperiosteal Flap and Removal of Bone and/or Section of Tooth	15.00	13.00
**	07220	Removal of Impacted Tooth—Soft Tissue	21.00	18.00
**	07230	Removal of Impacted Tooth—Partially Bony	61.00	53.00
**	07240	Removal of Impacted Tooth—Completely Bony	61.00	53.00
**	07250	Surgical Removal of Residual Tooth Roots (Cutting Procedure) NOTE: Completely covered by bone.	30.00	26.00

(e) Other Surgical Procedures

**	07260	Oroantral Fistula Closure NOTE: Code may also be used for antral root recovery.	72.00	63.00
**	07270	Tooth Re-implantation and/or Stabilization of Accidentally Evulsed or Displaced Tooth and/or Alveolus	61.00	53.00
**	07270 22	Tooth Re-implantation and/or Stabilization of Accidentally Evulsed or Displaced Tooth and/or Alveolus NOTE: Includes single stage nerve extirpation and canal filling.	86.00	75.00
**	07280	Surgical Exposure of Impacted or Unerupted Tooth for Orthodontic Reason (Including Orthodontic Attachments)	54.00	47.00
**	07281	Surgical Exposure of Impacted or Unerupted Tooth to Aid Eruption	30.00	26.00
d	07285	Biopsy of Oral Tissue—Hard NOTE: Independent procedure (laboratory must bill separately).	30.00	26.00
d	07286	Biopsy of Oral Tissue—Soft NOTE: Independent procedure (laboratory must bill separately).	18.00	16.00

(f) Alveoloplasty—Surgical Preparation of Ridge for Dentures

1. Reimbursement will be based upon quadrants, a portion thereof or the equivalent thereof as determined by the Medicaid Dental Consultant.

*	07320	Alveoloplasty Not in Conjunction With Extraction—Per Quadrant	43.50	37.50
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(g) Vestibuloplasty—including revision of soft tissues on ridges, muscle reattachment, tongue, palate, and other oral soft tissues (complete description including size and position must be submitted). Reimbursement will be based upon quadrants, a portion thereof or the equivalent thereof as determined by the Medicaid Dental Consultant.

*	07340	Vestibuloplasty—Ridge Extension (Secondary Epithelialization)	45.00	39.00
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NOTE: Including management of hypertrophied and hyperplastic tissue, Per Quadrant.

NOTE: Up to and including 3 cm.

* 07350 Vestibuloplasty—Ridge Extension (Including Soft Tissue Grafts, Muscle Re-attachments, Revision of Soft Tissue Attachment, and Management of Hypertrophied and Hyperplastic Tissue) 118.00 102.00
NOTE: Per Quadrant.

(h) Surgical Excision of Reactive Inflammatory Lesions (Scar Tissue of Localized Congenital Lesions)

1. Includes lesions of skin, subcutaneous or mucous membranes, pyogenic granulomata and operculi.

d* 07410 Radical Excision—Lesion Diameter Up To 1.25 cm. 30.00 26.00

d* 07420 Radical Excision—Lesion Diameter Over 1.25 cm. 42.00 37.00
NOTE: Up to and including 3 cm.

d* 07420 22 Radical Excision—Lesion Diameter Over 3 cm. 100.00 86.00

(i) Removal of Tumors, Cysts, and Neoplasms

1. In the excision and management of this type of lesion a biopsy report must be available.

d* 07430 Excision of Benign Tumor—Lesion Diameter Up To 1.25 cm 30.00 26.00

d* 07431 Excision of Benign Tumor—Lesion Diameter Over 1.25 cm 42.00 37.00
NOTE: Up to and including 3 cm.

d* 07431 22 Excision of Benign Tumor—Lesion Diameter Over 3 cm. 100.00 86.00

d** 07440 Excision of Malignant Tumor—Lesion Diameter Up To 1.25 cm 100.00 86.00

d** 07441 Excision of Malignant Tumor—Lesion Diameter Over 1.25 cm 274.00 256.00
NOTE: Up to and including 3 cm.

d** 07441 22 Excision of Malignant Tumor—Lesion Diameter Over 3 cm 473.00 413.00

d* 07450 Removal of Odontogenic Cyst or Tumor—Lesion Diameter Up To 1.25 cm. 50.00 43.00

d* 07451 Removal of Odontogenic Cyst or Tumor—Lesion Diameter Over 1.25 cm. 100.00 87.00
NOTE: Up to and including 3 cm.

d* 07451 22 Removal of Odontogenic Cyst or Tumor—Lesion Diameter Over 3 cm. 150.00 130.00

d* 07460 Removal of Non-Odontogenic Cyst or Tumor—Lesion Diameter Up To 1.25 cm. 50.00 43.00

d* 07461 Removal of Non-Odontogenic Cyst or Tumor—Lesion Diameter Over 1.25 cm. 100.00 87.00

d* 07461 22 Removal of Non-Odontogenic Cyst or Tumor—Lesion Diameter Over 3 cm 150.00 130.00

d* 07465 Destruction of Lesion(s) by Physical Methods: Electrosurgery, Chemotherapy, Cryotherapy or Laser 18.00 15.00

(j) Excision of Bone Tissue

1. Reimbursement will be based upon quadrants, a portion thereof, of the equivalent thereof as determined by the Medicaid Dental Consultant.

* 07470 Removal of Exostosis—Maxilla or Mandible 43.50 37.50
NOTE: Per quadrant.

* 07470 22 Removal of Exostosis 90.00 79.00
NOTE: Torus palatinus.

d* 07480 Partial Osteotomy (Guttering or Saucerization) 211.00 184.00

d* 07490 Radical Resection of Mandible with Bone Graft BR BR

(k) Surgical Incision

07510 Incision and Drainage of Abscess—Intraoral Soft Tissue 18.00 16.00

07520 Incision and Drainage of Abscess—Extraoral Soft Tissue 42.00 37.00

** 07530 Removal of Foreign Body, Skin, or Subcutaneous Areolar Tissue 18.00 16.00

** 07540 Removal of Reaction-Producing Foreign Bodies, Musculoskeletal System 51.00 45.00

** 07550 Sequestrectomy for Osteomyelitis 48.00 42.00
NOTE: Intraoral.

** 07550 Sequestrectomy for Osteomyelitis 90.00 75.00
NOTE: Extraoral.

d** 07560 Maxillary Sinusotomy for Removal of Tooth Fragment or Foreign Body 242.00 210.00
NOTE: Sinusotomy, maxillary (antrotomy, Caldwell-Luc), unilateral.

(l) Treatment of Fractures—Simple

1. Open reduction involves the dissection of tissues and/or the visual inspection of the fracture site.

** 07610 Maxilla—Open Reduction (Teeth Immobilized if Present) 182.00 158.00

** 07620 Maxilla—Closed Reduction (Teeth Immobilized if Present) 121.00 105.00

** 07620 52 Maxilla—Closed Reduction 30.00 26.00
NOTE: No manipulation or fixation.

** 07630 Mandible—Open Reduction (Teeth Immobilized if Present) 242.00 210.00

** 07630 22 Mandible—Open Reduction (Teeth Immobilized if Present) 303.00 263.00

NOTE: Complicated-multiple surgical approaches (three (3) or more) including internal fixation, interdental fixation, skeletal pinning with extraoral fixation, and so forth.

**	07640		Mandible—Closed Reduction (Teeth Immobilized if Present)	121.00	105.00
**	07640	52	Mandible—Closed Reduction NOTE: No manipulation or fixation.	30.00	26.00
**	07650		Malar and/or Zygomatic Arch—Open Reduction	121.00	105.00
**	07660		Malar and/or Zygomatic Arch—Closed Reduction NOTE: Including towel clip technique.	42.00	37.00
**	07660	52	Malar and/or Zygomatic Arch—Closed Reduction NOTE: No manipulation or fixation.	30.00	26.00
**	07670	YU	Alveolus—Stabilization of Teeth, Open Reduction Splinting NOTE 1: Maxillary alveolar fracture. NOTE 2: Reduction with wiring, application of arch bar or splint, and so forth.	92.00	80.00
**	07670	YL	Alveolus—Stabilization of Teeth, Open Reduction Splinting NOTE 1: Mandibular alveolar fracture. NOTE 2: Reduction with wiring, application of arch bar or splint, and so forth.	92.00	80.00
**	07680		Facial Bones—Complicated Reduction with Fixation and Multiple Surgical Approaches NOTE 1: Maxilla, malar and/or zygomatic arch. NOTE 2: Multiple surgical approaches (three (3) or more), fixation, traction, headframe, multiple internal and/or external fixation, head cap, and so forth.	242.00	210.00

(m) Treatment of Fractures—Compound

1. Open reduction involves the dissection of tissues and/or the visual inspection of the fracture site.

**	07710		Maxilla—Open Reduction NOTE: Teeth immobilized if present.	182.00	158.00
**	07720		Maxilla—Closed Reduction NOTE: Teeth immobilized if present.	121.00	105.00
**	07720	52	Maxilla—Closed Reduction NOTE: No manipulation or fixation.	30.00	26.00
**	07730		Mandible—Open Reduction NOTE: Teeth immobilized if present.	242.00	210.00

**	07730	22	Mandible—Open reduction NOTE: Complicated—multiple surgical approaches (three (3) or more) including internal fixation, interdental fixation, skeletal pinning with extraoral fixation, and so forth.	303.00	263.00
**	07740		Mandible—Closed Reduction NOTE: Teeth immobilized if present.	121.00	105.00
**	07740	52	Mandible—Closed Reduction NOTE: No manipulation or fixation.	30.00	26.00
**	07750		Malar and/or Zygomatic Arch—Open Reduction	121.00	105.00
**	07760		Malar and/or Zygomatic Arch—Closed Reduction NOTE: Including towel clip technique.	42.00	37.00
**	07760	52	Malar and/or Zygomatic Arch—Closed Reduction NOTE: No manipulation or fixation.	30.00	26.00
**	07770	YU	Alveolus—Stabilization of Teeth, Open Reduction Splinting NOTE 1: Maxillary alveolar fracture. NOTE 2: Reduction with wiring, application of arch bar or splint, and so forth.	92.00	80.00
**	07770	YL	Alveolus—Stabilization of Teeth, Open Reduction Splinting NOTE 1: Mandibular alveolar fracture. NOTE 2: Reduction with wiring, application of arch bar or splint, and so forth.	92.00	80.00
**	07780		Facial Bones—Complicated Reduction with Fixation and Multiple Surgical Approaches NOTE 1: Maxilla, malar and/or zygomatic arch. NOTE 2: Multiple surgical approaches (three (3) or more), fixation, traction, headframe, multiple internal and/or external fixation, head cap, and so forth.	242.00	210.00

(n) Reduction of Dislocation and Management of Other Temporomandibular Joint Dysfunctions

**	07810		Open Reduction of Dislocation	182.00	158.00
**	07820		Closed Reduction of Dislocation	18.00	16.00
d**	07830		Manipulation under Anesthesia NOTE: Anesthesia additional.	18.00	16.00
d*	07840		Condylectomy	362.00	315.00
d*	07850		Meniscectomy	362.00	315.00

d*	07860	Arthrotomy	362.00	315.00
d**	07870	Arthrocentesis	18.00	16.00

NOTE: Injection or aspiration (Give complete details).

(o) Repair of Traumatic Wounds

- Describe completely, giving size and site, and so forth.
- Fee includes suture removal.

**	07910	52	Suture of Recent Small Wounds	18.00	16.00
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NOTE: Up to *[2.6 cm.]* *2.5 cm*

**	07910		Suture of Recent Small Wounds up to 5 cm.	24.00	21.00
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NOTE: *[2.6]* *2.5* cm. up to 5 cm.

**	07910	22	Suture of Recent Small Wounds	30.00	26.00
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NOTE: Over 5 cm. up to 7.5 cm.

- Lacerations over 7.5 cm. use code 07999

(p) Complicated Suturing (Reconstruction Requiring Delicate Handling of Tissues and Wide Undermining for Meticulous Closure)

- Also for irregularly shaped lacerations requiring extensive debridement.

**	07911		Suture—Up to 5 cm.	BR	BR
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**	07912		Suture—Over 5 cm.	BR	BR
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(q) Other Repair Procedures

**	07940		Osteoplasty—For Orthognathic Deformities	BR	BR
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**	07955		Repair of Maxillofacial Soft and Hard Tissue Defects	BR	BR
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*	07960		Frenulectomy (Frenectomy or Frenotomy)—Separate Procedure	32.00	28.00
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d**	07980		Sialolithotomy	48.00	42.00
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d*	07981		Excision of Salivary Gland	182.00	158.00
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d*	07982		Sialodochoplasty	151.00	131.00
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d*	07983		Closure of Salivary Fistula	151.00	131.00
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**	07990		Emergency Tracheotomy	121.00	105.00
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d**	07999		Unspecified Oral Surgery Procedure, By Report	BR	BR
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NOTE: Complete description of procedure, and why.

10:56-3.11 08000-08999 X. ORTHODONTICS

(a) Minor Treatment for Tooth Guidance

- Includes all necessary adjustments.
- Code may also be used for Orthodontic Retention Appliances following comprehensive treatment by a previous dentist.

IND	HCPCS CODE	MOD	PROCEDURE DESCRIPTION	MAXIMUM FEE ALLOWANCE	
				S	NS
*	08110		Removable Appliance Therapy	115.00	100.00
*	08120		Fixed Appliance Therapy	115.00	100.00

(b) Minor Treatment to Control Harmful Habits

- Includes all necessary adjustment.

*	08210		Removable Appliance Therapy	115.00	100.00
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*	08220		Fixed Appliance Therapy	115.00	100.00
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(c) Comprehensive Orthodontic Treatment—Permanent Dentition

- Treatment of permanent dentition. Case type—fixed or removable appliances. Itemize fee for diagnostic procedures and formal treatment separately. Indicate anticipated time under treatment—maximum treatment reimbursable including retention—three (3) years. When authorized, reimbursement for comprehensive orthodontic treatment will include retention as required at no additional charge.

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

*	Y2910	Appliances	162.00	140.00
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*	Y2920	1st Through 12th Month of Treatment (To Start On Day Insertion of Appliances Is Completed), Per Month	30.00	26.00
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*	Y2930	13th Through 24th Month of Treatment, Per Month	28.00	24.00
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*	Y2940	25th Through 30th Month of Treatment, Per Month	11.00	9.00
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*	Y2950	31st Through 36th Month (Maximum Reimbursable Period of Treatment), Per Month	11.00	9.00
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(d) Other Orthodontic Services

1. Comprehensive Orthodontic Examination and/or Orthodontic Assessment Examination:

- Reimbursement is limited to the provider or provider group who does such an examination with the intention of personally providing any orthodontic treatment necessary.

- Reimbursement is limited to once every 12 months unless authorized.

- Orthodontic examinations are not reimbursable for individuals age 20 or older.

- When requesting reimbursement for the Orthodontic Assessment Examination, the Definition and Criteria for Assessing Handicapping Malocclusion Permanent Dentition form (FD-10) must accompany the Dental Services Claim form (MC-10).

	Y2965	Orthodontic Examination (Comprehensive) and (Complete Orthodontic) Treatment Plan	6.00	5.00
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	Y2975	Orthodontic Assessment Examination, using the Handicapping Malocclusion Assessment System	6.00	5.00
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*	08999	Unspecified Orthodontic Procedure, By Report	BR	BR
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NOTE: Complete description, diagnosis and treatment plan must be submitted.

10:56-3.12 09000-09999 XI. ADJUNCTIVE GENERAL SERVICES

(a) Unclassified Treatment

IND	HCPCS CODE	MOD	PROCEDURE DESCRIPTION	MAXIMUM FEE ALLOWANCE	
				S	NS
d	09110		Palliative (Emergency) Treatment of Dental Pain—Minor Procedures	7.00	6.00

NOTE 1: Emergency treatment of dental pain or infection, palliative (flat fee for all services performed, when not covered by separately listed procedure). Diagnosis and description of treatment is required.

		NOTE 2: Code to be used for initial endodontic emergency procedure. Diagnosis and description of treatment is required.							
(b) Anesthesia									
d**	09210	Local Anesthesia Not in Conjunction with Operative or Surgical Procedures	13.00	11.00					
		NOTE: Infiltration and/or nerve block for diagnostic purposes or purposes other than anesthesia.							
	09220	General Anesthesia	12.50	12.50					
		NOTE 1: This code applies when the dentist performing the services (attending dentist) also administers the general anesthesia or in conjunction with oral surgery services only.							
		NOTE 2: Reimbursement will be made for the administration of only one general anesthesia per visit.							
(c) Special General Anesthesia									
1. (Basic units—See American College of Anesthesiologists Relative Value Guide—1967).									
*	09220	22	Maximum 4 units	22.00	22.00				
*	09220	52	Time units: Each additional 15 minute period or major portion thereof. (Limited to "table" or "chair" time only). Maximum reimbursable two hours	5.50	5.50				
			NOTE 1: The general anesthesia codes above are limited to use in restorative dentistry alone or restorative dentistry in conjunction with other dental services requiring anesthetic management, and must receive prior authorization from the Office of the Chief, Bureau of Dental Services. Those codes apply to those dentists appropriately qualified in general anesthesia and are reimbursable only to the dentist whose sole function is to administer general anesthesia.						
			NOTE 2: An anesthesia record must be submitted which shows elapsed anesthesia time, and pinpoints time and amounts of drugs administered, pulse rate and character, blood pressure, respiration, and so forth. The Dental Services Claim form (MC-10) for anesthesia and treatment must accompany this record to permit authorization for reimbursement.						
	09240		Intravenous Sedation	10.00	9.00				
(d) Professional Consultation (Diagnostic service provided by a dentist other than practitioner providing treatment)									
1. A complete report must be available.									
d	09310		Consultation—Per Session	22.00	17.00				
(d) Professional Visits									
	09410		House Call	10.50	9.00				
			NOTE: In addition to fee for service provided.						
	Y3005		Long Term Care Facility Visits	10.50	9.00				
			NOTE 1: In addition to fee for service provided.						
			NOTE 2: This code is reimbursable only once per trip per facility regardless of the number of patients examined or treated.						
	09420	52	Hospital Call	9.00	7.00				
			NOTE 1: Hospital visit, in addition to fee for service provided.						
			NOTE 2: Code 09420 52 will not be reimbursable in conjunction with Code 09310 or Codes 09420 22 or 09420. Not applicable in conjunction with those services which include follow-up days.						
			NOTE 3: Code 09420 52 is reimbursable only once per trip per facility regardless of number of patients examined or treated.						
			NOTE 4: Code 09420 52 is not reimbursable when Medicaid fee for service exceeds \$25.00.						
	09420	22	Hospital Call	22.00	17.00				
			NOTE 1: Code to be used for Hospital Day—Initial.						
			NOTE 2: Hospital record must include as a minimum:						
			a. Chief Complaint(s);						
			b. Complete history of the present illness and related systemic review including recording of pertinent negative findings;						
			c. Complete pertinent past medical history;						
			d. Pertinent family history;						
			e. A full examination pertaining to the history of the present condition and including recording of pertinent negative findings; and						
			f. Working diagnosis and treatment plan, including preparation of the "order sheet".						
			g. If history and examination noted above are not personally done by the "billing" practitioner then this code will be downgraded to code 09420, provided that code's criteria are met.						
			NOTE 3: Code 09420 22 will not be reimbursed again if performed on the same recipient by the same practitioner, members of same group, members of a shared health care facility, practitioners						

		sharing a common record or when Code 09310 has been billed in conjunction with the same hospital admission and/or stay by the same practitioner, members of the same group, members of a shared health care facility, or practitioners sharing a common record.		
09420		Hospital Call	9.00	7.00
		NOTE 1: Code to be used for Hospital Day—Subsequent. NOTE 2: Consisting of care and treatment by the Practitioner subsequent to date of "Hospital Day—Initial" and including those procedures ordinarily performed during a hospital visit dependent upon the practitioner's discipline. The following may be included in the progress notes: a. Update of symptoms; b. Update of physical findings; c. Resume of findings of procedures, if any done; d. Laboratory, X-ray, consultations, etc., pertinent positive and negative findings; e. Changes or confirmations of diagnosis and progress of case; f. Additional planned studies, if any, and why; and g. Treatment changes, if any. NOTE 3: Not reimbursable for those services that include follow-up days.		
(f) Drugs				
d	09610	Therapeutic Drug Injection, By Report	2.50	2.50
d**	09610	22 Therapeutic Drug Injection, By Report	13.00	11.00
		NOTE: Injection of one or more muscles of mastication in conjunction with treatment of T.M.J. dysfunction.		
d*	09630	Other Drugs and/or Medicaments, By Report	BR	BR
(g) Miscellaneous Services				
	09910	Application of Desensitizing Medicaments	6.00	5.00
		NOTE 1: Application to a tooth, i.e., cervical sensitivity, erosions, etc. NOTE 2: Specify tooth code(s).		
*	09930	Treatment of Complications (Post Surgical)—Unusual Circumstances, By Report	6.00	5.00
		NOTE: This code may also be used for post-operative treatment beyond that normally provided as part of the basic procedure or when		

		provided by practitioner other than one who provided the original service or in excess of "follow-up days" (California Relative Value Study—1964), per visit.		
**	09940	Occlusal Guards, By Report	35.00	30.00
		NOTE 1: Special periodontal appliances (including occlusal guards, athletic mouth guards and so forth). NOTE 2: Office procedure.		
*	09940	22 Occlusal Guards, By Report	50.00	43.00
		NOTE 1: Special periodontal appliances (including occlusal guards, athletic mouth guards and so forth). NOTE 2: Laboratory procedure.		
*	09951	Occlusal Adjustment—Limited	6.00	5.00
		NOTE: 1 to 3 Teeth.		
*	09951	22 Occlusal Adjustment	17.00	15.00
		NOTE: Per quadrant (minimum six teeth)		
*	09952	Occlusal Adjustment—Complete	69.00	60.00
d**	09999	Unspecified Adjunctive Procedure, By Report	BR	BR
		NOTE: To be used only where no code number exists or existing code is not precisely applicable. Complete description of condition and proposed treatment must be submitted.*		

DIVISION OF PUBLIC WELFARE

(a)

**Service Programs for Aged, Blind, or Disabled Supplemental Security Income Payment Levels
Redoption of Concurrent Proposal:
N.J.A.C. 10:100, Appendix A**

Proposed: January 20, 1987 at 19 N.J.R. 246(a)
Adopted: March 12, 1987 by Drew Altman, Ph.D.,
Commissioner, Department of Human Services.
Filed: March 16, 1987 as R.1987 d.172, **without change**.
Authority: N.J.S.A. 44:7-87 and Section 1618(a) of the Social Security Act.

Effective Date: April 6, 1987.
Expiration Date: February 6, 1989.

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

Full text of the adoption follows.

10:100 Appendix A
The New Jersey Supplemental Security Income Levels:

Living Arrangement Categories	Payment Level
Eligible Couple	1/1/87
Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated	
community residence of 16 or less	\$50/\$10.00†

Residential Health Care Facilities and certain residential facilities for children and adults	\$961.36
Living Alone or with Others	\$535.36
Living in Household of Another, Receiving Support and Maintenance Eligible Individual	\$433.09
Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence of 16 or less	\$25/340.00†
Residential Health Care Facilities and certain residential facilities for children and adults	\$490.05
Living Alone or with Others	\$371.25
Living with Ineligible Spouse (No other individuals in household)	\$535.36
Living in Household of Another, Receiving Support and Maintenance	\$270.98

†The lower figure applies when Medicaid payments with respect to an individual equal an amount over 50 percent of the cost of services provided in a month.

CORRECTIONS

THE COMMISSIONER

(a)

Inmate Discipline Inmate Prohibited Acts

Adopted Amendment: N.J.A.C. 10A:4-4.1

Proposed: January 20, 1987 at 19 N.J.R. 178(a).
Adopted: March 5, 1987 by William H. Fauver, Commissioner, Department of Corrections.
Filed: March 5, 1987 as R.1987 d.154, **without change**.
Authority: N.J.S.A. 30:1b-6 and 30:1b-10.
Effective Date: April 6, 1987.
Expiration Date: July 21, 1991.

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

Full text of the adoption follows.

10A:4-4.1 Prohibited acts
(a) An inmate who commits one or more of the following numbered prohibited acts shall be subject to disciplinary action and a sanction that is imposed by a Disciplinary Hearing Officer or Adjustment Committee. Prohibited Acts preceded by an asterisk are considered the most serious and result in the most severe sanctions (See N.J.A.C. 10A:4-5, Schedule of Sanctions for Prohibited Acts.)
.001-.007 (No change.)
*.008 abuse/cruelty to animals
.051-*.803 (No change.)
(b) (No change.)

(b)

Inmate Discipline Schedule of Sanctions for Prohibited Acts Committed at the Youth Complex Adopted Amendment: N.J.A.C. 10A:4-5.2

Proposed: January 20, 1987 at 19 N.J.R. 178(b).
Adopted: March 5, 1987 by William H. Fauver, Commissioner, Department of Corrections.
Filed: March 5, 1987 as R.1987 d.155, **without change**.
Authority: N.J.S.A. 30:1B-6 and 30:1B-10.
Effective Date: April 6, 1987.
Expiration Date: July 21, 1991.

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

Full text of the adoption follows.

10A:4-5.2 Schedule of sanctions for prohibited acts committed at the Youth Complex

- (a) (No change.)
- (b) A finding of guilt in the case of all other offenses shall render the offender subject to one or more of the following sanctions:
 - 1-2. (No change.)
 3. Up to 60 days loss of commutation time, subject to confirmation by the Superintendent (inmates serving prison terms);
 4. Administrative Segregation for a specified time not to exceed 90 days subject to confirmation by the Institutional Classification Committee (does not include transfer to the Prison Complex);
 5. Up to two weeks confinement to room or housing area;
 6. Up to two weeks extra duty;
 7. Confiscation;
 8. Any sanction prescribed for On-the-Spot Correction (see N.J.A.C. 10A:4-7); and/or,
 9. Suspension of one or more of the above sanctions at the discretion of the Disciplinary Hearing Officer or Adjustment Committee for 60 days.
- (c) (No change.)

(c)

Classification Process Criteria for Consideration for Custody Status Adopted Amendment: N.J.A.C. 10A:9-4.6

Proposed: January 20, 1987 at 19 N.J.R. 178(c).
Adopted: March 5, 1987 by William H. Fauver, Commissioner, Department of Corrections.
Filed: March 5, 1987 as R.1987 d.156, **without change**.
Authority: N.J.S.A. 30:1B-6 and 30:1B-10.
Effective Date: April 6, 1987.
Expiration Date: January 20, 1992.

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

Full text of the adoption follows.

10A:9-4.6 Criteria for consideration for gang minimum custody status, in-and-out custody status, and full minimum custody status
(a) Except as provided in N.J.A.C. 10A:9-4.7 and 10A:9-4.8, inmates who meet the criteria set forth in this section are eligible to be considered for full minimum custody status preceded by the successful completion of a period of time in gang minimum custody or in-and-out custody status. Pursuant to N.J.A.C. 10A:9-4.3(d), the amount of time in gang minimum custody shall be at the discretion of the Institutional Classification Committee (I.C.C.).
(b)-(c) (No change.)
(d) Inmates sentenced to serve mandatory minimum terms of 24 months or less are eligible to be considered for gang minimum custody status, in-and-out custody status and full minimum custody status immediately following admission to a correctional facility.

(a)

**THE COMMISSIONER
Medical and Health Services**

Adopted New Rules: N.J.A.C. 10A:16

Proposed: August 18, 1986 at 18 N.J.R. 1662(a).

Adopted: March 6, 1987 by William H. Fauver, Commissioner,
Department of Corrections.

Filed: March 9, 1987 as R.1987 d.160, with substantive changes
not requiring additional public notice and comment (see
N.J.A.C. 1:30-4.3).

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

Effective Date: April 6, 1987.

Expiration Date: April 6, 1992.

Summary of Public Comments and Agency Responses:

The Department of Corrections conducted a public hearing on the proposed rules on September 9, 1986. Most comments took the form of questions to Department of Corrections representatives who were present. Other comments involved complaints about current medical practices or implementation of existing policies. This summary addresses only those oral and written comments which suggest specific modifications or additions to the proposed rules.

COMMENT: N.J.A.C. 10A:16-2.10 should include provision for seven days per week emergency medical care, to be consistent with dental care as specified in N.J.A.C. 10A:16-3.5.

RESPONSE: It is intended that the 24-hour emergency service be available at all times. The phrase "seven days per week" has been added for clarity at N.J.A.C. 10A:16-2.10(a).

COMMENT: Conjugal visits should be provided to married inmates.

RESPONSE: The subject matter is inappropriate for consideration as a medical or health service. The Department of Corrections lacks facilities with which to implement such a program.

COMMENT: Qualifications for Director of Medical Services and Health Services Coordinator should be spelled out.

RESPONSE: Job qualifications are set by the Department of Personnel, and are not appropriate for inclusion in these rules, which pertain to management of institutions.

COMMENT: N.J.A.C. 10A:16-2.3(a) and (b) conflict.

RESPONSE: There is no conflict between these subsections. Clinical supervision, in (b), requires the expertise of a physician, while administrative management, in (a), is a broader range of activities which may or may not include clinical decisions.

COMMENT: A requirement should be added to N.J.A.C. 10A:16-2.7 that inmate workers be provided with aseptic gowns and gloves.

RESPONSE: Such requirements may be designated as part of medical protocol by a physician but are inappropriate for these rules, which set broad-based policy.

COMMENT: A time schedule for priority treatment should be set forth in N.J.A.C. 10A:16-2.10.

RESPONSE: This cannot be accomplished. Each case must be handled on its own merit according to the physician's evaluation of need.

COMMENT: The term "other qualified health personnel" should be defined.

RESPONSE: This term need not be specifically defined in the rules since the generally accepted definition for "other qualified health personnel" is any position certified or licensed by the State of New Jersey.

COMMENT: A commenter objected to N.J.A.C. 10A:16-2.16(a)4, which requires approval of the Superintendent for purchase of prosthetic devices.

RESPONSE: The Superintendent's approval in these cases is not a medical decision. The Superintendent's approval is required before any item can be budgeted for payment. It may also be necessary to limit the use of a particular type of prosthetic device in the interest of security.

COMMENT: Elective surgery should be permitted.

RESPONSE: N.J.A.C. 10A:16-2.6(c) does not prohibit elective surgery. However, elective surgery is permitted only where the condition sought to be corrected will progress to a life threatening condition or has a substantial adverse effect on the inmate's physical well-being.

(e) Inmates sentenced to serve mandatory minimum terms of more than 24 months are eligible to be considered for gang minimum custody status, in-and-out custody status, and full minimum custody status when the following service of time has been met. Any New Jersey County Jail credit awarded on the instant offense shall be counted. No credit toward this requirement is to be given on any prior sentence which an inmate may currently be serving.

1.-2. (No change.)

3. However, in any instance where the application of (e)2 above would result in an inmate being eligible for consideration in less time than if he or she had no mandatory minimum, then the formula set forth in (c) above shall be applied such that the greater amount of time shall be spent in maximum custody. (EXAMPLE: If the inmate has a 20 year term and a mandatory minimum of 3 years, he or she shall serve the 2 years required in 10A:9-4.6(c) instead of the 1 year which would be required under 10A:9-4.6(e)2.)

(f) When considering inmates with indeterminate sentences for reduced custody status, the I.C.C. shall take into account all New Jersey County Jail credits awarded prior to commitment on the instant offense.

(g) Inmates with indeterminate sentences must have served the following number of months of their sentences to be eligible to be considered for gang minimum custody status, in-and-out custody status and full minimum custody status:

Length of Sentence:	Months in Maximum
30 years to life	42
25 to 29 years	30
20 to 24 years	18
15 to 19 years	6
Up to 15 years	none

(h) Inmates presently serving sentences for controlled dangerous substance (C.D.S.) offenses shall be eligible to be considered for gang minimum custody status, in-and-out custody status, and full minimum custody status. When considering these offenders the I.C.C. shall take into account the following:

1.-6. (No change.)

(i) Inmates with detainees from other jurisdictions outside New Jersey shall be eligible as follows:

1.-2. (No change.)

3. Inmates with detainees for open charges more than five years old shall be eligible to be considered for gang minimum custody status and full minimum custody status provided the charges are not included on the list of serious offenses in (j) below, and the I.C.C. believes the inmate is not an escape risk.

(j) Inmates who have New Jersey detainees, New Jersey open charges less than five years old or who are on bail, are eligible to be considered for gang minimum custody status or in-and-out custody status, and full minimum custody status unless the detainer, the open charge or the bail is for one of the following:

1.-13. (No change.)

(k) Inmates who have escaped or attempted escape and who are not excluded from reduced custody pursuant to N.J.A.C. 10A:9-4.8(e) shall be eligible for reduced custody as follows:

1.-3. (No change.)

COMMENT: N.J.A.C. 10A:16-3.20 requires an annual inspection of dental clinics by the Director of Dental Services and a written report of findings, and there is no similar requirement in N.J.A.C. 10A:16-2, Medical Services, for an annual inspection and report by the Director of Medical Services.

RESPONSE: The Health Service Coordinator stated at the Public Hearing that the Director of Dental Services and the Director of Medical Services conduct annual inspections as a matter of course. A section has been added to N.J.A.C. 10A:16-2 requiring an annual inspection by the Director of Medical Services. N.J.A.C. 10A:16-2.23, Annual Inspection, replaces N.J.A.C. 10A:16-2.23, Medical Forms, which has been deleted since a listing of medical forms is included in N.J.A.C. 10A:16-1.4.

COMMENT: Several comments were received concerning N.J.A.C. 10A:16-4.4. The commenters objected to several of the exceptions to confidentiality. They stated that the rule will have a negative effect on psychologists and the psychologists' ability to treat the inmate population, and that the rule will violate the psychologist's Code of Ethics.

RESPONSE: The Department of Corrections carefully researched the law and considered the psychologist's Code of Ethics when drafting this rule. Exceptions to confidentiality are permitted by the courts and by ethical principles only in situations which present a clear and imminent danger to the inmate or others. Those factual circumstances in which a therapist may breach confidentiality are specifically limited by the language of N.J.A.C. 10A:16-4.4(c).

COMMENT: Form 520-I, INMATE-THERAPIST CONFIDENTIALITY, should not be given to all inmates upon entry into the prison system, but rather Form 520-I should be given to the inmate by the therapist when therapy begins. The therapist will then be able to respond to questions about the policy and allay any concerns which the inmate may have.

RESPONSE: This suggestion is accepted and N.J.A.C. 10A:16-4.4(i) has been modified because Form 520-I was never given to the inmate upon entrance into the prison system as stated in the proposal. The form, in accordance with established procedure, was given to the inmate at the time he or she began therapy.

COMMENT: A section should be added to N.J.A.C. 10A:16-7 to provide that each inmate, upon entry into the correctional system, be presented the opportunity to write a Will.

RESPONSE: This would be inappropriate because it would impose on unqualified staff persons the responsibility to give legal advice. However, a court-approved inmate paralegal program exists in every institution. A trained paralegal is available to assist an inmate who wishes to write a Will.

COMMENT: N.J.A.C. 10A:16-8 should include specific time limits within which the Department of Corrections must act on an application for medical clemency, for example, 30 days.

RESPONSE: The Department of Corrections believes that it would be impractical to impose time requirements on applications for medical clemency, since the differences in various medical conditions will determine how much time is needed to gather relevant information. A statement has been added at N.J.A.C. 10A:16-8.2(d) requiring that all procedures be handled expeditiously and without unreasonable delay.

COMMENT: N.J.A.C. 10A:16-8.7(e) governing confidentiality should not apply here.

RESPONSE: The Governor has recently promulgated procedures on Executive Clemency, of which Medical Clemency is a part. Since these procedures supersede those of the Department of Corrections, N.J.A.C. 10A:16-8.1, 8.7, and 8.8 have been deleted. Since the Governor's procedures are directed at the Parole Board and do not include procedures for handling Medical Clemency within the penal institutions, N.J.A.C. 10A:16-8.2 through 8.6 will remain in force but will be renumbered.

COMMENT: The Public Advocate's comments were limited to a critique of N.J.A.C. 10A:16-6, PREGNANT INMATES. This criticism was focused on three areas: first, the rules fail to deal with the availability of abortion as an option to the pregnant inmate; second, the rules fail to provide specific medical guidelines for treatment; and third, a pregnant inmate who elects to give birth should be permitted to have the infant remain with her until the child reaches two years of age, pursuant to N.J.S.A. 30:4-26.2.

RESPONSE: The Department of Corrections agrees with the Public Advocate's first point, that the regulations should spell out the Department of Corrections policy giving pregnant inmates the choice of terminating a pregnancy or carrying the child to term, a practice which has been in effect for some time. The rules on pregnant inmates, N.J.A.C. 10A:16-6, have been adopted as proposed but will be amended to specify

in detail the services provided to pregnant inmates, which include assistance in deciding whether to terminate the pregnancy. A proposal has been published in this issue of the New Jersey Register amending the adopted rules and will provide the opportunity for public comment. It is not appropriate, however, to detail in these rules the precise medical guidelines to be followed by medical staff at the institution. It is left to the sound discretion of the treating physician to determine the appropriate testing, diet, and medication in a particular case. The Department of Corrections likewise cannot mandate that every inmate who elects to give birth be permitted to care for her infant while incarcerated. There are many variables which must be considered, such as whether the inmate desires to provide care within the confines of a prison. Other factors include custody status; physical environment; privacy of other inmates; and availability of family members willing and able to care for the infant. N.J.S.A. 30:4-26.2 permits the institution Superintendent to make the decision to place the child in the care of the Bureau of Children's Services when it would be in the child's best interests.

THE LAST SENTENCE of N.J.A.C. 10A:16-2.11(c) has been changed to read "All other inmates shall receive complete physical examinations biennially." The practice of biennial examinations of inmates under 50 years of age has been in effect since 1981, and the word "biennially" in the proposal was used to convey that meaning. As a result of a typographical error in the New Jersey Register, "biennially" was changed to "biannually."

In addition to the specific modifications above, there are a number of minor, non-substantive changes in language or grammar and N.J.A.C. 10A:16-11.5(c) has been reworded for clarification.

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

CHAPTER 16 MEDICAL AND HEALTH SERVICES

SUBCHAPTER 1. INTRODUCTION

10A:16-1.1 Purpose

- (a) The purpose of this Chapter is to establish guidelines for:
1. Providing medical services for inmates;
 2. Providing dental services for inmates;
 3. Providing psychological services for inmates;
 4. Obtaining informed consent from an inmate or guardian to perform certain medical procedures;
 5. Providing assistance to pregnant inmates and placement of their newborn;
 6. Providing notification to next of kin in the event of an inmate's critical illness or death;
 7. Providing for burial or cremation of unclaimed inmate bodies;
 8. Applying for medical clemency.
 9. Executing persons sentenced to death pursuant to N.J.S.A. 2C:11-3; and
 10. Assigning inmates to the Medical Unit Annex.

10A:16-1.2 Scope

This Chapter shall be applicable to all correctional facilities within the Department of Corrections unless the context clearly indicates otherwise.

10A:16-1.3 Definitions

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

"Annex Classification Committee" means a group of Office of Institutional Support Services and Medical Unit Annex staff persons who provide classification and program monitoring services for inmates assigned to the Medical Unit Annex.

"Executive clemency" means the exclusive power of the Governor to commute the sentence of an inmate making the inmate eligible for parole consideration.

"Formulary" means a book or listing containing the names of pharmaceutical substances and their uses.

"Medical clemency" means the exclusive power of the Governor to commute the sentence of an inmate for medical reasons, making the inmate eligible for parole consideration.

"Medical Unit Annex" means a unit, on the grounds of Trenton State Prison, that is designated for the assignment of inmates with chronic illnesses.

"St. Francis Unit" means a unit within the St. Francis Hospital that is designated for the treatment of inmates who need hospitalization.

10A:16-1.4 Forms

(a) The following forms related to Medical and Health Services are printed by the Bureau of State Use Industries and each correctional facility shall purchase a supply of these forms by contacting the Bureau.

1. 301-V Report of Consultation; and
2. 301-VI Medication Card*[*] *; and
- *3. DMH-H Oral Diagnosis Card.*

(b) The following forms related to Medical and Health Services shall be reproduced by each correctional facility from originals that are available by contacting the Standards Development Unit:

1. 301-I Admission-Medical Record;
2. 301-II Medical Continuation;
3. 301-III Physician's Order Sheet and Progress Notes;
4. 301-IV Nurse's Notes;
5. 306-I Consent for Medical, Dental or Surgical Treatment; and
6. 520-I Inmate-Therapist Confidentiality.

SUBCHAPTER 2. MEDICAL SERVICES

10A:16-2.1 Medical services provided

Medical services within the Department of Corrections shall be provided in the disciplines of medicine, surgery and psychiatry.

10A:16-2.2 Director of Medical Services

(a) The Director of Medical Services of the Department serving under the Office of Institutional Support Services (O.I.S.S.) Health Services Coordinator, shall be responsible for formulating directives and policies for the operation of the medical programs within the Department.

(b) Copies of all *medical* directives and policies *[of the Department]* shall be available in the medical area of each correctional facility.

10A:16-2.3 Administration of medical services and program

(a) Each correctional facility shall designate a staff member who will be administratively and/or clinically responsible for the management and direction of the facility's medical services and/or program.

(b) In all correctional facilities, a physician shall be designated Chief Physician and he or she shall be clinically responsible for the correctional facility's medical program. The Chief Physician shall be responsible for insuring that medical conditions which existed prior to incarceration or developed during incarceration are treated.

10A:16-2.4 Licensure

(a) All consulting physicians and allied health staff shall maintain valid and current licenses or certifications, as appropriate, to practice within their respective disciplines in the State of New Jersey.

(b) An applicant with exemption licensure shall not be considered for employment.

(c) The Personnel Officer of a correctional facility shall be responsible for forwarding the license of each medical staff member to the Office of Institutional Support Services (O.I.S.S.) Health Services Coordinator immediately after the initial decision to hire a medical staff person.

(d) The Personnel Officer of the facility shall also forward copies of renewal licenses to the O.I.S.S. Health Services Coordinator within fourteen days of renewal.

(e) Copies of the licenses required by this section shall be maintained both within the staff member's personnel file at the correctional facility and at the Office of the O.I.S.S. Health Services Unit.

(f) The O.I.S.S. Health Services Coordinator shall develop a license expiration list which shall be utilized, if necessary, to request copies of renewed licenses from the medical staff.

(g) All persons taking dental x-rays shall be licensed by the State of New Jersey in accordance with N.J.S.A. 45:25-1 et seq.

(h) A physician may not begin employment until the O.I.S.S. Health Services Unit has verified the authenticity of his or her license.

10A:16-2.5 Medical students and interns

(a) Any program to utilize students or interns in health care delivery to inmates must receive the prior written approval of the Office of Institutional Support Services (O.I.S.S.) Health Services Coordinator.

(b) The Chief physician of the correctional facility shall be responsible for the overall supervision of any medical student or intern.

(c) All medical students and interns shall be directly supervised by a licensed or certified medical professional.

(d) The correctional facility shall formulate written policy and procedures which limit student or intern services to a level commensurate with the program training goals.

10A:16-2.6 Use of community facilities and consultants

(a) The Office of Institutional Support Services (O.I.S.S.) Health Services *[Coordinator]* *Coordinator* shall contract with community medical facilities to provide inpatient and outpatient hospital care when in-house treatment is unavailable.

(b) Correctional facilities and community based facilities shall utilize the contracted community medical facilities whenever possible and may utilize local medical facilities in life threatening emergencies.

(c) The O.I.S.S. Director of Medical Services shall be responsible for developing and maintaining a priority treatment schedule for all inmate hospital admissions to the contracted medical facility. The priority treatment program shall not provide for elective surgery unless the condition sought to be corrected will progress to a life threatening condition or is one which has a substantial adverse effect on the inmate's physical well-being.

(d) The O.I.S.S. Director of Medical Services shall also coordinate the acquisition of services for specialized care not provided in a contract medical facility or local hospital.

(e) The Chief Physician at each correctional facility and the O.I.S.S. Director of Medical Services shall develop a list of physician consultants for utilization when appropriate. Consultants on record with the O.I.S.S. Director of Medical Services shall be utilized whenever possible for all prospective inmate admissions to a contract medical facility.

10A:16-2.7 Restrictive use of inmates as employees in medical services

(a) Inmates shall be prohibited from performing the following duties:

1. Providing direct patient care services;
2. Scheduling health care appointments;
3. Determining the access of other inmates to health care services;
4. Handling or having access to:
 - i. Surgical instruments;
 - ii. Syringes;
 - iii. Needles;
 - iv. Medications; and
 - v. Health Records.
5. Operating x-ray equipment;
6. Operating equipment for which they are not trained; and
7. Performing diagnostic procedures.

(b) Inmates may assist in the medical program as orderlies for the performance of such chores as cleaning, sanitation work, handling linen and other such duties.

(c) Inmates shall be kept under constant observation while working the medical areas.

10A:16-2.8 Sick call

(a) Daily sick call shall be conducted at each correctional facility by a physician and/or other qualified health personnel at a regularly scheduled time. However, inmates shall be offered the opportunity to see medical personnel, when necessary.

(b) If an inmate's custody status precludes attendance at sick call, arrangements shall be made to provide sick call services in the place of the inmate's detention.

10A:16-2.9 Correctional facility infirmary care

(a) Infirmary care is inpatient bed care, provided in the correctional facility infirmary, for illness or diagnosis which requires limited observation and/or management and does not require *[submission]* *admission* to a licensed hospital.

(b) Written policies and procedures for infirmary care shall be developed which include, but are not limited to requirements that:

1. A description of the scope of infirmary care services be prepared;
2. A physician be on call 24 hours per day;
3. A minimum of one Registered Nurse be on duty 24 hours per day;
4. All patients be within sight or sound of a staff person;
5. A separate and complete medical record for each inmate be maintained; and
6. A manual of nursing care procedures be prepared.

10A:16-2.10 Emergency medical treatment

(a) Written standard operating procedures (S.O.P.'s) shall be established which provide for 24 hour *seven days per week* emergency medical care availability. These procedures shall be outlined in a written plan which includes, but *[are]* *is* not limited to, arrangements for:

1. On-site emergency first aid;
2. Use of an emergency vehicle;
3. Use of one or more designated hospital emergency rooms or other appropriate health facility;
4. An emergency on call physician when the emergency health facility is not located in a nearby community; and
5. The provision of security when the immediate transfer of inmates is necessary.

(b) All employees likely to be needed or involved in a medical emergency shall be trained in the giving of first aid under emergency conditions. This training shall include, but not be limited to:

1. Types of action required for potential emergency situations;
2. Signs and symptoms of an emergency;

3. Administration of first aid;
4. Methods of obtaining emergency care;
5. Location of the correctional facility's first aid kits; and
6. Procedures for transferring patients to appropriate medical facilities or health care providers.

10A:16-2.11 Medical examinations

(a) A preliminary history and physical examination shall be made on each new admission within 24 hours which shall include, but is not limited to:

1. A medical history;
2. A physical examination; and
3. Any test determined necessary by the Office of Institutional Support Services (O.I.S.S.) Director of Medical Services.

(b) A preliminary history and physical examination will not be done on inmates who are transferred from other correctional facilities within the Department of Corrections.

(c) Inmates 50 years of age or over and inmates with known medical problems shall be given annual physical examinations. All other inmates shall receive complete physical examinations *biannually* *biennially*.

(d) Each inmate shall be given a physical examination and clinical evaluation not more than two calendar weeks prior to release from the correctional facility. A summary report of findings shall be prepared, signed and dated by the physician. This summary shall include a resume of any significant medical problems encountered during the inmate's incarceration, and it shall be made part of the inmate's medical record.

(e) No correction officer of the opposite sex shall be present during a physician's medical examination of an inmate. Female attendants shall always be present during the physical examination of female patients by a male physician.

10A:16-2.12 Athletes and food handlers medical examinations

(a) If deemed appropriate, medical examinations shall be given to inmates prior to participation in sports.

(b) All food handlers shall be given a medical examination, to the extent that the Superintendent and medical staff may require, to ensure cleanliness and freedom from communicable diseases.

10A:16-2.13 Medical facilities and equipment

(a) All medical areas shall have:

1. Facilities where inmates can be examined and treated with a modicum of privacy; and
2. Medical equipment and supplies that meet with the specifications of the Office of Institutional Support Services (O.I.S.S.) Director of Medical Services.

(b) Hypodermic needles and syringes shall be of the single service variety and their control shall be in strict compliance with N.J.S.A. 24:21-5. Hypodermic needles and syringes shall be destroyed immediately after use and in the manner described in N.J.S.A. 2A:170-25.17.

(c) The Chief Physician of each correctional facility shall write and institute procedures approved by the Superintendent to ensure that used and unused hypodermic needles and syringes are protected against theft or pilferage by providing:

1. Locked storage;
2. Distribution supervision; and
3. Inventories which shall be signed at the termination of each shift by the incoming and offgoing nurse.

10A:16-2.14 First aid kits

(a) First aid kit(s) and equipment shall be available in designated areas of the correctional facility based on need. The Chief Physician of the correctional facility or the Office of Institutional Support Services (O.I.S.S.) Director of Medical Services, in the case of community based facilities, shall approve the:

1. Contents of kits;
2. Number of kits; and
3. Location of kits.

(b) Written procedures for the use and monthly inspection of all kits shall be established. All kits shall be numbered and a record shall be maintained of:

1. Location;
2. Contents; and
3. Dates of inspections.

(c) First aid kits shall contain material in sufficient amounts to meet the emergency needs of the population where *[they]* *the first aid kits* are located.

(d) The contents shall be arranged so that the desired package can be found quickly without unpacking the entire kit.

(e) The materials in the kits shall be wrapped so that unused portions do not become contaminated when handled.

10A:16-2.15 Reportable diseases

(a) All correctional facilities shall adhere strictly to the reporting requirements of diseases declared reportable in N.J.A.C. 8:57-1 REPORTABLE DISEASES.

(b) Information on reportable diseases shall also be available by contacting the Office of Institutional Support Services (O.I.S.S.) Health Services Coordinator.

(c) Forms for reporting these diseases are also available by contacting the New Jersey Department of Health, Division of Epidemiology and Disease Control.

(d) Copies of these reports shall be sent to the O.I.S.S. Health Services Coordinator.

10A:16-2.16 Prosthetic devices

(a) Medical services include the provision of prosthetic devices, including:

1. Eyeglasses;
2. Hearing aids;
3. Artificial limbs; and
4. Such other devices as are deemed medically necessary by the physician with the approval of the Superintendent or his or her designee.

10A:16-2.17 Satellite units and community based facilities

Written policy and procedure shall specify the provision of medical services (nonemergency and emergency illness or injury) for inmates housed at correctional facility satellite units and community based facilities.

10A:16-2.18 Medical records

(a) A complete medical record shall be maintained for each inmate to accurately document all health care services provided throughout the inmate's period of incarceration. This record shall contain the following items:

1. Completed receiving screening;
2. Physical examination forms;
3. Health history records;
4. Each health encounter with health care staff including sick call appearances;
5. Progress notes for all health care visitations, treatments, medical findings and diagnosis;
6. Prescribed medications and their administration;
7. Health service reports and consultations, including dental and psychiatric;
8. Prescribed diets and other treatments;
9. Laboratory, x-ray and diagnostic studies;
10. Discharge summary of hospitalizations and other terminations summaries; and
11. Refusal and consent forms.

(b) Only qualified correctional facility medical personnel shall collect and record health history, vital signs and other health appraisal data.

(c) Each patient encounter shall be recorded in the appropriate section of the medical record. Each entry in the medical record shall be written in ink, or typed, and signed and dated by the appropriate health care staff. All non-physician medical staff entries shall be co-signed by the physician or health care provider.

(d) All active medical records shall be maintained separately from the confinement records.

(e) Inactive medical records shall be stored separate from the active records and in accordance with the Records' Management Program's retention schedule.

(f) Medical records (excluding the Patient's Profile Record card which is retained by the pharmacist) shall accompany inmates when transferred to another correctional facility in order to assure continuity of care and to avoid the duplication of tests and examinations.

(g) The Patient's Profile Record card is not sent with the medical records when an inmate is transferred. The Patient's Profile Record card is retained by the pharmacist.

(h) Confidentiality of inmate records shall be maintained in accordance with N.J.A.C. 10A:22 RECORDS.

10A:16-2.19 Informed consent for treatment

Informed consent*[s]* for treatment shall be handled in accordance with N.J.A.C. 10A:16-5 INFORMED CONSENT TO PERFORM MEDICAL, DENTAL OR SURGICAL TREATMENT.

10A:16-2.20 Medical research or experimentation prohibited

(a) Absolutely no medical, pharmaceutical or cosmetic experiments shall be conducted involving the use of inmates or employees in the Department of Corrections.

(b) This prohibition does not preclude individual treatment of an inmate based on his or her need for a specific medical procedure which is not generally available.

(c) Nonmedical, nonpharmaceutical and noncosmetic research projects shall be conducted in accordance with N.J.A.C. 10A:1 ADMINISTRATION, ORGANIZATION AND MANAGEMENT.

10A:16-2.21 Reporting responsibilities of all medical services

(a) Monthly and annual reports shall be prepared and submitted in accordance with 10A:21 REPORTS.

(b) A copy of each medical program's monthly and annual report to the Superintendent shall be submitted to the Office of Institutional Support Services (O.I.S.S.) Director of Medical Services for purposes of information and program review.

10A:16-2.22 Medical Services Manual

(a) The medical services of each correctional facility shall develop and maintain an operations manual that specifies its goals, objectives, policies and procedures consistent with the requirements of this Subchapter.

(b) The manual shall be reviewed at least annually, updated as needed and made accessible to employees. Each document contained in the manual shall bear the date of the most recent review or revision and signature of the reviewer.

(c) The manual shall include, but not be limited to, the areas addressed in this Subchapter.

*[10A:16-2.23 Medical forms

(a) Medical programs shall use the standardized forms required in (b) and (c) below.

(b) Forms 301-I through 301-IV shall be obtained from the Standards Development Unit, Department of Corrections, and reproduced by the correctional facility as needed.

(c) Forms 301-V and 301-VI shall be purchased by the correctional facility directly from the Bureau of State Use Industries.]*

*10A:16-2.23 Annual inspection

(a) **The Office of Institutional Support Services (O.I.S.S.), Director of Medical Services, shall visit and inspect the medical programs at all correctional facilities at least once a year in order to review the facility's medical services activities.**

(b) **Within 14 days after the annual inspection, a written report of the findings shall be prepared by the O.I.S.S. Director of Medical Services and submitted to the Commissioner, the Superintendent, the Chief Physician and the facility's Medical Services Administrator.***

SUBCHAPTER 3. DENTAL SERVICES

10A:16-3.1 Director of Dental Services

(a) The Director of Dental Services of the Department, serving under the Office of Institutional Support Services (O.I.S.S.) Health Service Coordinator, shall be responsible for formulating directives and policies for the provision of dental services within the Department.

(b) Copies of all ***dental* directives *and policies*** of the Department shall be available in the dental clinic of each correctional facility.

10A:16-3.2 Correctional facility dental staff

(a) The staff dentist with the highest Civil Service title, at each correctional facility shall be designated as the Senior Staff Dentist of the facility. The Senior Staff Dentist shall be administratively responsible for the dental services within the dental clinic.

(b) Correctional facilities may employ the following dental personnel to provide services:

1. Dentists;
2. Dental Specialists (consultation basis—when advanced training and experience required);
3. Dental Hygienists (full-time position if yearly population care exceeds 1,000); and
4. Dental Assistants.

(c) Dental externs and dental students entering the fourth year of dental school, may be employed. They shall only provide dental services under the direct supervision of a dentist working at the correctional facility as an employee of the Department of Corrections. This dentist must also be a member of the teaching faculty at one of the New Jersey dental colleges.

(d) The suggested staff for a dental clinic is one dentist and one dental auxiliary for approximately 500 inmates. This suggested staffing is dependent upon factors which include:

1. Turnover of population;
2. Objectives of the Dental Services staff; and
3. Dental pathology input compared with the dental pathology output.

(e) Dental staff shall be used to the maximum allowed by the Dental Practice Act N.J.S.A. 46:6.1 et seq.

10A:16-3.3 Licensure

(a) Only persons licensed and registered in accordance with N.J.S.A. 45:6-1 et seq. shall be permitted to practice dentistry within the State of New Jersey. This prohibition is extended to the administration of first aid for alleviation of ***a*** toothache.

(b) The Personnel Officer of a facility shall be responsible for forwarding the license for each dental staff member to the Office of Institutional Support Services (O.I.S.S.) Health Service Coordinator immediately after the initial decision to hire him/her. No dentist may begin employment until the O.I.S.S. Health Services Coordinator has verified the authenticity of the license.

(c) The Personnel Officer of a facility shall forward copies of renewal licenses to the O.I.S.S. Health Services Coordinator within fourteen days of renewal.

(d) Copies of licenses of dental personnel shall be maintained both within each staff member's personnel file at the correctional facility and at the O.I.S.S. Health Services Unit.

(e) The O.I.S.S. Health Services Coordinator shall develop a license expiration list which shall be utilized, if necessary, to request copies of renewed licenses from the staff.

(f) All persons taking dental x-rays shall be licensed by the State of New Jersey in accordance with N.J.S.A. 45:25-1 et seq. Information regarding licensure may be obtained from the Bureau of Collection and Licensing and Management, Department of Environmental Protection.

(g) Inmates may not be licensed as x-ray technicians and, therefore, shall not perform such duties.

10A:16-3.4 Restrictive use of inmates as employees in dental clinics

(a) Inmates shall not be used to perform or assist in direct or indirect patient dental care services.

(b) Correctional facilities using inmates to perform or assist in direct or indirect patient dental care shall submit a request for a variance in accordance with 10A:1 ADMINISTRATION, ORGANIZATION AND MANAGEMENT clearly delineating the specific duties of these inmates.

10A:16-3.5 Twenty-four hour coverage

(a) Arrangements shall be made to provide 24 hour, seven days per week coverage by using:

1. Other dentists within the Department;
2. Community dentists; or
3. Community dental departments.

(b) Written standard operating procedures (S.O.P.'s) shall be established for emergency dental care when the correctional facility dentist is not available. These written procedures shall include arrangements for the following:

1. Emergency evacuation procedures with a designated hospital for severe dental procedures or trauma;
2. On-site emergency first aid;
3. Use of an emergency vehicle;
4. Emergency on call dentist when the emergency health facility is not located in a nearby community;
5. Providing security when the immediate transfer of inmates is appropriate; and
6. Notification to the Director of Dental Services as soon as possible in all emergencies requiring evacuation or hospitalization.

10A:16-3.6 Use of community facilities and consultants

(a) Provision shall be made for the use of general and specialist community dental offices, practitioners or hospitals when dental treatment facilities are not available within the correctional facility and when special cases require it. Definite prearrangements shall be made for such utilization in advance of need.

(b) Inmates may be treated in dental facilities of other correctional facilities if personnel and equipment as related to the particular pathology to be treated make such treatment necessary or desirable.

10A:16-3.7 Admission examination

(a) An admission examination shall be accomplished within fourteen working days after the inmate's arrival. The examination shall include a manual and visual examination of the structures related to the dental field using ***[using]*** a mirror and an explorer.

(b) The examination should be augmented by an x-ray examination with appropriate reading and application to the clinical findings. Such diagnostic mechanisms as study models, photographs, tooth vitality determination may also be used.

(c) The findings of the examination shall be recorded on the Form DMH-8 "ORAL DIAGNOSIS *[AND RECORD]* *CARD*", and an individual dental treatment plan shall be developed.

10A:16-3.8 Classification and priority treatment program

Dental staff in each correctional facility, shall follow the written Classification and Priority Treatment Program of the Department so that all inmates shall be provided dental services in an equitable manner.

10A:16-3.9 Emergency dental treatment

Written procedures shall be established to ensure that inmates with severe trauma shall be examined immediately and the other dental emergencies shall be seen within 24 hours.

10A:16-3.10 Routine dental treatment

Excluding emergency treatment, dental treatment shall be rendered in accordance with the Department's written Classification and Priority Treatment Program.

10A:16-3.11 Oral surgery

(a) Reconstructive oral surgery techniques shall be used when the prognosis for success, and the anticipated gain is sufficient to offset any risk to the patient.

(b) Surgery of the mouth and associated structures shall be accomplished by applying techniques which ensure optimum preservation of tissue and minimum postoperative sequels.

(c) Using the closed or the open approach, erupted and impacted teeth shall be extracted and associated areas of infection shall be removed. Indicated bone reduction shall be accomplished at that time, keeping in mind prosthetic replacement. Primary enclosure of the extraction and bone trim sites shall be accomplished using sutures where indicated, especially when postoperative bleeding can be expected.

(d) Hard and soft lesions shall be removed in total or in part and shall be sent for pathologic evaluation when the surgical diagnosis is not absolute. When there is questionable pathology, follow-up shall be maintained as part of the recall system.

(e) Infectious pathologies shall be treated through surgical and/or hemotherapeutic mechanism.

(f) Trauma shall be managed within the scope of the qualification(s) and experience of the dentist(s) or by referral. *[Trauma]* *Management of Trauma* shall include:

1. Suturing of facial and oral mucosal lacerations;
2. Reimplantations;
3. Repositioning and affixation of involved teeth and alveolar processes;
4. Management of facial bone fractures; and
5. Control of bleeding.

10A:16-3.12 Preventive dentistry

(a) Preventive dentistry shall be an important part of routine dentistry. *[It shall include educational programs as well as direct instructional programs. It]*

(b) Preventive dentistry shall include, but not be limited to, the following:

1. Care of teeth;
2. Function of teeth;
3. Brushing and flossing of teeth; *[and]*
4. Prosthetic appliance maintenance*[.]*
- *5. Educational programs; and
6. Direct instructional programs.*

[(b)](c)* Procedures shall be implemented through the correctional facility's water supply or through direct dietary intake to provide for the ingestion of appropriate amounts of fluoride by all inmates under the age of 12.

10A:16-3.13 Administration of medications

(a) Medications prescribed by the dentist may be administered, in the manner prescribed, by staff personnel designated for this purpose.

(b) Drugs prescribed shall be issued either in envelopes labeled with the patient's name and directions for taking them or by a member of the medical staff at a central location.

(c) No one shall give medications or administer treatment, with the exception of first aid, unless it is under the expressed direction or prescription of the dentist or the physician.

10A:16-3.14 Local anesthesia

Local anesthesia is considered the anesthesia of choice. It shall be used whenever it is considered to be in the best interest of the patient's comfort, or in the dentist's judgment, for success of the procedure.

10A:16-3.15 General anesthesia

(a) General anesthesia shall be indicated when patients have certain medical complications that would contraindicate the use of local anesthetics. These problems can include psychological and allergic conditions. Dentistry is accomplished under general anesthesia only:

1. After adequate medical work-up;
2. With the anesthesia administered by qualified personnel and the dentistry accomplished by qualified dentists;
3. In an environment consistent with general operating room standards, adequate monitoring and emergency equipment;
4. With the assurance that there is adequate preoperative, operative and postoperative nursing care; and,
5. When the recovery mechanisms are consistent with those of general hospitals.

(b) Consultation shall be made prior to the administration of general anesthesia consistent with the statements found in this Subchapter.

10A:16-3.16 Records

(a) The following shall be completed on each inmate admitted to the correctional facility:

1. Form DMH-8 ORAL DIAGNOSIS *[AND TREATMENT FORM]* *CARD*;
2. Classification Assignment; and
3. Priority within treatment program.

(b) Written procedures shall be established by the Senior Staff Dentist which shall ensure that all special and routine recalls are accomplished.

(c) Dental records and x-rays shall be sent with inmates when they are transferred to another correctional facility so that the original treatment plan may be continued without diagnostic duplication. The dentist receiving the dental records and x-rays shall be responsible for their safe-keeping.

(d) A daily record shall be maintained describing the Dental Department's activity on a statistical and narrative basis. These shall be compiled by the week, month and year.

(e) Confidentiality of inmate records shall be maintained in accordance with 10A:22 RECORDS.

10A:16-3.17 Informed consent for treatment

Informed consent for treatment shall be handled in accordance with 10A:16-5 INFORMED CONSENT TO PERFORM MEDICAL, DENTAL OR SURGICAL TREATMENT.

10A:16-3.18 Dental equipment and supplies

(a) The dental equipment, instruments and supplies shall be closely supervised by salaried personnel.

(b) Written procedures on proper use and security of supplies and equipment shall be established by the Senior Staff Dentist and approved by the Superintendent. These written procedures shall ensure that used and unused needles and syringes are protected against theft or pilferage by:

1. Providing locked storage;
2. Providing supervision of distribution; and
3. Requiring signed inventories at the termination of each shift by the incoming and outgoing dentist.

(c) The dental staff shall pay particular attention to the equipment maintenance recommended by the manufacturers. The equipment shall be brought up to operating normal by the correctional facility's maintenance staff, the dentist and/or community dental maintenance personnel.

(d) Repeated equipment failure or underperformance shall be a basis for recommending replacement.

(e) Supplies shall be ordered under the direction of the Senior Staff Dentist, consistent with budget allocation. Supplies shall be ordered in sufficient quantities, quality and variety while maintaining a minimum of shelf inventory.

(f) Shelf life of supplies shall be current.

10A:16-3.19 Dental research

(a) There shall be no dental research, excepting that which involves study of clinical records and data.

(b) Dental research projects shall be conducted in accordance with 10A:1 ADMINISTRATION, ORGANIZATION AND MANAGEMENT.

10A:16-3.20 Reporting responsibilities of all dental clinics

(a) Monthly and annual reports shall be prepared and submitted in accordance with 10A:21 REPORTS;

(b) A copy of each dental clinic's monthly and annual report to the Superintendent shall be submitted to the Office of Institutional Support Services (O.I.S.S.) Director of Dental Services for purposes of information and program review.

(c) The annual report must be submitted by August 31 of each year and will include all periods involved on a fiscal year basis.

10A:16-3.21 Annual inspection

(a) The Office of Institutional Support Services (O.I.S.S.) Director of Dental Services shall visit and inspect the dental clinics at all correctional facilities at least once a year in order to review the facility's dental treatment activities.

(b) Within 14 days after the annual inspection, a written report of the findings shall be prepared by the O.I.S.S. Director of Dental Services and submitted to the Commissioner, the Superintendent and the Senior Staff Dentist.

SUBCHAPTER 4. PSYCHOLOGICAL SERVICES

10A:16-4.1 Office of Institutional Support Services (O.I.S.S.) Director of Psychological Services

(a) The Office of Institutional Support Services (O.I.S.S.), Director of Psychological Services, serving under the Director, Office of Institutional Support Services (O.I.S.S.), shall be the designated authority with primary responsibility of serving as a consultant in psychology and providing professional review, evaluation and guidance of all psychological programs and activities of the Department with particular emphasis upon the maintenance of professional standards and the coordination of planning, training, recruitment and research.

(b) The O.I.S.S. Director of Psychological Services shall be responsible for:

1. Initiating necessary and appropriate action to coordinate and integrate the psychological activities of the Department;
2. Providing consultative service and support to all units of the Department in the specialized area of psychology;
3. Developing procedures of reporting on the quality of service provided by psychologists within the Department;
4. Evaluating psychological programs and initiating recommendations to insure that appropriate and necessary operations are being carried out within the Department;
5. Developing intermediate and long range plans for the improvement of psychological services within the Department;
6. Reviewing all budget requests, personnel appointments (whether temporary or on a per diem basis), promotional adjustments, training and research requests within the area of psychology and making recommendations to the appropriate appointment authority;
7. Providing necessary liaison with other State agencies within and outside of New Jersey in order to coordinate the psychological activities;
8. Developing training programs in the area of psychology and assisting in the recruiting, selection and supervision of psychological interns within the Department. The day-to-day supervision and evaluation of interns, however, shall be under the direction of a licensed psychologist of at least the grade of Staff Psychologist I in the correctional facility; and,
9. Developing programs for the recruitment of personnel into psychological services for the Department of Corrections and assisting in the formulation of personnel practices in order to maintain staffing patterns which will facilitate a high level of quality service.

(c) The O.I.S.S. Director of Psychological Services shall visit and inspect each correctional facility at least annually in order to review psychological activities and prepare a report of findings. Copies of the report shall be submitted to the:

1. Commissioner;
2. Assistant Commissioner; and
3. Superintendent of the correctional facility inspected.

10A:16-4.2 Correctional facility staff and structure

(a) A licensed psychologist, of at least the grade of Staff Clinical Psychologist I, shall be designated Director of Psychology at each correctional facility and he or she is directly responsible to the Superintendent or his or her designee.

(b) The Director of Psychology of a facility shall be responsible for:

1. Ensuring adequate, equitable and consistent psychological services;
2. Providing the procedural mechanisms for psychological staff practices and functions within the correctional facility; and
3. Coordinating the activities of the psychological service with other professional and technical groups, both within and outside the facility.

(c) All persons offering psychological services who do not meet the requirements as a qualified psychologist as defined by Civil Service specifications shall be supervised by a Staff Clinical Psychologist I or a psychologist of a higher level.

(d) Each correctional facility shall develop a table of organization which delineates the lines of authority for psychological personnel.

10A:16-4.3 Access to psychological services

(a) At the time of admission to a correctional facility, inmates shall receive a written communication explaining the procedures for gaining access to psychological services.

(b) New or revised information regarding inmate access to psychological services shall be posted in housing units and incorporated into the next printing of the Inmate Handbook.

10A:16-4.4 Inmate/therapist confidentiality

(a) Confidential relations between and among clinical practitioners and individuals or groups in the course of practice, are privileged communications, not to be disclosed to any person.

(b) Privileged communications are subject to certain exceptions where it is found or believed that disclosure is more important to the present and future interests of substantial justice or safety of persons, than protection from injury to the clinical practitioner/patient relationship or to the inmate or others whom disclosure is likely to harm.

(c) The following exceptions to privileged communications are applicable only in situations which present a clear and imminent danger to the inmate or others.

1. Where the inmate discloses planned action which involves a clear and substantial risk of imminent serious injury, disease or death to the inmate or another identifiable person;

2. Where an escape plan is disclosed to the clinical practitioner;

3. Where drug trafficking for profit or illicit influence on others, involving Controlled Dangerous Substances (C.D.S.) or drug paraphernalia which may result in:

i. Injury (for example*,* transmission of disease by sharing of hypodermic needles, etc.);

ii. Disorder; or

iii. Other interference with the orderly operation of the correctional facility is disclosed.

4. Where the inmate discloses suicide plans or other life threatening behavior; and/or

5. Where the inmate discloses a past, previously unreported murder, aggravated sexual assault, or arson which resulted in a death. For the purpose of this Subsection, aggravated sexual assault shall mean those offenses set forth in N.J.S.A. 2C:14-2(a). Past crimes shall be disclosed only where circumstances present a reasonably foreseeable danger in the present or future due to the nature of the past crime.

(d) When a clinical practitioner receives information concerning the exception categories listed in (c) above, he or she shall immediately confer with his or her Chairperson to determine whether disclosure is necessary. Relevant considerations, in addition to the information given to the clinical practitioner may include, but are not limited to; whether:

1. It is known that another individual is serving a sentence for the crime confessed by the inmate to the clinical practitioner;

2. It can be ascertained that the crime was in fact committed, but no one was prosecuted;

3. The inmate is under consideration for parole and the Superintendent, Special Classification Review Board, or State Parole Board is unaware that the inmate has committed, or plans to commit, another serious crime;

4. The inmate has described the criminal event or plan in such intimate detail as to render his or her story credible; and/or

5. Consequences of the inmate's past or intended conduct are considered dangerous to the health or well being of correctional facility residents or personnel.

(e) In any case in which the clinical practitioner and his or her Chairperson agree and conclude that the information does not fall within any of the exception categories described in (c) above, no disclosure need be made.

(f) If the clinical practitioner and his or her Chairperson believe that the subject matter falls within one of the exception categories, they shall immediately make this information known to the correctional facility Superintendent, and they shall provide the Superintendent with the facts and background information that are necessary to give the Superintendent a clear understanding of the case.

(g) In any case in which the clinical practitioner and his or her Chairperson disagree as to whether disclosure should be made, the staff person who believes that the matter should be disclosed shall notify the Superintendent immediately.

(h) The Superintendent shall institute such action as is deemed appropriate considering the needs of the correctional facility and facts of the particular case. This action may include, but is not limited to:

1. Requesting the Internal Affairs Unit to investigate further or to administer a polygraph test;

2. Transmitting information to the Internal Affairs Unit, Central Office, to refer to prosecutor;

3. Initiating disciplinary charges against the inmate;

4. Placing the inmate in close custody pending result of investigation; and/or

5. Increasing the inmate's custody status from minimum to maximum.

(i) Upon entry into *[the correctional system]* ***therapy*** the inmate shall be advised of the limitations on confidentiality. The ***therapist shall give the inmate Form 520-I INMATE-THERAPIST CONFIDENTIALITY, and the* inmate shall be required to sign *(Form 520-I INMATE-THERAPIST CONFIDENTIALITY)* *the form before beginning therapy***.

(j) Each staff person who engages in inmate therapy or psychiatric counselling shall be provided with a copy of the Commissioner's policy directive regarding inmate/therapist confidentiality.

(k) Questions concerning the interpretation of the policy on inmate/therapist confidentiality shall be addressed to the Special Assistant for Legal Affairs, Office of the Deputy Commissioner.

10A:16-4.5 Psychology department manual

(a) The Psychology Department of each correctional facility shall develop and maintain an operations manual that specifies its goals, objectives, policies and procedures.

(b) The psychology manual, which is approved and promulgated by the Superintendent, shall be reviewed at least annually, updated as needed and be available to employees.

(c) As psychology manuals are reviewed and revised, copies shall be forwarded to the Office of Institutional Support Services (O.I.S.S.) Director of Psychological Services.

(d) The psychology manual shall include, but not be limited to:

1. Procedures for making appointments for psychological services which include a method for establishing priorities of appointments;

2. Procedures for making recommendations and/or referrals to other persons or agencies and the condition under which such recommendations and/or referrals can be made;

3. Sequence of events in the delivery of services presented in writing or in the form of a flow chart;

4. Designation of the person(s) responsible for developing the psychological treatment programs in coordination with the Director of Psychology of the correctional facility;

5. Method of reporting results of psychological services; and

6. Method of establishing accountability for obtained results.

10A:16-4.6 Records

(a) Documentation shall be made of psychological services provided. Records kept of psychological services shall include, but are not limited to:

1. Identifying data;

2. Date of service;

3. Types of services; and

4. Action taken.

(b) Psychologists shall ensure that essential information concerning psychological services rendered is appropriately recorded within a reasonable time after the services are provided.

(c) Collection of psychological evaluation data shall be performed only by psychological services staff personnel or facility staff trained by the psychological service staff. All such reviews, written reports and development of plans of treatment shall be done under the supervision of a licensed psychologist.

(d) Confidentiality of inmate records shall be maintained in accordance with N.J.A.C. 10A:22 RECORDS

10A:16-4.7 Psychological research

Psychological research projects shall be conducted in accordance with N.J.A.C. 10A:1 ADMINISTRATION, ORGANIZATION AND MANAGEMENT.

10A:16-4.8 Reporting responsibilities

(a) Monthly and annual reports shall be prepared and submitted in accordance with N.J.A.C. 10A:22 RECORDS.

(b) A copy of each monthly and annual report of the Psychology Department to the Superintendent shall be submitted to the Office of Institutional Support Services (O.I.S.S.) Director of Psychological Services for purposes of information and program review.

(c) Correctional facilities shall report the following to the appropriate Assistant Commissioner and the O.I.S.S. Director of Psychological Services.

1. Misconduct by psychology staff members;

2. Resignations of psychology staff; and

3. Conflicts between interdisciplinary staff.

(d) Monthly reports, annual reports and, as required, special reports shall be prepared by the O.I.S.S. Director of Psychological Services of the Department and submitted to the Director, Office of Institutional Support Services (O.I.S.S.).

SUBCHAPTER 5. INFORMED CONSENT TO PERFORM MEDICAL, DENTAL OR SURGICAL TREATMENT

10A:16-5.1 Express written consent required

(a) The express written consent of the inmate shall be required for:

1. Surgery;

2. Intrusive procedures;

3. Medical/dental treatment; and

4. Medical and dental procedures governed by informed consent standards in the community.

(b) In order to obtain written informed consent, Form 306-I CONSENT FOR MEDICAL, DENTAL OR SURGICAL TREATMENT shall be completely filled in and signed by the inmate or guardian and a witness. The signed consent form shall be maintained in the inmate's medical record.

(c) The inmate or guardian must:

1. Have legal capacity to give written consent and be able to exercise free choice without any element of force or coercion;

2. Have sufficient knowledge and comprehension of the nature of the treatment to enable him or her to make an understanding and enlightened decision; and

3. Be informed of the:

i. Nature, duration and purpose of the medical, dental or surgical procedure;

ii. Alternative, if any, to the procedure;

iii. All of the inconveniences and hazards that may occur; and

iv. Effects upon health or person which can be reasonably expected.

(d) Information regarding the medical, dental or surgical procedure shall be provided by the medical staff; that is, physician, dentist or registered nurse.

(e) If there is doubt as to the inmate's mental capacity to make an informed decision, he or she shall be examined by the psychiatrist of the correctional facility and the Special Assistant for Legal Affairs shall be notified.

10A:16-5.2 Exception to adult inmate written consent requirement

(a) Written consent shall not be required in the case of adult inmates (18 years or older) in the following circumstances:

1. In a case certified by a licensed physician or dentist to be one of grave emergency which requires immediate surgical intervention or other treatment in order to prevent the death of, or serious consequences to such inmate; and

2. In any case in which a court of competent jurisdiction has determined that the inmate is incompetent to give informed consent on his or her own behalf, or is otherwise ordered to undergo treatment.

10A:16-5.3 Parent or guardian authorized consent for juvenile inmates

(a) A notice of required treatment shall be forwarded to a parent or guardian of a juvenile inmate by certified mail to the last known address along with a Form 306-I CONSENT FOR MEDICAL, DENTAL OR SURGICAL TREATMENT. The notice shall contain the following information:

1. Precise nature of illness;

2. Proposed treatment; and

3. Date treatment will be performed.

(b) The notice shall be sent at least 10 days in advance of the date recommended for such treatment unless the case is one certified to be emergent, in which case the parent or guardian shall be given the maximum advance notice possible under the circumstances.

(c) A parent or guardian of a juvenile inmate may authorize the provision of required treatment by completing Form 306-I CONSENT FOR MEDICAL, DENTAL OR SURGICAL TREATMENT upon receipt, and forwarding it to the correctional facility by certified mail.

10A:16-5.4 Superintendent authorized consent for juvenile inmates

(a) The Superintendent of a State correctional facility is authorized to give consent for medical, psychiatric, surgical or dental treatment to inmates under the age of 18, under the following conditions:

1. Where a licensed physician, psychiatrist, surgeon or dentist certifies that the treatment to be performed is essential and beneficial to the general health and welfare of such inmate, or will improve the inmate's opportunity for recovery, or prolong or save the inmate's life;

2. Where, after reasonable inquiry, there is no parent or guardian known who is competent to give written consent for the treatment;

3. Where a parent or guardian (after reasonable notice of the proposed treatment and a request for consent, and prior to the date fixed in such notice for the rendering of such treatment) refuses or neglects to execute and submit to the Superintendent in writing either the grant or denial of such consent; or

4. Where a case is certified by a licensed physician, surgeon, psychiatrist or dentist to be one of grave emergency and immediate surgical intervention or other treatment is necessary to prevent the death of, or serious consequences, to such juvenile inmate.

(b) Under the circumstances described in this Subchapter, the Superintendent, granting such consent in the exercise of his or her discretion, upon the recommendation contained in the medical, psychiatric, surgical or dental certification, shall be exempt from personal liability in the performance of such public duty.

(c) In cases where a Superintendent's consent has been executed, complete records, including a signed physician's or dentist's certification of the need for and nature of treatment required and given, and a signed copy of the Superintendent's written authorization to the physician or dentist performing such treatment, shall be filed in the inmate's medical record.

10A:16-5.5 Refusal by adult inmates

(a) In every case in which the adult inmate, after having been informed of his or her condition and the treatment prescribed, refuses treatment, this refusal shall be recorded on Form 306-I CONSENT FOR MEDICAL, DENTAL OR SURGICAL TREATMENT in the space provided. Medical staff shall advise the inmate of the possible medical/dental consequences of such refusal.

(b) In the event the medical staff believes that the inmate lacks sufficient mental capacity to make a reasonably informed decision regarding his or her own well-being, or that the condition requiring treatment may become life threatening, the case shall be referred to the Special Assistant for Legal Affairs, Office of the Deputy Commissioner, for possible legal action.

10A:16-5.6 Written procedures

(a) Written procedures consistent with this Subchapter shall be prepared and made part of the correctional facility's medical procedures.

(b) These procedures shall be submitted for legal review to the Special Assistant for Legal Affairs, Office of the Deputy Commissioner, on or before February 15 of each year.

SUBCHAPTER 6. PREGNANT INMATES

10A:16-6.1 Visits to the physician

When pregnancy is diagnosed, the health of the prospective mother shall be carefully monitored by regular visits to a physician.

10A:16-6.2 Arrangements for obstetrical services

Arrangements for hospitalization for delivery shall be made by the correctional facility as far in advance as possible.

10A:16-6.3 Father of the child

(a) The father, if not incarcerated, may attend the birth of his child in the delivery room.

(b) The father's presence in the delivery room is dependent upon the security risk of the mother and hospital policy.

10A:16-6.4 Placement of infants

(a) Counseling and assistance shall be provided to pregnant inmates in keeping with their expressed desires in planning for their unborn children. Counseling and social services shall be available to assist pregnant inmates in making decisions such as whether to keep their child or give the child up for adoption. Counseling shall not advocate any particular alternative to the inmate.

(b) The Division of Youth and Family Services (D.Y.F.S.), Department of Human Services, shall be contacted by the correctional facility when adoption or foster home placement is being contemplated by the prospective mother.

(c) Plans for the placement of all anticipated infants shall be developed well in advance of delivery date.

10A:16-6.5 Written procedures

Superintendents of correctional facilities housing female inmates shall be responsible for the development and implementation of written procedures consistent with the requirements of this Subchapter.

SUBCHAPTER 7. CRITICAL ILLNESS OR DEATH OF INMATES

10A:16-7.1 Notification of next *[to]* *of* kin

(a) In the event of an inmate's critical illness or death, his or her next of kin shall be notified within 24 hours by the Superintendent or his or her designee.

(b) "Next of kin" shall be interpreted to mean:

1. Spouse;
2. Mother;
3. Father;
4. Guardian;
5. Persons connected by birth or marriage; or
6. Other persons indicated on official records.

(c) Initial contact with the next of kin shall be by telephone. In cases where the next of kin is without a phone, the local police or New Jersey State Police shall be contacted and requested to advise the next of kin to contact the correctional facility immediately.

(d) A letter confirming the telephone conversation shall be forwarded to the next of kin, and a copy of the letter shall be placed in the inmate's case folder.

(e) When the inmate recovers and is removed from the critical list, the next of kin shall again be informed as outlined in (a), (c), and (d) above.

(f) In the case of death, the Superintendent or his or her designee shall immediately notify the:

1. Appropriate Assistant Commissioner;
2. New Jersey State Police;
3. Office of Institutional Support Services (O.I.S.S.) Health Service Coordinator; and
4. County Medical Examiner's Office.

(g) If death is confirmed other than in a hospital, the body cannot be moved to a hospital without the approval of the County Medical Examiner.

(h) Prior to release of a body from the correctional facility or hospital, photographs and fingerprints shall be taken for the records.

(i) All reports shall be prepared in accordance with N.J.A.C. 10A:21 REPORTS.

(j) Autopsies shall be performed when regulations by the County Medical Examiner so require and/or when requested by the medical or surgical staff of the medical facility where the inmate expired.

10A:16-7.2 Claiming bodies of deceased inmates

(a) Persons claiming the body of a deceased inmate must contact the hospital where the inmate expired or was taken in order to obtain the release of the body.

(b) Hospitals must obtain approval from the County Medical Examiner's Office for release of the body of a deceased inmate.

(c) The Department of Corrections shall not be responsible for the costs of burial or cremation for bodies of deceased inmates that are claimed.

10A:16-7.3 Burial or cremation of unclaimed bodies

(a) The correctional facility shall arrange for the burial or cremation of unclaimed bodies of inmates. The County Medical Examiner's Office shall be contacted for assistance in such cases.

(b) An unclaimed body may be cremated where it is reasonably believed that it would not violate the intentions or religious tenets of the deceased inmate.

(c) The Social Security Administration, Veteran's Administration and Public Welfare shall be contacted by the correctional facility for any possible death benefits.

(d) Money remaining in the account of a deceased inmate may be used for burial or cremation expenses.

10A:16-7.4 Distribution of money and personal belongings of deceased inmates

(a) When an inmate dies, the Superintendent or his or her designee shall turn over all money and personal belongings to the Executor or Administrator of the inmate's estate in exchange for an itemized receipt.

(b) Before such assets or items are released, and pursuant to N.J.S.A. 3A:6 et seq., the claimant must present to the Superintendent or his or her designee a certified, filed copy of Letters Testamentary, Letters of Administration, or a filed Affidavit in which one is entitled to assets without administration.

(c) A correctional facility may not require a bank or other depository of inmate assets to release funds until presentation of a New Jersey Inheritance Tax Waiver.

(d) In the event an inmate dies without leaving a will, and there are no known relatives, the funds in the inmate's account, if any, shall be closed out and transferred to the Department of Treasury's Unclaimed Inmates and Patients Account, after deductions for burial or cremation.

10A:16-7.5 Written procedures

The Superintendent of each correctional facility shall be responsible for the development and implementation of written procedures consistent with the requirements of this Subchapter.

SUBCHAPTER 8. MEDICAL CLEMENCY

*[10A:16-8.1 Statutory authority

The statutory authority for this Subchapter is N.J.S.A. 2C:98-3.]*

10A:16-8.*[2]**1* Eligibility requirements

(a) Application for Medical Clemency may be made in cases when the physician of the correctional facility has determined that an inmate's medical condition is such that:

1. The inmate has a terminal illness;
2. Death is imminent;
3. Adequate treatment is not available within the correctional facility;

or

4. The inmate has become so ill as to be without prospect of recovery under conditions of confinement.

(b) A confirming second opinion by a consulting physician must also be obtained by the Medical Department of the correctional facility.

(c) Upon receipt of the second opinion, the Medical Department shall immediately advise the Superintendent of the inmate's medical condition.

(d) All medical clemency procedures shall be handled as expeditiously as possible and without unreasonable delay.

10A:16-8.*[3]**2* Petition for medical clemency

(a) The petition for Medical Clemency may be initiated either by the inmate or the Superintendent of the correctional facility.

(b) The inmate who wishes to apply for Medical Clemency shall obtain and complete Form SPB-3A PETITION FOR EXECUTIVE CLEMENCY. The completed Form shall be forwarded to the Superintendent for submission to the State Parole Board.

(c) The Superintendent or his or her designee may complete Form SPB-3A on behalf of an inmate who is eligible for consideration.

10A:16-8.*[4]**3* Role of the Superintendent

(a) Upon receipt of a completed Form SPB-3A, the Superintendent shall obtain from the Classification Office up-to-date classification material which shall include, but is not limited to:

1. Criminal history;
2. Psychological reports;
3. Presentence report; and
4. Progress reports.

(b) The Superintendent shall obtain from the Medical Department a copy of the following:

1. Charted records;
2. A letter from the physician of the correctional facility which includes his or her opinion on the inmate's medical condition and a description of the continuing care which will be required; and
3. A letter from the consulting physician confirming the opinion of the physician of the correctional facility.

(c) The Superintendent shall send the following to the Deputy Commissioner, Department of Corrections:

1. Three copies of the classification materials;
2. One copy of the medical material, which includes treatment and care required if Medical Clemency is granted;
3. Completed Form SPB-3 PETITION FOR EXECUTIVE CLEMENCY; and
4. A cover letter which includes the Superintendent's recommendation regarding the petition.

10A:16-8.*[5]**4* Medical furlough

(a) The Superintendent shall also submit to the Deputy Commissioner, along with the material required in N.J.A.C. 10A:16-8.4(c), his or her recommendation as to whether an extended medical furlough should be granted pending the outcome of the petition.

(b) The petition for Executive Clemency shall not be construed as assurance that a medical furlough will be granted.

(c) The decisions on medical furloughs shall be based on the factors in each case.

10A:16-8.*[6]**5* Role of the Deputy Commissioner

(a) The Deputy Commissioner, upon receipt of the material outlined in N.J.A.C. 10A:16-8.4(c), shall notify the Office of Institutional Support Services (O.I.S.S.) Health Service Coordinator and request that the O.I.S.S. Director of Medical Services review the inmate's medical status and submit a report of his or her findings and recommendations.

(b) The Department of Corrections may recommend to the State Parole Board special conditions that the inmate should be required to meet

if granted Medical Clemency; for example, whether the inmate must receive cobalt treatments as prescribed by the treating physician.

*[10A:16:8.7 Role of the State Parole Board

(a) In those cases as the State Parole Board deems appropriate, the Department of Corrections' Bureau of Parole may be requested to conduct a confidential community investigation.

(b) Investigative emphasis shall be placed upon the medical condition(s) which the applicant is presenting as justification for seeking Medical Clemency.

(c) The Bureau of Parole procedural memorandum for conducting Executive Clemency investigations shall apply.

(d) If the community investigation is to be conducted in a state other than New Jersey, it shall be conducted under the auspices of the Office of Interstate Services, Division of Policy and Planning.

(e) The Bureau of Parole or the Office of Interstate Services shall submit a report in triplicate to the State Parole Board. The report shall include a statement regarding the applicant's community plans if the requested Medical Clemency is granted.

10A:16-8.8 Governor's decision

(a) The Governor's decision will be sent to the inmate by mail with a copy to the State Parole Board.

(b) The State Parole Board shall make a copy of the Governor's decision available to the correctional facility and the Deputy Commissioner.]*

SUBCHAPTER 9. BLOOD DONATION BY INMATES

10A:16-9.1 Blood donation

Donation of blood by inmates is prohibited. There shall be no exceptions to this prohibition.

SUBCHAPTER 10. LETHAL INJECTION

10A:16-10.1 Place for execution

(a) The Commissioner shall provide and maintain a suitable and efficient correctional facility enclosed from public view, within the confines of Trenton State Prison for the imposition of the punishment of death.

(b) Trenton State Prison shall contain the apparatus and equipment necessary for the carrying out of executions pursuant to N.J.S.A. 2C:11-3.

10A:16-10.2 Provision of services within 72 hours preceding execution

(a) During the 72 hour period immediately preceding execution of the condemned, the services listed below shall be provided in accordance with the following procedures.

1. Clergical:

i. The Trenton State Prison Chaplain or the inmate's private clergy shall, upon request of the condemned, make contact visits to the condemned on a daily basis to provide pastoral services. The time and duration of clergy visits shall be at the discretion of the Superintendent of Trenton State Prison;

ii. Clergy from the community must present appropriate clerical credentials to the Superintendent and pass a routine security check; and

iii. The Chaplain or private clergy may accompany the condemned to the execution chamber corridor if so requested by the condemned.

2. Food:

i. At least 24 hours in advance of the scheduled execution, the condemned may request the food of his or her choice to be served at the last regularly scheduled dinner, not less than eight hours prior to the execution. Such request shall be granted subject to reasonable availability and cost of the food desired; and

ii. Alcoholic beverages are prohibited.

3. Visits:

i. Window visits by family members, up to a maximum of six hours per day and two persons at a time shall be permitted;

ii. Contact visits by the authorized attorney of record shall be permitted daily, subject to security requirements of the Capital Sentence Unit (C.S.U.), including prior notice to the Superintendent;

iii. All contact with family members and attorney(s) shall terminate three hours prior to the time scheduled for administration of the pre-execution sedative; and

iv. During the last 72 hours there shall be no contact of any kind permitted between the condemned and any member of the news media.

4. Telephone calls:

i. The condemned may place daily telephone calls to members of his or her family, subject to appropriate scheduling procedures and Trenton State Prison rules; and

ii. The condemned may place collect telephone calls to his or her attorney-of-record when ***(they)* *the telephone calls*** are necessary.

5. Recreation:

i. During the 72 hours preceding execution, recreation shall be permitted daily on an individual, isolated basis, if feasible.

6. Personal property:

i. The condemned shall be required to fill out a form indicating disposition of his or her personal property and saving account(s), except for such funds as may be needed to provide for burial expenses.

10A:16-10.3 Time for execution

(a) Upon receipt of the warrant appointing an execution date, the Commissioner shall schedule the time for implementation of the warrant and begin final arrangements including, but not limited to:

1. Designation of medical and custodial staff;
2. Selection of execution technicians;
3. Selection of witnesses; and
4. Purchase of necessary supplies.

10A:16-10.4 Witnesses

(a) The Commissioner shall select six adults and two alternates who have volunteered to witness the execution. The two alternates shall be selected to be present in the event any of the witnesses may be unavailable on the appointed execution date.

(b) The witnesses shall receive written notice of their selection by registered mail or personal service at least seven days prior to the scheduled execution.

(c) The witnesses shall assemble at least two hours prior to the time set for execution, at a place designated by the Commissioner. The Commissioner shall assign suitable custody or administrative staff to provide security, escort and transportation to Trenton State Prison.

(d) The names of the witnesses shall not be disclosed until after the execution.

(e) The Commissioner shall authorize and permit, upon written request of the condemned, two members of the clergy who are not related to the condemned, to be present at the execution. These persons shall be notified of their selection and shall assemble in the same manner as for the witnesses set forth in (c) above. An alternate ***member of the clergy*** may be designated in the event either of the two clergy is unavailable.

(f) The Commissioner shall permit eight representatives of the news media to be present at the execution for the purpose of giving their respective newspapers and associations accounts of the execution.

(g) The news media persons shall be from the following services:

1. Two representatives of major wire services;
2. Two representatives of television news services;
3. Two representatives of newspapers; and
4. Two representatives of radio news services.

(h) Trenton State Prison shall develop written post orders and procedures for providing:

1. Escort and security for all witnesses while in the Trenton State Prison;
2. Accommodations for witnesses; and
3. A room designated to be used for a press conference after the execution.

(i) Any person who is related by either blood or marriage to the sentenced person or to the victim shall not be authorized to be present at the execution.

(j) The Commissioner shall not authorize or permit any other person to be present, except those authorized by this Subchapter.

10A:16-10.5 Filming of execution

(a) No cameras or tape recorders are permitted to be brought into Trenton State Prison.

(b) There shall be no filming of the execution.

10A:16-10.6 Stay of proceedings

(a) Written Stay of Proceedings or other official Order shall be received by a supervisory officer at the Trenton State Prison main command post. Such document shall be delivered immediately to the Superintendent, who shall advise the Commissioner and provide him or her a copy of same as soon as possible. Appropriate steps shall be taken to confirm the authenticity of such Order or Stay.

(b) The Trenton State Prison Superintendent shall arrange for installation and maintenance of a special telephone line with confidential telephone number, to be available for the sole purpose of receiving incoming calls from the Governor, Chief Justice or other person authorized by law to Stay execution proceedings.

(c) In addition to the telephone bearing the main number, there shall be two additional telephones on the line, sequenced for the purpose of receiving incoming calls in the event the main line is already in use. These telephones shall be located in the Superintendent's office and witness room.

(d) Upon installation of the special telephone line, the confidential telephone number shall be hand delivered to the:

1. Governor;
2. Chief Justice; and
3. Commissioner.

(e) Twenty-four hours prior to the scheduled execution the Superintendent shall arrange to hand deliver to the Governor, Chief Justice and Commissioner a confidential code to be utilized in the event a communication is to be made via the special telephone line. This code shall be changed prior to each scheduled execution. No telephone call on this telephone line during the eight hours prior to the execution shall be deemed authentic unless accompanied by use of the designated code.

(f) During the eight hour period preceding the execution, the special telephone line shall be continuously monitored by a Trenton State Prison staff person assigned by the Superintendent for this sole purpose. All calls from the Governor, Chief Justice or other authorized person(s) shall be reported to the Superintendent and Commissioner immediately.

10A:16-10.7 Suspension of execution due to pregnancy

(a) If there is reasonable ground to believe that a female inmate, sentenced to death, is pregnant, the Trenton State Prison Superintendent shall impanel a committee of three licensed physicians to ascertain her medical condition. This committee shall consist of:

1. The Department's Medical Director;
2. A Trenton State Prison physician; and
3. A physician from the community, who shall be a specialist in Obstetrics and Gynecology.

(b) The physicians shall conduct such medical examination as is medically indicated to determine facts relative to pregnancy. The physicians shall provide a written report of their findings to the Superintendent, who shall sign the report and transmit it to the Commissioner.

(c) If the physicians find the inmate to be pregnant, the Superintendent shall suspend execution of the death warrant.

(d) Care and services for the pregnant inmate shall be provided in accordance with N.J.A.C. 10A:16-6 PREGNANT INMATES.

(e) When the inmate is no longer pregnant, the Commissioner shall reissue the death warrant, appointing a date and time to carry out the death sentence.

10A:16-10.8 Operational staff in attendance at an execution

(a) Two physicians shall be in attendance for an execution.

1. One physician shall be the Medical Director of the Department. In the absence of the Medical Director, an alternate shall be selected.

2. The second physician shall be selected from a list of volunteers from correctional facilities other than Trenton State Prison.

i. The second physician selected shall be notified in writing, at least five days prior to the scheduled execution, by the Office of Institutional Support Services (O.I.S.S.) Health Services Coordinator through the correctional facility Superintendent.

ii. In the event no facility physician volunteers, or is available to attend the execution, the O.I.S.S. Health Services Coordinator shall contract with physicians in the community to perform this service.

(b) One Registered Nurse (team nurse) from the same correctional facility as the selected physician, if feasible, shall be assigned by the O.I.S.S. Health Services Coordinator.

(c) One Certified Intravenous Therapist shall be hired on a consultant basis by the O.I.S.S. Health Services Coordinator. The therapist shall provide proper identification documents to the Trenton State Prison Superintendent at least 48 hours prior to the scheduled execution.

(d) Three persons who are qualified to administer injections shall be selected by the Commissioner as execution technicians. Procedures shall be designed to ensure that the identity of these persons shall be confidential and that these persons shall not be aware of who actually inflicted the lethal injection.

10A:16-10.9 Medical supplies and equipment

(a) The Office of Institutional Support Services (O.I.S.S.) Health Services Coordinator and Medical Director of the Department shall prepare a list of medical supplies and equipment to be utilized at each execution. These items shall be purchased at least five working days prior to the scheduled execution and shall be set up under the supervision of the Medical Director.

(b) All medications to be utilized in the execution shall be stored in a securely locked box or container, which shall be stored within a securely locked cabinet or closet. The locked box or container shall only be used for the storage of medications to be used in the execution. There shall be only one set of keys to this storage area and this set shall be retained by the Commissioner or his or her designee.

10A:16-10.10 Preparation of the condemned inmate

Medical and custody preparation of the condemned for execution shall be initiated and completed in accordance with written operational procedures developed by the Office of Institutional Support Services (O.I.S.S.) Health Services Coordinator and the Trenton State Prison Superintendent or his or her designee.

10A:16-10.11 Staff training

(a) During the 48 hour period preceding an execution, the Office of Institutional Support Services (O.I.S.S.) Health Services Coordinator shall arrange for training all medical personnel in execution procedures.

(b) The Trenton State Prison Superintendent shall arrange for training in execution procedures for all correction officers who are designated to provide security during an execution.

10A:16-10.12 Execution suite

(a) The execution chamber shall be equipped with a cardiac monitor. The monitor shall be positioned to provide visual access to the team physicians, but to be obscured from vision by the witnesses.

(b) An emergency cart will be located at the exterior wall of the room. The emergency cart shall contain such equipment, supplies and medications as may be needed to revive the inmate in the event a last minute Stay of Execution is imposed.

(c) The executioner's room shall contain equipment, supplies and medications as are specified in N.J.A.C. 10A:16-10.9.

10A:16-10.13 Preparation of execution medications

(a) At least one hour prior to the time set for the execution, the Commissioner or his or her designee shall remove the medications to be used in the execution from the place of storage and give the medications to the team nurse.

(b) Upon receipt of the execution medications, the team nurse shall be escorted to the executioner's room to prepare the execution materials. At this time, a uniformed correction officer shall be posted at the outside entrance to the executioner's room. When the nurse has completed the preparatory procedures, he or she shall exit the room. The executioners shall then enter and take their assigned positions. The uniformed officer shall remain at his or her post throughout the execution procedures, or until ordered to leave by the Superintendent or his or her designee.

10A:16-10.14 Execution

(a) Upon arrival of the condemned at the execution chamber, assigned team members shall position the stretcher and connect necessary operating systems in accordance with operational procedures. Upon completion of these assigned tasks, the condemned shall be left alone in the execution chamber. The team physicians shall take their positions in the witness room to view the condemned and the cardiac monitor.

(b) The Commissioner or his or her designee shall, in the presence of the assembled witnesses and news media representatives, read the official death sentence Warrant.

(c) Upon order of the Commissioner or his or her designee, the executioners shall perform the duties and responsibilities conferred on them by law.

(d) Upon completion of the execution procedures, the team physicians shall enter the execution chamber, examine the deceased and confirm death. The witnesses shall then be escorted from the witness room and the TV monitor turned off. Pursuant to written operational procedures, the deceased shall be removed from the stretcher and transported to a waiting hearse. The executioners shall then depart.

10A:16-10.15 Stay of execution

If, during any stage of the execution, a Stay of Proceedings is ordered, execution procedures shall be halted and the witnesses shall be removed. Team physicians shall then immediately initiate life sustaining procedures. Where medically indicated, the inmate may be transferred to the St. Francis Medical Center for further treatment.

10A:16-10.16 Death certificates

(a) Immediately after the execution, the team physicians shall examine the deceased and shall prepare a written report stating the nature of the examination and occurrence of death.

(b) The Commissioner shall prepare and sign a separate certificate setting forth the time and place of the execution and stating that the execution was conducted in conformity to the sentence of the Court and provisions of N.J.S.A. 2C:11-3.

(c) The Commissioner's certificate shall be filed within 10 days in the Superior Court in the county in which the person executed was convicted.

10A:16-10.17 Disposition of the deceased

(a) Immediately after death has been certified, the deceased shall be transported to the county morgue, and the Commissioner or his*[/]* *or* her designee shall consult with the County Medical Examiner to determine whether an autopsy is deemed necessary. The deceased shall be disposed of as follows:

1. If the deceased has a designated relative or bona fide friend willing and able to accept custody of the inmate's body, the body shall be available to the funeral director designated by the relative or bona fide friend within 72 hours after the execution or autopsy.

2. If the deceased is to be buried or cremated within 48 hours after death, embalming shall not be required. After 48 hours, the deceased shall be embalmed immediately. The Department shall pay a fee, not to exceed \$25.00, to the mortician for his or her embalming services.

3. In the event no bona fide friend or relative claims the deceased within 72 hours, the body shall be buried or cremated in accordance with N.J.A.C. 10:16-7 CRITICAL ILLNESS OR DEATH OF INMATES.

10A:16-10.18 Memorial or religious service for the deceased

(a) A memorial or religious service may be held at Trenton State Prison for the deceased upon written request by the relatives of the deceased.

(b) Only the relatives, the person conducting the service and prison staff may attend ***the memorial or religious service***.

10A:16-10.19 Clean up procedures

(a) Upon removal of the deceased, the team nurse shall gather all used and unused medications and syringes. These items shall be maintained in a secure receptacle in an area designated by the Superintendent. The Superintendent shall assign an Internal Affairs Investigator to monitor these activities and provide security therefor.

(b) All stored materials shall be retained in a secure location for a period of ten working days. Thereafter, the Superintendent shall order them to be destroyed by the Trenton State Prison pharmacist in accordance with accepted pharmaceutical practices.

(c) All non-disposable equipment shall be cleaned and prepared for further use. This non-disposable equipment, except for the cardiac monitor and the emergency cart, including apparatus located in the execution suite, shall not be utilized for any purpose other than execution.

10A:16-10.20 Report of execution procedures

(a) The Superintendent shall assign a member of his or her staff to monitor the entire execution process and to keep a detailed written record of the proceedings.

(b) The written record shall be given to the Superintendent in its original form, within one hour after completion of the execution.

(c) The report shall not be considered a public record for any purpose other than as specified by the Superintendent or Commissioner.

10A:16-10.21 ***[Operating procedures]* *Procedures and post orders***

(a) Trenton State Prison shall develop detailed written procedures and post orders consistent with this Subchapter. Each functional unit or team involved in the execution shall formulate and prepare detailed written procedures, governing their role which shall be consistent with the implementation of the Death Sentence Act and this Subchapter.

(b) Trenton State Prison's written procedures and post orders shall be submitted to the Chairperson of the Capital Sentence Unit Committee and the Deputy Commissioner for review.

SUBCHAPTER 11. MEDICAL UNIT ANNEX

10A:16-11.1 Admission criteria to Medical Unit Annex

(a) Inmates shall be assigned to the Medical Unit Annex when:

1. The chronic illness suffered does not require acute care hospitalization; and/or

2. The medical condition of the inmate precludes housing within any of the other correctional facilities of the Department of Corrections.

10A:16-11.2 Authority of the Inter-Institutional Classification Committee (I.I.C.C.)

Only the inmates that have been diagnosed and found to have chronic illnesses shall be assigned by the Inter-Institutional Classification Committee (I.I.C.C.) to the Medical Unit Annex.

10A:16-11.3 Annex Classification Committee (A.C.C.)

(a) The Annex Classification Committee (A.C.C.) shall be chaired by the Office of Institutional Support Services (O.I.S.S.) Health Services Coordinator and comprised of:

1. One representative from the O.I.S.S. professional services staff;
2. One representative from the Medical Unit Annex custody staff; and
3. One representative from the O.I.S.S. medical staff.

(b) The A.C.C. shall review the assignment of an inmate to the Annex to ensure that the assignment was made by the Inter-Institutional Classification Committee (I.I.C.C.) solely on the basis of the inmate's medical condition.

(c) In addition to classification duties, the A.C.C. is authorized to monitor an inmate's Annex program and conduct case and in-person reviews. The A.C.C. may permit or preclude an inmate's participation in programs dependent upon his ability to participate without posing a security or clinical threat to the Annex.

(d) A case review will be conducted at the completion of each inmate's orientation period and a case review will be conducted a minimum of every three months thereafter, or more frequently if deemed appropriate by any A.C.C. member.

(e) Whenever necessary for appropriate decision making, the inmate will be required to appear before the A.C.C. unless the inmate refuses to appear without the use of force.

(f) Written decisions on all case reviews shall be forwarded to the inmate unless security considerations preclude disclosures.

10A:16-11.4 Medical Unit Annex staff

(a) The Medical Unit Annex staff is comprised of the:

1. Annex Supervisor;
2. Correctional staff; and
3. Professional services staff (for example, social workers, psychologists, chaplains and medical staff).

(b) The Annex staff is responsible to the Annex Classification Committee (A.C.C.) for program development, implementation and assessment.

(c) The concerns of both the custody and the professional services staff members shall be given equal consideration in decision making regarding the development of programs and the management of the Annex.

10A:16-11.5 Orientation

(a) Upon assignment of an inmate to the Medical Unit Annex, the inmate shall serve a period of ten days under intense supervision. During this period the inmate shall be assessed to determine his:

1. Clinical condition;
2. Attitude;
3. Level of cooperation; and
4. Willingness to work and participate in program activities.

(b) The assessment shall be accomplished by:

1. The submission of daily progress reports by the correction officer to the Annex Supervisor;

2. The submission of a written evaluation of the inmate by the Annex social worker to the Annex Classification Committee (A.C.C.) at the completion of the orientation period; and

3. The submission of recommendations by other Annex staff members to the Annex Classification Committee (A.C.C.) at the completion of the orientation period.

(c) Within 24 hours of an inmate's placement, the Annex Supervisor shall familiarize the inmate with the rules of conduct within the Medical Unit Annex ***and shall provide the inmate with an Annex Handbook***. The Annex Supervisor shall ascertain if any ***[immediate]*** difficulties exist ***with the inmate*** which require ***immediate*** referral ***for appropriate services*** ***[to an appropriate component and the inmate will be provided with an Annex handbook]***.

(d) The Annex Supervisor shall notify the social worker of the placement of an inmate into the Annex and convey any special instructions regarding the inmate. The social worker, within 72 hours of the placement, shall review with the inmate his assignment to the Annex. Any unique problems referred by the Annex Supervisor shall be addressed at that time.

(e) The professional staff shall be advised by the A.C.C. that an inmate has been assigned to the Annex. A representative from each area will meet with the newly assigned inmate during orientation and advise him of the programs and services available.

(f) During orientation, the newly assigned inmate shall be permitted to engage in program activities as they are developed for him. At the completion of the orientation, the A.C.C. will review and approve or disapprove the continuation of the program developed for the inmate. Any limitations determined by the Office of Institutional Support Services (O.I.S.S.) Director of Medical Services upon admission shall be considered during program assignment.

10A:16-11.6 Personal items

(a) During orientation all of the inmate's personal belongings shall be thoroughly searched and returned to him within 24 hours unless extenuating circumstances exist (for example, transfers from another correctional facility, major disturbances, etc.).

(b) All contraband, including razors and spoons, shall be removed.

(c) Other items not permitted for retention within the Medical Unit Annex shall be itemized and handled in accordance with N.J.A.C. 10A:1 ADMINISTRATION, ORGANIZATION AND MANAGEMENT.

10A:16-11.7 Work opportunities

(a) Each inmate shall be afforded an opportunity to participate in a work program designed to respond to the needs of the Medical Unit Annex and inmate. The Annex Supervisor will review the responsibilities of the work program with the inmate during the initial orientation interview.

(b) The Annex staff may, at their discretion, devise other work opportunities in which the inmate may participate upon approval of the Annex Classification Committee (A.C.C.).

(c) The inmate shall receive the work assignment of cell sanitation upon initial assignment to the Annex. Each inmate shall be responsible for the cleanliness of his cell. Equipment shall be provided for him to clean his cell at least once per week.

(d) Pay and work credits shall be commensurate with the skill level and nature of work responsibilities involved and as outlined in N.J.A.C. 10A:13 INMATE WORK PROGRAMS.

(e) At the beginning of each month, every inmate assigned to the Annex shall be given the opportunity to confirm his continuation in the program via an in-person work review with the Annex Supervisor.

(f) Removal and lay-in action ***from the work program*** may be initiated by the Annex Supervisor or by the Annex officers. Removal and lay-in action ***from the work program*** shall be reviewed by the A.C.C. for appropriate confirmation.

10A:16-11.8 Disciplinary action within the Medical Unit Annex

(a) The Department of Corrections Inmate Discipline Program shall be in full force and effect in the Medical Unit Annex. Any restrictions of privileges placed upon an inmate in the Annex shall be in accordance with N.J.A.C. 10A:4 INMATE DISCIPLINE.

(b) Disciplinary action initiated by any staff member shall be referred to the Disciplinary Hearing Officer/Adjustment Committee and, where appropriate, to the A.C.C. for confirmation.

10A:16-11.9 Professional services

(a) Professional services shall be provided to the same extent as is available to the general inmate population.

(b) Professional service staff shall submit to the Office of Institutional Support Services (O.I.S.S.) Health Services Coordinator a monthly schedule of programs to be conducted within the Medical Unit Annex.

10A:16-11.10 Psychological and social work services

Crisis intervention, problem solving and short and long term counseling programs shall be provided within the Medical Unit Annex on an individual and/or congregate level.

10A:16-11.11 Medical services

(a) The Office of Institutional Support Services (O.I.S.S.) Health Services Unit shall provide ***[appropriate]*** ***the following*** services to the Medical Unit Annex.

1. A medical consultant shall provide medical examinations and treatment twice weekly***[.]**;**

2. Emergency medical support and medication dispensing shall be provided by the Medical Department at State Prison, Trenton***[.]**;**

3. The O.I.S.S. Health Services Unit Nursing Supervisor shall provide clinical support to the medical consultant and act as a liaison between the O.I.S.S. Health Services Unit and the Medical Department at State Prison, Trenton***[.]**;** **and***

4. Psychiatric and dental services shall be provided by the use of contracted consultants.

10A:16-11.12 Religion

Spiritual programs and counseling shall be provided on an individual and congregate basis. These activities shall be coordinated by personnel from the Department of Corrections Chaplaincy Unit.

10A:16-11.13 Legal activities

(a) Each inmate shall have access to a law library and to legal assistance consistent with the program needs of the Medical Unit Annex.

(b) The social worker shall coordinate needs for materials with the Annex paralegal representative (if assigned). The inmate paralegal shall conduct interviews in an appropriately suited area determined by the Annex Supervisor.

(c) Attorneys and court related personnel shall be granted contact visits within the Annex. Such visits must be approved and pre-scheduled by the Office of Institutional Support Services (O.I.S.S.) Health Services Coordinator 24 hours in advance of the visit by calling his or her office Monday through Friday during regular working hours.

(d) Visits of attorneys and court related personnel shall be conducted either in the multi-purpose room or in a treatment room at the discretion of the Annex Supervisor. No staff member shall monitor the conversations between an inmate and the attorney.

10A:16-11.14 Recreation

(a) Each inmate shall be permitted a minimum of two hours of exercise and recreation daily. The maximum number of inmates permitted recreation during a single period is eight.

(b) When there is a need to keep certain inmates separate, the Annex Supervisor may schedule the yard recreation periods into one hour sessions.

(c) Selections with respect to the inmate members of a recreation group shall be the responsibility of the Annex Classification Committee (A.C.C.) based upon infection control guidelines established by the Office of Institutional Support Services (O.I.S.S.) ***[Medical]* Director *of Medical Services*** and attending physician.

10A:16-11.15 Correspondence, legal correspondence, publications and packages

All correspondence shall be handled in accordance with N.J.A.C. 10A:18 ***[COMMUNICATION,]* MAIL*,* ***[AND]* VISITS ***AND TELEPHONE*****.**

10A:16-11.16 Visits

(a) The Medical Unit Annex provides for contact visits only.

(b) In the event that an inmate or visitor violates the rules and regulations pertaining to contact visits and N.J.A.C. 10A:18 ***[COMMUNICATION, MAIL AND VISITS,]* ***MAIL, VISITS AND TELEPHONE***** the Annex Supervisor may discontinue the visit and initiate disciplinary measures. The Annex Classification Committee (A.C.C.) may approve, disapprove or restrict a visitor should either the inmate or the visitor fail to adhere to the rules of the visit program.

(c) Visits must be approved and pre-scheduled by the Office of Institutional Support Services (O.I.S.S.) Health Services Coordinator 24 hours in advance of the visit by calling ***[his or her]* ***the O.I.S.S. Health Services Coordinator's***** office Monday through Friday, during regular working hours.

10A:16-11.17 Telephone calls

Telephone calls shall be handled in accordance with N.J.A.C. ***[10A:18 COMMUNICATION, MAIL AND VISITS]* ***10A:18-8 TELEPHONE***** and written regulations developed by the Medical Unit Annex.

10A:16-11.18 Congregate activities

(a) Congregate activities shall be developed during the inmate's orientation process with specific consideration for physical disabilities and infection control guidelines.

(b) The Annex Classification Committee (A.C.C.) may, at its discretion, approve an inmate for participation in any one or all congregate activities.

(c) The A.C.C. may also rescind the inmate's participation in congregate activities should he fail to cooperate in the program or be temporarily restricted from participating due to physical illness.

10A:16-11.19 Food

(a) All meals served in the Medical Unit Annex shall be handled in accordance with the State Prison, Trenton, Food Service System as approved by the Office of Institutional Support Services (O.I.S.S.).

(b) Medical Unit Annex inmates shall be served the normal correctional facility meals on the "Menu of the Day" or such special diet as shall be prescribed.

(c) Disposable utensils shall be used when necessary.

10A:16-11.20 Showers

Each inmate shall be permitted to shower once daily.

10A:16-11.21 Haircuts

(a) Each inmate shall be afforded an opportunity to have a haircut once monthly. All inmates desiring a haircut must place their name on the barber's list.

(b) All haircutting equipment must be secured when not in use and monitored while in use.

10A:16-11.22 Reading material

(a) Reading material shall be made available for inmates assigned to the Medical Unit Annex.

(b) Inmates may obtain reading material by submitting their requests to the social worker.

10A:16-11.23 Infection control procedures

(a) All staff and inmates shall receive instructions concerning infection control and isolation precautions which include:

1. Use of protective garments;

2. Personal hygiene; and

3. Accident reporting.

(b) This training shall be the responsibility of the Office of Institutional Support Services (O.I.S.S.) ***[Medical]* Director ***of Medical Services***** and it shall be provided at least quarterly.

10A:16-11.24 Program assessment reports

(a) Medical Unit Annex staff and program supervisors must submit a progress report for each inmate assigned to the Annex.

1. Shift officers designated by the Annex Supervisor shall complete a progress report on each inmate:

i. Daily during the orientation period; and

ii. Weekly for the remaining time the inmate is assigned in the Annex.

2. The Annex Supervisor shall review the progress reports submitted by the correctional officers and summarize the findings in an overall individual inmate progress report, which shall be:

i. Submitted to the Annex Classification Committee (A.C.C.) at the completion of the orientation period; and

ii. Submitted to the A.C.C. for all scheduled routine reviews, which occur every three months thereafter.

3. Program supervisors shall complete and forward to the A.C.C. a progress report on each inmate:

i. At the completion of the orientation period; and

ii. Every three months thereafter for the scheduled inmate routine review.

10A:16-11.25 Procedures and post orders

(a) The Office of Institutional Support Services (O.I.S.S.) Health Services Coordinator shall develop written procedures and post orders consistent with this Subchapter.

(b) The procedures and post orders shall be reviewed and updated annually.

(a)

**Minimum Standards
Municipal Detention Facilities**

Adopted New Rules: N.J.A.C. 10A:34-2

Proposed: December 16, 1986 at 18 N.J.R. 2412(a).

Adopted: February 20, 1987 by William H. Fauver,
Commissioner, Department of Corrections.

Filed: March 3, 1987 as R.1987 d.149, **with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).**

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

Effective Date: April 6, 1987.

Expiration Date: April 6, 1992.

Summary of Public Comments and Agency Responses:

The Department of Corrections received no oral comments and only one written comment which suggested a modification to the proposed rules.

COMMENT: A commenter suggested that the word "reviewed" be substituted for the word "revised" in N.J.A.C. 34:2.13(f).

RESPONSE: The Department of Corrections agrees and the modification has been made.

THE FIRST SENTENCE of N.J.A.C. 10A:34-2.7(g) has been changed to read, "Cell doors shall be either barred or security type hollow core metal (minimum 12 gauge) steel." As a result of a typographical error in the New Jersey Register, the word "steel" was deleted.

THE SECOND SENTENCE of N.J.A.C. 10A:34-2.16(d) has been changed. The original intent of the Department of Corrections was that the second sentence should read, "A record of the date and time of the medical visit shall be maintained." As a result of a printing error in the New Jersey Register the words "date and time of the medical" were replaced by the word "physician's." In order to protect the inmates and the municipal detention facilities, medical visits must be documented by date and time.

In addition to the specific modifications set forth above, there are several minor changes in wording or grammatical corrections which do not affect the procedures described.

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

CHAPTER 34
NEW JERSEY MUNICIPAL AND
COUNTY CORRECTIONAL FACILITIES

SUBCHAPTER 1. (RESERVED)

SUBCHAPTER 2. MINIMUM STANDARDS FOR NEW JERSEY MUNICIPAL DETENTION FACILITIES

10A:34-2.1 Definitions

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

"Municipal detention facility" means a holding or lockup facility, usually located in and operated by a municipal police department, which receives and temporarily detains for no more than 24 hours, excluding holidays or weekends, persons who have been arrested who are awaiting release or transfer to other authorities.

"Minimum standards" means the basic rules and regulations promulgated by the Department of Corrections for the construction and management of a municipal detention facility and for the care and treatment of persons who have been arrested.

10A:34-2.2 Legal authority of the Department of Corrections

(a) N.J.S.A. 30:1B-10 grants the Commissioner of the Department of Corrections the authority to establish minimum standards for municipal detention facilities.

(b) The Commissioner of the Department of Corrections may, in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1, et seq., promulgate such rules and regulations as he or she shall deem necessary to establish minimum standards for the care, treatment, government and discipline of municipal detention facilities.

10A:34-2.3 Inspection of municipal detention facilities

(a) As provided by N.J.S.A. 30:1-15, the Department of Corrections has the authority to visit and inspect all municipal detention facilities.

(b) Each municipal detention facility shall be subject to visits by the Department of Corrections for the purpose of inspecting and observing the following:

1. Physical condition of the facility;
2. Management and operation methods; and,
3. Physical care and treatment of arrestees.

(c) The municipal detention facility shall demonstrate to the satisfaction of the Department of Corrections that it complies with the rules in this subchapter which shall be interpreted as constituting minimum standards only.

10A:34-2.4 Minimum standard compliance or non-compliance procedure

(a) Upon completion of an inspection, the municipal detention facility shall be given written notice by the Department of Corrections of its compliance or non-compliance with these minimum standards.

(b) The municipal detention facility shall be given a period of time within which to come into compliance with any standard(s) which was rated in non-compliance.

(c) In accordance with N.J.S.A. 30:1-16, the Department of Corrections has the authority to institute a civil action in the appropriate county court or Superior Court to remedy improper conditions in a municipal detention facility.

(d) A written variance from Standards may be granted by the Department of Corrections in instances where:

1. The municipal detention facility is not in compliance with one or several of the requirements of the minimum standards; but,
2. The municipal detention facility is in compliance with the general intent and purpose of the minimum standards; and
3. The *[department]* *Department* has determined that to require the facility to comply strictly with all requirements of the minimum standards would result in an undue hardship to the overall management of the municipal detention facility.

10A:34-2.5 Codes, regulations and laws

(a) Municipal detention facilities shall be in conformance with all applicable public health and safety codes, set forth by the State of New Jersey, the county and municipality in which the facility is located.

(b) New construction, alterations, additions and repairs of municipal detention facilities shall comply with the State Uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq., the Uniform Construction Code Rules, N.J.A.C. 5:23-1.1 et seq., and with this subchapter.

(c) All municipal detention facilities shall be in compliance with the New Jersey Uniform Fire Code, N.J.A.C. 5:18-1.1 et seq., in all aspects of fire safety.

10A:34-2.6 Notification of intent to construct or renovate a municipal detention facility

(a) A letter of intent to construct or renovate a municipal detention facility shall be submitted to the Chief, Bureau of County Services, Department of Corrections, by the authority responsible for the municipal detention facility.

(b) Upon receipt of the letter of intent, the Chief, Bureau of County Services, shall furnish technical assistance throughout the planning process to assure that the detention facility complies with this subchapter.

(c) All plans and specifications shall be submitted to the Chief, Bureau of County Services and copies also shall be submitted to any other authorities as required by law.

(d) Contracts for new construction, alterations, additions and repairs shall not be executed until final plan approval is received in writing from the Chief, Bureau of County Services and other authorities as required by law.

10A:34-2.7 Cells specifications

(a) Cells shall provide for single occupancy and, when feasible, shall be located in close proximity to the control area.

(b) Cells in new or renovated facilities shall have a minimum of 60 square feet of floor space, with a seven foot width and eight foot high ceiling.

(c) Cell walls shall be constructed of six inch reinforced concrete or eight inch concrete block filled with cement containing reinforcement rods every 12 inches.

(d) Cell ceilings shall be constructed of pre-cast concrete slabs or reinforced concrete.

(e) Cell floors shall be constructed of terrazzo or sealed concrete and shall be sloped to a drain outside of the cell.

(f) Cell fronts shall be constructed of six inch reinforced concrete or eight inch concrete block filled with cement containing reinforcement rods every 12 inches, or metal bars spaced not more than four inches on center. The bars shall be of tool resistant steel construction not less than seven-eighths inch thick.

(g) Cell doors shall be either barred or security type hollow core metal (minimum 12 gauge) *steel*. The doors shall slide or swing into the cell corridor and contain a standard food passage and pull type safety door handle. If barred, the doors shall be of tool resistant steel construction with the bars spaced not more than four inches on center and no less than seven-eighths inch thick. If the doors are security type hollow core metal, the doors shall provide an observation port of security glass at least nine-sixteenths inch thick or security type lexan at least one half inch thick. Doors shall be secured with detention type locks (preferably lever tumbler with paracentric keyway) with independent dead bolts.

(h) Natural light is recommended for each cell. All windows in the cell block area *[being]* *shall be of* the approved security type (tool resistant steel frame with nine-sixteenths inch security glazing or one-half inch security type lexan).

(i) Each cell shall be numbered or lettered for proper identification.

10A:34-2.8 Cell equipment

(a) Cells shall contain a steel bunk firmly affixed to the wall*[,]* *or* floor or both. The use of a raised platform bunk in lieu of a steel bunk is acceptable. When sliding barred doors are utilized, the bunk shall be located no closer than 12 inches from the door.

(b) Bunks or raised platforms shall be topped with hardwood at least two inches thick or a fire retardant mattress which is approved by the State, county or local fire officials. Mattresses shall be provided for detainees confined overnight in those cells that have bunks or raised platforms topped with hardwood.

(c) Cells shall be equipped with a detention type combination toilet/lavatory with drinking font, preferably of stainless steel construction.

(d) Sanitary units shall be serviced via a chase located outside the cell and equipped with a shutoff valve.

(e) Sanitary units shall have a modesty partition constructed of steel or reinforced concrete.

(f) Cell equipment shall be secured with tamper resistant screws.

(g) Approved security type light fixtures affording a minimum of 20 foot candle illumination shall be provided for each cell.

10A:34-2.9 Holding rooms

(a) Holding rooms shall have a minimum of 100 square feet of floor space with eight foot high ceilings.

(b) Construction and equipment of holding rooms shall be the same as required in N.J.A.C. 10A:34-2.8. Instead of a bunk, a hardwood bench firmly affixed to the floor shall be installed in the holding room.

10A:34-2.10 Cell corridors

(a) Cell corridors shall be at least four and one half feet in width.

(b) Security type light fixtures secured with tamper resistant screws which afford a minimum of 20 foot candle illumination shall be provided.

(c) Corridor windows, if provided, shall be at least nine-sixteenths inch security glazing or one half inch security type lexan. If windows open, security screening shall be provided.

(d) Floors shall be constructed of terrazzo or sealed concrete and slope to a floor drain secured with a cover held in place by tamper-resistant screws.

(e) Exterior cell corridor walls shall be constructed of six inch reinforced concrete or eight inch concrete block filled with cement containing reinforcement rods every 12 inches.

(f) Cell corridor doors shall be either:

1. The hinged type (if hinged they shall swing outwardly); or,
2. The slide type.

(g) Cell corridor doors shall be constructed of either:

1. Solid wood;
2. Security type hollow core metal of 12 gauge steel; or,
3. Bars four inches on center.

(h) If hollow core metal or wood doors are used, they shall contain a vision port of nine-sixteenths inch security glass or one half inch security type lexan. Pull type safety handles shall be provided where necessary.

(i) An emergency panic button (not accessible to detainees) shall be provided.

(j) Heat and smoke detectors shall be installed as per the New Jersey Uniform Fire Code, N.J.A.C. 5:18-1.1 et seq., and the New Jersey Uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq. and the Uniform Construction Code Rules, N.J.A.C. 5:23-1.1 et seq.

(k) A telephone jack shall be provided in the cell corridor.

(l) A water outlet for cleaning of the cell block area shall be installed in the cell corridor.

10A:34-2.11 Monitoring systems

(a) The need for an audio or audio/video system to monitor detainees shall be determined by the Department of Corrections based upon the design of the detention area.

(b) The monitoring systems provide an added measure of safety and security but shall not be used as a substitute for physical cell checks of detainees.

(c) If video is used for surveillance of the cells, care shall be taken that there is no intrusion of privacy in the area around the sanitary unit.

10A:34-2.12 Sallyport

(a) A vehicle sallyport area shall be provided for the transfer of prisoners to and from the municipal detention facility.

(b) The sallyport shall be in close proximity to the detention area and shall contain the following:

1. Interlocking doors;
2. Audio and video communication; and,
3. Emergency alarm button.

(c) A weapons' locker shall be provided in the sallyport area or in a location convenient to the detainee entrance.

10A:34-2.13 Fire safety

(a) Fire suppression equipment shall be located in those areas specified by the New Jersey Uniform Fire Code, N.J.A.C. 5:18-1.1 et seq.

(b) Fire suppression equipment shall be serviced as required by New Jersey Uniform Fire Code, N.J.A.C. 5:18-1.1 et seq.

(c) An automatic fire alarm and heat and smoke detection system shall be located in areas specified by the New Jersey Uniform Fire Code, N.J.A.C. 5:18-1.1 et seq.

(d) Automatic fire detection devices and alarm systems shall be tested according to a schedule set forth in the New Jersey Uniform Fire Code, N.J.A.C. 5:18-1.1 et seq.

(e) Exits shall be distinctly marked, unobstructed and operable. Exit signs shall be continuously illuminated and shall meet specifications set forth in the New Jersey Uniform Fire Code, N.J.A.C. 5:18-1.1 et seq.

(f) A fire evacuation plan shall be developed in accordance with the New Jersey Fire Code, N.J.A.C. 5:18-3, and shall be ***[revised]* *re-viewed*** and approved by local fire officials.

10A:34-2.14 Sanitation

(a) The detention facility shall develop written procedures for the control of vermin and pests.

(b) The detention facility shall develop written procedures which require daily sanitation inspections of all detention areas.

10A:34-2.15 Security and control

(a) A security inspection of the cell block area shall be conducted at least weekly and a written report submitted to the administrator or officer in charge of security.

(b) Cells, cell block and sallyport areas shall not be used as storage areas.

(c) Weapons shall be prohibited within the security perimeter of the cell block area.

(d) A key control system shall provide an accurate accounting of the location and possession of each key. All keys shall be numbered and the detention facility shall maintain at least one duplicate key for each lock.

(e) The municipal detention facility shall develop written procedures to be followed by staff in the ***[e]*** event of an escape.

10A:34-2.16 Supervision and care of detainees

(a) Staff assigned to supervise detainees shall receive training in the supervision and care of detainees. Special training shall be provided for supervision and care of detainees of the opposite sex.

(b) Physical cell checks of detainees shall be made every 30 minutes. Closer surveillance may be required for detainees who are:

1. Security risks;
2. Suicidal risks;
3. Demonstrating unusual or bizarre behavior; and/or,
4. Exhibiting signs of mental illness.

(c) A record of the physical cell checks shall be maintained in a log book which shall contain, at the minimum, the following information on the detainee:

1. Full name;
2. Sex;
3. Date and time initially placed in cell;
4. Date and time of release;
5. Date and time of each physical cell check; and,
6. Signature of staff member conducting physical cell checks.

(d) Detainees who are injured or who become ill while in custody shall be seen by a physician without delay. A record of the ***[physician's]* *date and time of the medical*** visit shall be maintained. Seriously ill or injured detainees shall be transported immediately to the nearest hospital.

(e) Special medication shall be provided to detainees if the need is verified by a physician.

(f) If a detainee is confined during regular meal periods, the detainee shall be provided a meal.

(g) Telephone calls shall be permitted for the purpose of notifying relatives, obtaining legal representation, posting bail, etc. Long distance telephone calls may be made "collect".

10A:34-2.17 Search of detainees

(a) Each detainee shall be thoroughly searched prior to placement in a cell.

(b) Searches shall be conducted by a staff member of the same sex as the detainee.

(c) Strip searches shall be conducted in accordance with N.J.S.A. 2A:161A-1 et seq.

10A:34-2.18 Housing of detainees

Male and female detainees shall be separated by sight and sound from each other.

10A:34-2.19 Juvenile detainees

Juveniles shall be detained in accordance with N.J.S.A. 2A:4A-32, 33 and 34.

INSURANCE**(a)****DIVISION OF THE NEW JERSEY REAL ESTATE
COMMISSION****Contracts of Sale, Leases and Listing Agreements****Adopted Amendment: N.J.A.C. 11:5-1.16**

Proposed: August 18, 1986 at 18 N.J.R. 1677(a) and 2112(a).

Adopted: March 9, 1987 by New Jersey Real Estate Commission,
Daryl G. Bell, Director.Filed: March 9, 1987 as R.1987 d.159 with technical changes not
requiring additional public notice and comment (see N.J.A.C.
1:30-4.3) and with portions of the proposal (N.J.A.C.
11:5-1.16(h) and 1.23(d)) not adopted.

Authority: N.J.S.A. 45:15-6.

Effective Date: April 6, 1987.

Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:

The Real Estate Commission received one written comment on this proposed amendment, N.J.A.C. 11:5-1.16(a). In addition, several verbal comments were made at the Special Public Hearing held by the Commission on this and several other proposals at Rider College in Lawrenceville, New Jersey on November 24, 1986. All of the verbal comments made on this proposal favored its adoption.

The written comments and two of the verbal comments received on this proposal favored its adoption, but with a minor, non-substantive change. The content of those three comments and the Commission's response to them are summarized below.

COMMENT: The Real Estate Commission received comments from three persons, all of whom suggested that the proposal be amended to require licensees to include the names and addresses of all persons to whom a Notice of Disapproval is required to be sent in order to be effective, pursuant to the language of item three in the Attorney Review Clause. These individuals indicated that the absence of such information made it difficult for attorneys who wished to issue Notices of Disapproval to effectively do so within the normal three day attorney review period. They suggested that by adding a requirement that such information be included in such contracts or leases, the difficulties attorneys encounter in attempting to ascertain this information while operating within severe time constraints could be eliminated.

RESPONSE: The Commission recognized the logic of the suggestion made by these commentors and of the rationale which underlies that suggestion. Accordingly, the Commission determined to amend the proposal by including a directive that licensees include the names and addresses of the persons to whom a Notice of Disapproval is to be sent in all contracts or leases which they prepare and which are required to include an Attorney Review provision.

In addition, the subsection paragraphs have been properly codified. The amendment to N.J.A.C. 11:5-1.16(h) and 1.23(d) in the original proposal were considered and rejected for adoption by the Commission. A new proposal for N.J.A.C. 11:5-1.16(h), which would negate any need to amend N.J.A.C. 11:5-1.23(d) appears in this issue of the New Jersey Register.

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

11:5-1.16 Contracts of sale*, leases,* and listing agreements

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

(g) Licensees shall comply with the following provisions:

1. All contracts prepared by licensees for the sale of residential real estate containing one to four dwelling units and for the sale of vacant one-family lots in transactions in which the licensee has a commission or fee interest shall contain, at the top of the first page and in print larger than the predominant size print in the writing, the following language:

THIS IS A LEGALLY BINDING CONTRACT THAT WILL BECOME FINAL WITHIN THREE BUSINESS DAYS. DURING THIS PERIOD YOU MAY CHOOSE TO CONSULT AN ATTORNEY WHO CAN REVIEW AND CANCEL THE CONTRACT. SEE SECTION ON ATTORNEY REVIEW FOR DETAILS.

2. The contract shall also contain the following language within the text of every such contract.

ATTORNEY REVIEW:

1. Study by Attorney

The Buyer or the Seller may choose to have an attorney study this contract. If an attorney is consulted, the attorney must complete his or her review of the contract within a three-day period. This contract will be legally binding at the end of this three-day period unless an attorney for the Buyer or Seller reviews and disapproves of the contract.

2. Counting the Time

You count the three days from the date of delivery of the signed contract to the Buyer and the Seller. You do not count Saturdays, Sundays or legal holidays. The Buyer and the Seller may agree in writing to extend the three-day period for attorney review.

3. Notice of Disapproval

If an attorney for the Buyer or the Seller reviews and disapproves of this contract, the attorney must notify the Broker(s) and the other party named in this contract within the three-day period. Otherwise this contract will be legally binding as written. The attorney must send the notice of disapproval to the Broker(s) by certified mail, by telegram, or by delivering it personally. The telegram or certified letter will be effective upon sending. The personal delivery will be effective upon delivery to the Broker's office. The attorney may but need not also inform the Broker(s) of any suggested revisions in the contract that would make it satisfactory.

3. The contract shall also contain the names and full addresses of all persons to whom a Notice of Disapproval must be sent in order to be effective as provided in item three of the Attorney Review Provision.

[2.]*4. All leases prepared by licensees for a term of one year or more for residential dwelling units in transactions in which they have a commission or fee interest shall, at the top of the first page and in print larger than the predominant size print of the writing, contain the following language:

THIS IS A LEGALLY BINDING LEASE THAT WILL BECOME FINAL WITHIN THREE BUSINESS DAYS. DURING THIS PERIOD YOU MAY CHOOSE TO CONSULT AN ATTORNEY WHO CAN REVIEW AND CANCEL THE LEASE. SEE SECTION ON ATTORNEY REVIEW FOR DETAILS.

5. The lease shall also contain the following language within the text of every such lease.

ATTORNEY REVIEW:

1. Study by Attorney

The Tenant or the Landlord may choose to have an attorney study this lease. If an attorney is consulted, the attorney must complete his or her review of the lease within a three-day period. This lease will be legally binding at the end of this three-day period unless an attorney for the Tenant or the Landlord reviews and disapproves of the lease.

2. Counting the Time

You count the three days from the date of delivery of the signed lease to the Tenant and the Landlord. You do not count Saturdays, Sundays or legal holidays. The Tenant and the Landlord may agree in writing to extend the three-day period for attorney review.

3. Notice of Disapproval

If an attorney for the Tenant or the Landlord reviews and disapproves of this lease, the attorney must notify the Broker(s) and the other party named in the lease within the three-day period. Otherwise this lease will be legally binding as written. The attorney must send the notice of disapproval to the Broker(s) by certified mail, by telegram, or by delivering it personally. The telegram or certified letter will be effective upon sending. The personal delivery will be effective upon delivery to the Broker's office. The attorney may but need not also inform the Broker(s) of any suggested revisions in the lease that would make it satisfactory.

6. The lease shall also contain the names and full addresses of all persons to whom a Notice of Disapproval must be sent in order to be effective, as provided in item three of the Attorney Review Provision.

[3.]*7. The failure of any licensee to include such language in any such contract of sale or lease agreement prepared by the licensee shall be construed by the Commission as engaging in the unauthorized practice of law and shall be considered by the Commission as conduct which demonstrates the licensee's unworthiness and incompetency, thereby subjecting the licensee to sanctions pursuant to N.J.S.A. 45:15-17(e).

LAW AND PUBLIC SAFETY

(a)

STATE BOARD OF DENTISTRY

Advertising; Referral Fees

Adopted Amendment: N.J.A.C. 13:30-8.6

Adopted New Rule: N.J.A.C. 13:30-8.15

Proposed: December 15, 1986, at 18 N.J.R. 2419(a).

Adopted: February 16, 1987 by the State Board of Dentistry,
Richard J. Van Sciver, President.

Filed: March 9, 1987 as R.1987 d.158, **without change.**

Authority: N.J.S.A. 45:6-1 et seq.

Effective Date: April 6, 1987.

Expiration Date: April 15, 1990.

Summary of Public Comments and Agency Response:

The New Jersey Dental Association submitted a comment in support of the new rule.

Full text of the adoption follows.

13:30-8.6 Professional advertising

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

(c) A licensee who engages in the use of advertising which contains the following shall be deemed to be engaged in professional misconduct.

1.-6. (No change.)

Renumber 8.-12 as 7.-11. (No change in text.)

(d)-(l) (No change.)

13:30-8.15 Referral fees

It shall be professional misconduct for a licensee to pay to, receive from, or split a fee or other form of compensation with any person other than an employee or associate dentist for the referral of a patient.

(b)

DIVISION OF CONSUMER AFFAIRS

Office of Weights and Measures

Approaches for Vehicle Scales

Adopted Repeal: N.J.A.C. 13:47B-1.22

Proposed: October 20, 1986 at 18 N.J.R. 2116(a).

Adopted: February 18, 1987 by Thomas W. Kelly, State
Superintendent, Office of Weights and Measures.

Filed: March 16, 1987 as R.1987 d.173, **without change.**

Authority: N.J.S.A. 51:1-61 and 51:1-129.

Effective Date: April 6, 1987.

Expiration Date: (Not applicable).

Summary of Public Comments and Agency Responses:

No comments received.

PUBLIC UTILITIES

(c)

BOARD OF PUBLIC UTILITIES

Bills and Payments for Service

Form of Bill for Metered Service

Adopted Amendment: N.J.A.C. 14:3-7.9

Proposed: December 15, 1986 at 18 N.J.R. 2425(a).

Adopted: March 9, 1987 by the Board of Public Utilities,
Barbara A. Curran, President.

Filed: March 12, 1987, as R.1987 d.163, **without change.**

Authority: N.J.S.A. 48:2-12, 48:2-13 and 48:2-25.

BPU Docket No. AX8610-1067.

Effective Date: April 6, 1987.

Expiration Date: May 6, 1990.

Summary of Public Comments and Agency Responses:

COMMENT: Comments received from the New Jersey State League of Municipalities and the New Jersey Municipal Management Association, Inc. recommended that the suggested model statement reflect the exact percentage of the gross receipts and franchise taxes that is retained by the State and not distributed to New Jersey municipalities.

RESPONSE: The amendment adequately informs affected utility customers that a portion of the gross receipts and franchise taxes collected by the utility and paid to the State are, in fact, retained by the State and not distributed to New Jersey municipalities.

Full text of the adoption follows.

14:3-7.9 Form of bill for metered service

(a) Unless a utility has been specifically relieved of so doing by order of the Board, the bill shall show the following:

1.-8. (No change.)

9. For each gas, electric and Class A water and sewerage company subject to the Board's jurisdiction, sufficient information to reflect the estimated amount of money in that individual bill which is collected for the gross receipts and franchise taxes pursuant to N.J.S.A. 54:30A-54. The following is suggested as a model statement to be included on the bill: "Approximately 13% or \$_____ of your current period charges reflect the average gross receipts and franchise taxes which are paid to the State of New Jersey and largely distributed to New Jersey municipalities."

(b) (No change.)

COMMERCE AND ECONOMIC DEVELOPMENT

(d)

DIVISION OF ENERGY PLANNING AND CONSERVATION

Retail Dealers of Motor Fuel

Retail Fuel Merchants

Adopted Amendments: N.J.A.C. 14A:11-4.2, 4.3, 4.4, 5.2, 5.3 and 5.4

Proposed: January 5, 1987 at 19 N.J.R. 50(a).

Adopted: February 17, 1987 by Borden R. Putnam,
Commissioner, Department of Commerce and Economic
Development.

Filed: March 10, 1987 as R.1987 d.161, **without change.**

Authority: N.J.S.A. 52:27F-18.

Effective Date: April 6, 1987.

Expiration Date: September 20, 1987.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

14A:11-4.2 Definitions

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

"Division" means the Division of Energy Planning and Conservation within the Department of Commerce.

...

14A:11-4.3 Reporting

(a) Upon request, each retail dealer who is selected by the Division shall report the following background information to the Division:

1.-6. (No change.)

7. Total sales by month for a base period to be specified by the Division.

(b) Upon request, each retail dealer who is selected by the Division shall report the following information to the Division:

1.-5. (No change.)

14A:11-4.4 Penalties

(a) (No change.)

(b) The Division may compromise and settle any claim for a penalty under this section in such amount in the discretion of the Division as may appear appropriate and equitable under all of the circumstances.

14A:11-5.2 Definitions

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

"Division" means the Division of Energy Planning and Conservation within the New Jersey Department of Commerce and Economic Development.

14A:11-5.3 Reporting

(a) Upon request, each retail fuel merchant who is selected by the Division shall report the following background information to the Division:

1.-2. (No change.)

3. Historical home heating oil inventory data as of the last day of the month for a base period to be specified by the Division;

4. Historical home heating oil monthly sales data for the company for a base period to be specified by the Division.

(b) Upon request, each retail fuel merchant who is selected by the Division shall report the following information to the Division:

1.-3. (No change.)

4. Total sales of home heating oil for the most recent month. This information shall only be required during periods of shortage or supply interruption;

5. Average number of customers served during the most recent month. This information shall only be required during periods of shortage or supply interruption.

14A:11-5.4 Penalties

(a) (No change.)

(b) The Division may compromise and settle any claim for a penalty under this section in such amount in the discretion of the Division as may appear appropriate and equitable under all the circumstances.

TRANSPORTATION

TRANSPORTATION OPERATIONS

(a)

Restricted Parking and Stopping Routes U.S. 9 in Ocean County, 77 and U.S. 40-N.J. 45 in Salem County

Adopted Amendments: N.J.A.C. 16:28A-1.7 and 1.41 Adopted New Rule: N.J.A.C. 16:28A-1.108

Proposed: January 20, 1987 at 19 N.J.R. 180(a).

Adopted: February 24, 1987 by John F. Dunn, Jr., Assistant
Chief Engineer, Traffic and Local Road Design.

Filed: February 26, 1987 as R.1987 d.145, **without change.**

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

Effective Date: April 6, 1987.

Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:28A-1.7 Route U.S. 9

(a) The certain parts of State highway Route U.S. 9 described in this section shall be designated as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-18. (No change.)

19. No stopping or standing in Little Egg Harbor Township, Ocean County, along the west side, between a point 200 feet north of Railroad Avenue to a point 200 feet south of Railroad Avenue.

(b) (No change.)

16:28A-1.41 Route 77

(a) The certain parts of State highway Route 77 described in this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-4. (No change.)

5. No stopping or standing in Upper Pittsgrove Township, Salem County, along both sides, between a point 300 feet north of and 300 feet south of the intersection of County Road 666 (Monroeville-Swedeseboro Road), and between a point 400 feet north of and 200 feet south of the intersection of County Road 611 (Elmer-Shirley Road).

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

16:28A-1.108 Route U.S. 40-N.J. 45

(a) The certain parts of Route U.S. 40-N.J. 45 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in Woodstown Borough, Salem County on both sides from Green Street westerly to the Borough line.

(b)

No Passing Zone Route 140 in Salem County

Adopted New Rule: N.J.A.C. 16:29-1.66

Proposed: January 20, 1987 at 19 N.J.R. 181(a).

Adopted: February 20, 1987 by John F. Dunn, Jr., Assistant
Chief Engineer, Traffic and Local Road Design.

Filed: February 26, 1987 as R.1987 d.146, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-201.1.

Effective Date: April 6, 1987.

Expiration Date: November 7, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:29-1.66 Route 140

That part of State highway Route 140 within Carney's Point Township, Salem County, and described in drawing number HNPZ-108 dated October 29, 1986 shall be designated and established as a "No Passing" zone.

PUBLIC TRANSPORTATION

(c)

Practices and Procedures Before the Office of Regulatory Affairs

Adopted New Rules: N.J.A.C. 16:51

Proposed: January 20, 1987, at 19 N.J.R. 182(a).

Adopted: February 23, 1987 by James A. Crawford, Assistant
Commissioner for Transportation Services and Planning.

Filed: March 2, 1987 as R.1987 d.148, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 52:14B-3.

Effective Date: April 6, 1987.

Expiration Date: April 6, 1992.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

CHAPTER 51 PRACTICES AND PROCEDURES BEFORE THE OFFICE OF REGULATORY AFFAIRS

SUBCHAPTER 1. GENERAL PROVISIONS

16:51-1.1 Scope

(a) These rules shall govern the filing of all pleadings and the practice and procedure of matters other than contested case hearings before the Office of Regulatory Affairs, Department of Transportation of the State of New Jersey, unless otherwise ordered by the Office or the Department in any proceeding. These rules also set forth operational and administrative duties of licensed autobus companies and street railways.

(b) Upon determination that a matter constitutes a contested case, the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq. shall apply.

16:51-1.2 Construction and amendment

(a) These rules shall be liberally construed to permit the Office to effectively carry out its statutory functions and to secure just and expeditious determinations of issues properly presented to the Office.

(b) In special cases and for good cause shown, the Office may relax or permit deviations from these rules.

16:51-1.3 Definitions

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

“Answer” means the pleadings filed by a Petitioner in response to either a motion or a complaint petition.

“Autobus” means any motor vehicle or motorbus operated over public highways or public places in this State for the transportation of passengers for hire in intrastate business, including vans having passenger capacities of greater than nine (9) persons, excluding the driver, small buses and sedans that are used in regular route for hire transportation, notwithstanding that such motor vehicle or motorbus may be used in interstate commerce.

“Autobus Company” means any person that possessed a valid Certificate of Public Convenience and Necessity to conduct autobus operations. Such a Certificate shall have been issued by the New Jersey Department of Transportation or, if issued prior to January 1, 1979, by the State’s Board of Public Utilities.

“Certificate” means a Certificate of Public Convenience and Necessity.

“Certificate of Public Convenience and Necessity” means a final administrative order of the New Jersey Department of Transportation granting authority to a person to operate a specific type (or types) of autobus service(s) within the State of New Jersey.

“Charter” means “charter bus operation,” as defined in N.J.S.A. 48:4-1.

“Commissioner” means the Commissioner of the Department of Transportation or, in his or her absence, the Assistant Commissioner of Transportation Services.

“Complaint Petition” means a petition or a letter, by which a party seeks to have the Department invoke its jurisdiction for the purpose of enforcing one or more provisions of the New Jersey Revised Statutes or the New Jersey Administrative Code against an autobus company.

“Department” means the Department of Transportation of the State of New Jersey.

“Director” means the Director of the Office of Regulatory Affairs, or any other person duly authorized by the Commissioner to act in such a capacity.

“Exception Letter” means the Department’s first correspondence with the petitioner after the Department’s initial review of a filed petition which indicates whether the petition is incomplete.

“Intervenor” means a movant whose motion to intervene has been granted by the Department, and who thereby has standing to, among other things: present testimony to the Office of Administrative Law in contested cases; cross-examine witnesses in such cases; and to file exceptions, and replies thereto, to initial decisions of the Office of Administrative Law.

“Motion to Intervene” means the formal pleading filed by a party requesting that said party be granted leave to intervene in a proceeding before the Office.

“Movant” means a person that has filed a motion with the Department.

“Objector” means a person that has filed with the Department a written objection to a petition pending before the Office, but who is not an Intervenor.

“Office” means the Office of Regulatory Affairs, Department of Transportation, State of New Jersey.

“Person” or “Party” means an individual, corporation, partnership, association, group of persons or organizations, or any body politic, political subdivision or governmental instrumentality.

“Petition” means the pleading filed to initiate a proceeding invoking the jurisdiction of the Department.

“Petitioner” means a person that has filed a petition with the Office of Regulatory Affairs, New Jersey Department of Transportation or except in transfer petition cases, the person who is the proposed certificate holder.

“Proposed Service Area” means, in the case of a petition primarily concerning regular route service, the proposed or the prescribed route plus that area within one and one-quarter miles of any pickup or drop

off point on the petitioner’s proposed or prescribed route; and, in the case of a petition primarily concerning charter or special service, any county in which the petitioner seeks authority from the Department to make pickups.

“Regular Route” means “autobus” service, as described in N.J.S.A. 48:4-1.

“Reply” means the pleading filed by the intervenor in response to an answer.

“Respondent” means any party against whom a complaint petition is directed.

“Service Area” means, in the case of a petition for discontinuance of service, that area which constitutes a one and one-quarter mile radius from any pickup or drop off point on the regular route that the petitioner is currently authorized by the Department to serve, and in which he seeks to discontinue service; or in the case of a charter or special service, the county or counties in which the petitioner is authorized to serve but seeks to discontinue service.

“Special” means “special bus operation,” as described in N.J.S.A. 48:4-1.

16:51-1.4 Offices

The Office of Regulatory Affairs is located at McCarter Highway and Market Street, Newark, New Jersey 07101 or such other location as publicly noticed.

16:51-1.5 Hours

(a) The Office is open on weekdays from 8:30 A.M. to 4:30 P.M. unless otherwise authorized by the Office.

(b) The Office is closed on legal holidays, Saturday and Sunday.

16:51-1.6 Communications

(a) All pleadings, correspondence and other papers shall be addressed to the Director, Office of Regulatory Affairs, New Jersey Department of Transportation, McCarter Highway and Market Street, P.O. Box 10009, Newark, New Jersey 07101.

(b) Copies of such correspondence shall be directed to the parties of record in formal matters and to movants whose filed motions relating to such matters have not been denied by the Department.

(c) Except as otherwise stated in this Chapter, all such pleadings and correspondence shall be deemed to be officially received when delivered to the Office of Regulatory Affairs.

16:51-1.7 Official records

(a) The Office shall retain custody of all its official records.

(b) Copies of rules and regulations and orders may be obtained from the Director upon payment of all statutorily prescribed fees, or, if not so prescribed, upon payment of fees covering reasonable copying costs.

16:51-1.8 Appearance

(a) No person or party as defined in N.J.A.C. 16:51-1.3, except an individual appearing on his own behalf, shall be permitted to participate in any proceeding before the Office unless such person or party is represented by an attorney of this State in good standing who is domiciled in this State. Any attorney or counselor from any other jurisdiction, of good standing there, may, at the discretion of the Director, be admitted pro hoc vice to participate in a proceeding in the same manner as an attorney of this State; provided, however, that all pleadings, briefs and other papers filed with the Office shall be signed by an attorney of record authorized to practice in this State who shall be held responsible for them.

(b) Any attorney wishing to withdraw from a proceeding before the Office shall, in writing, immediately notify the Director, the party whom he represents, and all other parties of record.

(c) Any person appearing before or transacting business with the Office in a representative capacity may be required by the Office to file evidence of his authority to act in such capacity.

16:51-1.9 Ethical conduct and ex parte communications

(a) All attorneys appearing in proceedings before the Office in a representative capacity shall conform to the standards of the ethical conduct required of attorneys before the courts of the State of New Jersey.

(b) If any such attorney does not conform to the standards specified in subsection (a) of this section, the Director may decline to permit such attorney to appear in a representative capacity in any proceeding before the Office.

(c) After the filing of a complaint or petition in a contested formal proceeding and prior to the issuance of a final order thereon, no parties to the proceeding, or their counsel, shall discuss the merits of such matter or proceeding with the Commissioner, the Director or with any member or employee of the Office, unless reasonable notice is given to all parties who have appeared therein to enable such parties to be present at the

conference. After the filing of a complaint or petition and prior to the issuance of a final order thereon, no parties to the proceedings, or their counsel, shall discuss the merits of such matter or proceeding, with the Commissioner, or with the Director unless reasonable notice is given to all parties who have appeared therein, to enable such parties to be present at the conference. When, after the filing of a complaint or petition and prior to the issuance of a final order thereon, letters are directed to the Office, or any member of its staff, regarding a formal proceeding, copies of such letters shall be mailed to all parties of record and proof of such service furnished upon request.

(d) In matters pending before the Office of Administrative Law, the provisions of N.J.A.C. 1:1-3.8 shall apply to the extent applicable.

16:51-1.10 Former employees

Except with the written permission of the Commissioner, no former member or employee of the Office or member of the Attorney General's staff assigned to the Office may appear in a representative capacity or as an expert witness on behalf of other parties at any time within six months after severing his association with the Office nor may he appear after said six month period in any proceeding wherein he previously took an active part when associated with the Office.

SUBCHAPTER 2. PLEADINGS

16:51-2.1 Pleadings generally

Pleadings before the Department shall be in the form of petitions, motions, answers and replies.

16:51-2.2 Formal requirements for pleadings

(a) The form and size for pleadings shall be as follows:

1. Except where otherwise specifically provided, all pleadings and other papers filed under these rules shall be typewritten or printed, cut or folded to 8 1/2" x 11" in size, with the left-hand margin 1 1/2" and shall be bound or fastened on the upper left-hand corner.

2. They shall be double spaced except that quotations may be single spaced and indented.

3. Where larger sheets are required for exhibits, they shall be folded substantially to the size herein prescribed.

4. Any process may be used for the reproduction of typewriting provided all copies are clear and permanently legible.

(b) Signature shall be as follows:

1. All pleadings must be signed in ink by the attorney of record, if any.

2. When a firm acts as attorney of record, the signature shall be in the name of the firm, followed by the signature of the partner or associate acting on behalf of the firm.

3. When a party acts in his own behalf under these rules, signature shall be by the party, except that in the case of a corporation, signature shall be by the corporate officer or attorney duly authorized by the corporation to sign in its behalf.

4. Beneath the signature of every attorney of record, party or other person appearing on a paper to be filed, there shall be typed, stamped or printed his name and address.

(c) Caption and docket number shall be included as follows:

1. There shall be included at the head of the pleading or on a title page a caption setting forth the name of the Department, the title of the action, the docket number, if known, and a designation as petition or the like.

2. Case titles shall be brief and concise.

(d) Description of parties shall be as follows:

1. The title of the action shall include the legal names of all parties.

2. The first pleading of any party shall state the party's address; and, if the party is a corporation, partnership or other group, there shall also be set forth the state in which, and the law under which, the party was incorporated or organized.

(e) Designation of persons to whom communications should be sent is as follows:

1. Petitions or other pleadings filed with the Department by or on behalf of any person shall state the name, title and address of the agent to whom correspondence or communications concerning the matter are to be sent.

2. If the agent designated to receive correspondence and communications is not the individual owner, a partner in or a corporate director or officer of the person on whose behalf pleadings have been filed, the Department shall serve all notices, decisions, orders and other papers it issues on both the agent and the individual owner, partners or corporate officer or directors, as the case may be.

(f) Attestation and verification shall be as follows:

1. All pleadings initiating a proceeding or otherwise seeking affirmative relief shall be verified, except for those matters brought upon either the Department's own motion or the motion of the Attorney General of the State of New Jersey.

2. If a party is represented by an attorney, the original of each paper filed shall be signed in ink by the attorney, whose address shall be stated. The signature of the attorney constitutes a certification that the representative:

i. Has read the pleading, document or paper;

ii. Is authorized to file it;

iii. Believes that there is good ground for the document; and

iv. Has not interposed the document for delay.

3. A pleading, document or paper signed as in (f)2 above need not be verified or accompanied by affidavit unless required elsewhere in these rules.

4. The original of each document not signed by an attorney must be:

i. Signed in ink;

ii. Accompanied by the signer's address; and

iii. Verified, if it contains allegations of fact, under oath by the person in whose behalf it is filed, or by a duly authorized officer of the corporation in whose behalf it is filed. If the pleading is a complaint petition, at least one complainant must sign and verify the pleading.

16:51-2.3 Time for filing

(a) Unless otherwise provided in these rules or ordered by the Department, a petition for approval, modification or transfer of a Certificate of Public Convenience and Necessity or approval of a proposed merger or consolidation involving an autobus company must be filed in its entirety and in accordance with these rules within sixty (60) days of the date of the Department's exception letter to petitioner.

(b) With respect to petitions, motions, answers and replies, the date of filing shall mean the date upon which the petition, motion, answer or reply, as the case may be is stamped received by the Office of Regulatory Affairs, New Jersey Department of Transportation.

16:51-2.4 Number of copies

(a) Unless otherwise required by the Department, there shall be filed with the Department for its own use an original and three conformed copies of each pleading or other paper and amendment thereof.

(b) Where a pleading initiating a proceeding is filed by a party other than an autobus company subject to the jurisdiction of the Department, one additional conformed copy shall be filed for each respondent named therein, for service by the Director in accordance with the provisions of N.J.A.C. 16:51-2.7 (Service and notice of proceedings) of this subchapter.

16:51-2.5 Defective pleadings

Pleadings will be liberally construed in the interest of justice. The Department may disregard errors or defects in pleadings which do not affect the substantial rights of the parties. If the defect in a pleading prejudices a substantial right of any party, the Department may, on notice, strike the pleading or take such other action as it deems appropriate.

16:51-2.6 Amendments

(a) The Department may in its discretion before or after the conclusion of any proceedings it conducts allow any pleadings to be amended or corrected or any omission therein to be supplied upon such terms as may be lawful and just, provided such amendment, correction or addition does not prejudice a substantial right of any party.

(b) Whenever, subsequent to the date of the pleading, there is any significant change with respect to a matter contained in such a pleading, the party who filed the pleading shall promptly file an amendment showing or explaining the changed facts or circumstances.

(c) The filing of such amendment shall be considered a new filing as of the date of its filing unless otherwise ordered or permitted by the Department.

16:51-2.7 Service and notice of proceedings

(a) Unless otherwise provided for by statute or by these rules, or unless otherwise ordered or permitted by the Department, the following provisions shall govern:

1. A petition filed on behalf of an autobus company shall be served by such carrier or its agent or attorney upon each respondent named in such petition.

2. A petition initiating a proceeding filed by a party other than an autobus company shall be served by the Director upon each respondent named in such petition. Every other pleading, including all motions, answers, replies, briefs and other papers, shall be served by the party filing

same on all other parties of record concurrently with or prior to the filing of such pleading, motion, etc., regardless of whether the filing party is an autobus company.

3. Except when service is made by the Director, proof of service shall be by affidavit, by certificate of counsel or by acknowledgement of service; and in every such case such proof shall indicate the parties served and the method and date of service. Such proof of service shall be filed at the time of filing the pleading, or immediately thereafter.

4. Whenever public notice is required, it shall be at the expense of the party directed to give such notice; and proof of public notice shall be made and filed in accordance with (a)³ above.

16:51-2.8 Valid service

(a) Unless otherwise directed by the Department, service of pleadings, notices, decisions, orders and other papers shall be deemed valid if made by delivering one copy to each party (or his attorney of record) in person or by depositing it in the United States mail first class, postage prepaid, directed to the party (or his attorney of record) at his post office address.

(b) Unless otherwise provided, when any party has appeared by attorney, service upon such attorney shall be deemed valid service upon the party for all future pleadings, until notice of withdrawal or dismissal of such attorney is received in writing by the Director and served on all parties of record to the proceeding.

(c) Whenever a party has the right or is required to respond within a prescribed period after the serving of a notice or other paper upon him, and notice or paper is served upon him by mail, three days from the date of mailing shall be added to the service period prescribed for the response.

16:51-2.9 Withdrawal of petition or dismissal of proceeding

(a) A petition may be withdrawn without order of the Department by filing a notice of withdrawal at any stage of the proceeding prior to either the issuance of the Department's decision on the petition or other final disposition of the proceeding. A proceeding may also be terminated by filing a stipulation signed by all parties who have appeared in the proceeding prior to the entry of the Department's decision or order disposing of the proceeding. However, if the Department finds that the public interest so requires, the Department by order may continue such proceeding.

(b) The Department may on its own motion, or upon motion of any party to the proceeding, dismiss the proceeding for good cause shown.

(c) Unless otherwise specified or ordered, a withdrawal or dismissal under this rule shall be without prejudice.

16:51-2.10 Applications to other regulatory bodies

(a) Where the relief sought in a petition also requires the approval or authorization of any other State or Federal regulatory body, the petition to the Department shall so state and include the following:

1. The current status of such application;
2. If the application to the other regulatory body or bodies has already been filed, a copy of each such application shall be attached to the petition to the Department, together with a copy of any order or certificate issued relating thereto;
3. If such an application or amendment thereof is filed with another State or Federal regulatory body subsequent to date of filing with this Department but prior to its determination, three copies of such application or amendment thereof, together with three copies of any order or certificate issued relating thereto, shall be filed with the Department and served upon other parties of record.

SUBCHAPTER 3. PETITIONS

16:51-3.1 Petitions for the granting of a certificate of public convenience and necessity to conduct autobus operations; complaint petitions

(a) Petitions for the granting of a Certificate shall conform to N.J.A.C. 16:51-2 (Pleadings) and shall clearly and concisely state the facts and relief sought; shall cite by appropriate reference the statutory provision or other authority under which the Department's action is sought; shall contain such information or statements as are required by statute, these rules, or orders adopted by the Department or as may be required by the Department in a particular proceeding; and shall also provide such other information required by this Section.

(b) Complaint petitions directed against any particular respondent shall conclude with a direction that the respondent satisfy the prayer of the petition or file and serve an answer within twenty days of the date of service of the petition upon the respondent in accordance with these rules. Such petitions shall also include the current address(es) of the respondent(s).

(c) The following information shall also be included in all petitions requesting the granting of a certificate to conduct autobus operations:

1. Proof of publication of public notice, twice, one week apart, in a newspaper of general and regular circulation in the proposed service area which:

- i. Briefly describes the purpose of the petition and the type(s) of equipment to be used in the proposed service area;
- ii. States that a petition for approval to operate the proposed service has been filed with the Department;
- iii. States that objections and other comments should be addressed to the Office of Regulatory Affairs, New Jersey Department of Transportation;
- iv. Furnishes the address of said Office;
- v. Includes the appropriate Department docket number; and
- vi. Lists each municipality (in the case of a petition for regular route authority) or county (in the case of a petition for charter and/or special authority) in which the petitioner seeks to provide pickup (and, in the case of regular route petitions, drop off) service.

2. A schedule of equipment, including but not limited to type and passenger capacity of the vehicle(s) to be used in the subject service (or in the case of sale or lease of property, a schedule of the equipment to be sold or leased).

3. A statement as to petitioner's qualifications to operate and maintain the proposed service.

4. A copy of petitioner's pro forma balance sheet and income statement for the first two (2) years of petitioner's proposed service.

5. A copy of petitioner's (or in the case of sale or lease of property, the transferor's) current balance sheet and income statement.

6. In the case of a petitioner who does not already hold a Certificate, a copy of petitioner's certificate of incorporation filed with, and stamped by, the Office of the Secretary of State, State of New Jersey (if applicable); or if a foreign corporation, the petitioner's service of process agent.

7. The total number of shares of the petitioner's capital stock issued and outstanding (if applicable).

8. The names and addresses of officers, directors and shareholders, that have 5 percent or more rating control, partners or owners, as the case may be, of the petitioner and the extent of their respective interests in the petitioner.

9. Petition filing fee as prescribed by statute.

10. Tariff filing fee as determined by the Department.

11. Restrictions to be accepted by the petitioner.

12. Proposed tariff.

13. Three copies of the petition and, if applicable, any amendments thereto.

(d) The Department may impose restrictions as public convenience and necessity require.

(e) The following information shall be included in all petitions for either the granting of a certificate to conduct regular route operations or the approval of extensions to existing regular route operations.

1. The names of:
 - i. All regular route autobus passenger carriers operating in the proposed service area; and
 - ii. Other petitioners seeking to conduct regular route autobus operations in the proposed service area.

2. Proof of service of the petition upon those persons noted in (e)1 above.

3. Proof of service of the petition upon the clerk(s) of all municipalities in which the petitioner proposes to establish pickup and/or drop off locations.

4. A clear and concise statement as to how the proposed service will serve public convenience and necessity in each municipality in which the petitioner proposes to make a pickup.

5. An accurate and complete street-by-street description of the route for which authority is sought.

6. A list of all proposed passenger pickup and/or drop off locations together with certification that said locations are state and/or municipally approved pickup and/or drop off points as per N.J.S.A. 27:1A-44 and 39:4-197.

7. A copy of the proposed schedule of operations.

8. The schedule of the fares proposed to be charged.

9. A map of the proposed route, as well as the routes operated by any other carrier partially or wholly within the proposed service area.

(f) When a change in an existing route is required by any municipality for the purpose of designating one-way streets or requiring other minor reroutings to eliminate traffic congestion or traffic hazards, if neither fares nor the operations of other passenger carriers operating

in the area are affected, then such petitions are not required to conform to N.J.A.C. 16:51-3.1(c)1 through 8 and 10 through 12 and N.J.A.C. 16:51-3.1(b)1 (h).

(g) All petitions for the granting of a certificate to conduct charter and/or special autobus operations shall include proof of service of the petition upon the clerk of each county in which pickup service is proposed.

(h) Upon written request of any of the following parties, a petitioner for charter and/or special operations shall serve said party or parties with a copy of the petition:

1. Autobus passenger carriers currently operating in the proposed service area;
2. Other persons that have petitions pending before the Department for authority to provide charter and/or special service in the proposed service area; and
3. Any county or municipality located in the proposed service area.

(i) The petitioner shall not be required to honor any request for a copy of the petition made later than twenty days after the last date of publication of public notice required under N.J.A.C. 16:51-3.1(c)1.

16:51-3.2 Petition for the approval of modification of a certificate of public convenience and necessity

(a) Petitions for the approval of the modification or removal of operating restrictions contained in a certificate, and petitions whose purpose is to extend or enlarge upon operating authority granted by the Department, shall conform to the provisions of N.J.A.C. 16:51-2 (Pleadings) to the extent applicable, and shall in the body thereof, or attached thereto, also provide the information required by this Section.

(b) The following information shall be included in such petitions:

1. A specific reference to petitioner's pertinent existing authority;
2. A statement showing existing restrictions;
3. A street-by-street description and map of the current route and of the proposed modified route (if regular route);
4. In the case of a petition pertaining to regular route authority, a list of:
 - i. All regular autobus companies currently operating authorized regular route service in the petitioner's proposed service area; and
 - ii. All other persons having petitions pending before the Department for approval of regular route service in the proposed service area.

5. Proof of service of the petition upon the carriers and persons referred to in (b)4 above (if applicable);

6. Proof of publication of public notice, twice, one week apart, in a newspaper of general and regular circulation in the proposed service area which:

- i. Briefly describes the purpose of the petition and the type(s) of equipment to be used in the proposed service area;
- ii. States that a petition to modify an existing certificate has been filed with the Department;

iii. States that objections and other comments should be addressed to the Office of Regulatory Affairs, New Jersey Department of Transportation, giving the address of said Office;

iv. Includes the appropriate New Jersey Department of Transportation docket number (and route file number, if applicable); and

v. Lists each municipality (in the case of a petition for modification of regular route authority) or county (in the case of a petition for modification of charter and/or special authority) in which the petitioner seeks to extend or enlarge upon operating authority granted by the Department.

7. Proof of service of the petition upon the clerk(s) of all municipalities in which the petitioner proposes to establish additional pickup and/or drop off locations that are different from such locations for which the petitioner has authority;

8. A statement that describes the proposed restriction removal or other change in existing operating authority, and gives the reason(s) for any of the changes proposed; and

9. In the case of proposed modification of regular route authority, a copy of the currently effective schedule of operations and the schedule of operations to be put into effect if the modification is approved.

(c) The Department may impose restrictions as public convenience and necessity requires.

(d) A petition filed pursuant to this Section shall not be approved if the relief thereby requested is for an addition to or reduction of the number of counties in which pickups are authorized under a certificate for charter and/or special service.

16:51-3.3 Petitions for approval of the transfer of a certificate of public convenience and necessity for autobuses

(a) Petitions for approval of the transfer of a certificate shall conform to the requirements of N.J.A.C. 16:51-2 (Pleadings) to the extent applicable, and shall in the body thereof or in the attached exhibits also provide the information required by this Section.

(b) The petition shall contain the following:

1. A copy of the certificate proposed to be transferred (including its appropriate Schedule "A" and/or Schedule "B").

2. In the case of a proposed transfer of a regular route authority, an accurate and complete street-by-street description of the route to be transferred;

3. Proof of publication of public notice twice, one week apart, in a newspaper of general and regular circulation in the proposed service area which:

i. States that a petition for the proposed transfer has been filed with the Department;

ii. Briefly describes the purpose of the petition;

iii. States that objections and other comments should be addressed to the Office of Regulatory Affairs, New Jersey Department of Transportation and includes the address of said Office;

iv. Includes the appropriate Department docket number and, if applicable, route file number; and

v. Lists each municipality (in the case of a petition for transfer of regular route authority) or county (in the case of a petition for transfer of charter and/or special authority) in which the proposed transferee seeks to operate under the subject authority.

4. In the case of a proposed transfer of regular route authority, a list of all autobus passenger carriers currently operating authorized regular route service in the transferee's proposed service area;

5. Proof of service of the petition upon all the carriers referred to in (b)4 above (if applicable);

6. In the case of a proposed transfer of regular route authority, proof of service of the petition upon the clerk of each municipality and county in which the subject authority is operative;

7. In the case of a proposed transfer of charter and/or special authority, proof of service of the petition upon the clerk of each county in which the subject authority permits pickups;

8. A copy of the signed assignment(s), contract(s), lease(s), or other written agreement(s) by which the proposed transfer is to be made;

9. An affidavit by the transferor detailing all judgements, tax claims or liens against the transferor or against property or equipment involved in or associated with the proposed transfer;

10. A balance sheet, income statement and pro forma financial statement of the transferee;

11. A statement so as to the proposed transferee's qualifications to operate and maintain safe, adequate and proper service;

12. A schedule of equipment to be used by the proposed transferee under the subject authority;

13. The names and addresses of officers, directors and shareholders or partners or owner, as the case may be, of the proposed transferee and the extent of their respective interests in the proposed transferee;

14. A statement as to operating restrictions in effect at the time the petition is filed. The Department may impose restrictions as public convenience and necessity requires;

15. A copy of the certificate of incorporation of the transferee as filed with, and stamped by, the Office of the Secretary of State, State of New Jersey (if applicable);

16. Petition filing fee as prescribed by statute;

17. The current schedule of fares for the subject autobus operation; and

18. In the case of a proposed transfer of regular route authority, a copy of:

i. The currently effective schedule of operations; and

ii. The proposed schedule of operations of the proposed transferee.

16:51-3.4 Ex parte or emergency relief; and minor modification of regular route

(a) If a petitioner seeks ex parte action granting emergency relief, pending either the Department's petition review process or a full hearing, it shall particularize the necessity for emergent action. The petition must be supported by affidavits sufficient to make a prima facie case that the public interest will be subject to irreparable harm if the requested emergency relief is not granted.

(b) The petitioner shall present a draft of the proposed order which shall state the terms upon which the order may be dissolved. Where the method of giving notice is not already provided for in these rules, notice

in advance of filing shall be given if practical or otherwise required by these regulations for any party affected. The petitioner must certify by affidavit at the time of the application that other interested parties were served copies of the petition and draft order by certified mail. For purposes of this subsection, interested parties shall include all passenger-carrying trolleys, subways and autobus lines operating in the proposed (or actual) service area.

(c) Notwithstanding subsections (a) and (b) above, the Department may grant a request for a minor modification of a regular route if the request is made through a petition for ex parte relief. The notice requirements contained in subsections (a) and (b) shall apply to minor modification petitions, however. A minor modification of a regular route shall mean a change in pickup or drop off location; provided:

1. The proposed new pickup and/or drop off location is within 1,000 feet of the route stop for which modification is requested;

2. The carrier requesting such change submits with its request proof of municipal, county or state approval, as the case may be, of the proposed stop; or in lieu of such approval, proof that the proposed stop is located on private property together with the property owner's written approval of the proposed stop;

3. The proposed pickup and/or drop off point is not closer to any authorized pickup and/or drop off location (respectively) of any other autobus company than:

i. 500 feet, if the proposed stop is located in a municipality of the First Class (as defined in N.J.S.A. 40A:6-4);

ii. 750 feet, if the proposed stop is located in a municipality of the Second Class (as defined in N.J.S.A. 40A:6-4);

iii. 1,250 feet, if the proposed stop is located in a municipality of the Third Class (as defined in N.J.S.A. 40A:6-4);

iv. Five hundred feet, if the proposed stop is located in a municipality of the Fourth Class (as defined in N.J.S.A. 40A:6-4); and

4. That, in the opinion of the Department, the need for the minor modification is due to circumstances beyond the practicable control of the carrier requesting the change.

(d) Relief granted under (c) above shall be provisional. Final disposition of matters relating to minor modifications under (c) above shall be made upon petition for a final order of the Department approving such a modification or upon other nullification of the provisional relief by the Department.

16:51-3.5 Petitions for the approval of the sale or lease of property

(a) Petitions for the approval of the sale, conveyance or lease of real or personal property, or the granting of an easement, or like interest therein as required by law shall conform to provisions of N.J.A.C. 16:51-1; 16:51-3.1(a), (b), (e), (i); N.J.S.A. 16:51-3.4, 3.8, 3.9 and N.J.A.C. 16:51-2.10, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. Five copies on a separate sheet or sheets designated Schedule "A" containing a description of the property (For real property, show the location by municipality and county, a metes and bounds or other adequate description of the property, together with a description of the property and rights, if any, reserved by the utility; and for personal property, include sufficient information to identify the property adequately);

2. Name of transferee or lessee, the consideration or rental and method of payment thereof, and rights reserved by the transferrer or lessor;

3. A copy of the written agreement if any (but if there is no written agreement, it shall be so stated);

4. A certified copy of the resolution of the board of directors or other authority authorizing the transfer or lease;

5. The purpose for which the property was originally acquired, the date of acquisition, the use made of the property for utility purposes, the date when the circumstances under which it ceased to be useful for such purposes, the present use, the possible prospective use and the identity of the official or officials who determined that the property is not now or prospectively required or useful for utility purposes;

6. The basis of the price or rental: assessed valuation, appraisal, comparable sales, or other basis; whether it is the best price or rental attainable (attach appraisal, if any, as exhibit);

7. Whether the proposed consideration or rental represent the fair market value of the property to be conveyed or leased;

8. What steps were taken to put this property on the market and accomplish its sale or lease. (If bids were solicited, give names of bidders and the consideration or rental offered.);

9. Whether there is any relationship between the parties other than that of transferrer and transferee, or lessor and lessee;

10. The actual cost at date of acquisition, and the cost and nature of any improvements;

11. The amount at which the property is now carried on the utility's books;

12. Copies of proposed journal entries to record the transaction when the consideration is more than \$50,000.00;

13. If property is income producing, give details, such as carrying charges, taxes, and assessed valuation;

14. If the property is encumbered by any mortgage, describe the mortgage, state the amount thereof, and the time required to obtain a release;

15. Where the property to be sold or leased involves the transfer of certificates of public convenience and necessity, petitioner shall also comply with N.J.A.C. 16:51-3.3 (Petitions for approval of the transfer of certificates of public convenience and necessity) of this Chapter to the extent applicable;

16. When the property to be sold or leased has a net book cost or fair market value of more than \$100,000, the petitioner must attach to the petition copies of the advertisement required by (b) below, and proof of publication;

17. Railroads shall also show the distance to the nearest railroad track or structure.

(b) Where the Department's approval of sale or lease is required by law and the property has a net book cost or fair market value of more than \$100,000, the property shall be advertised for sale or lease at least twice, one week apart, in a daily newspaper published or circulated in the county in which the property is located, within 90 days immediately prior to the filing of the petition for the approval of the sale or lease, except the advertising shall not be required for sales or leases of property for public utility purposes to another public utility or other person subject to any jurisdiction of the Department. The advertisement shall contain the following:

1. A description of the property to be sold or leased and improvements thereon. In the case of land, this shall include the street address, if any, and a description sufficient to identify the location of the property and its approximate size, which may be a description by metes and bounds or lot and block numbers;

2. The place where the property is located or may be inspected, together with the street address, if any;

3. Conditions of the sale or lease, if any, together with a provision that the utility may reject any or all bids;

4. A statement that the sale or lease is subject to the approval of the Department of Transportation;

5. A statement of the place and final date for submitting sealed bids which shall not be less than ten days after publication of the second advertisement together with a statement of the time and place of the opening of said bids, which shall not be more than five days following the final date for submitting bids, at a place in New Jersey;

6. A sealed bid, in accordance with the requirements of (b)5 above, must be submitted by a prospective purchaser or lessee. However, an offer or agreement to purchase or lease in writing received by the utility or executed before the first date of advertising and still in effect at such date, shall be considered as if it were a sealed bid, provided such offer or agreement is in writing and meets all other conditions of sale or lease, if any, included within the advertising.

(c) In addition to any other transactions not requiring approval or which on their merits may be deemed to be in the ordinary course of business, any lease, grant or permission by a utility to occupy or use its real property or any interest therein which is terminable at the option of the utility upon notice not to exceed 90 days, and any release, by lease, easement, or other permission to occupy or use real property for a period of not more than one year shall be deemed to be in the ordinary course of its business. Neither notice to the Department nor petition for its approval shall be required with respect thereto.

(d) In addition to any other transactions which on their merits may be deemed to be in the ordinary course of business, the sale, lease, encumbrance or other disposition by any utility of such of its property or an interest therein as is set forth in this subsection, may be consummated without petition to the Department for approval, provided, however, that the utility shall have given written notice thereof to the Department, to be received not less than 15 days prior to the effective date of the proposed sale, lease, encumbrance or other disposition of such property. The transactions which may be completed without petition to the Department are as follows:

1. The sale of personal property, other than autobuses, having a net book cost and sale price not in excess of \$75,000 and which is no longer used by or useful to the utility;

2. Except as provided in this Section, the lease or permission to use or occupy real property or any interest therein having a net book cost not in excess of \$125,000 and a net rental not in excess of \$15,000 per annum;

3. The sale or release of real property, or any interest therein, not used by or useful to the utility and having a net book cost and sale price not in excess of \$125,000.

(e) On expiration of the notice period and on payment of the statutory fee, the Director will certify on a true copy of the notice to be furnished to the Department that such sale, lease or release is deemed by the Department to be in the ordinary course of business and within the statutory provision. Such notice shall contain, to the extent applicable, the following:

1. Name of transferee or lessee, the consideration or rental and method of payment thereof, and rights, if any, reserved by the transferrer or lessor;

2. A copy of the agreement or lease and a map of the real property;

3. A statement that the proposed consideration or rental represents the fair market value of the property to be conveyed, or the fair rental value of the property to be leased, giving the basis for the conclusion reached;

4. A statement of any relationship between the parties other than that of transferrer and transferee, or lessor and lessee, or a statement that there is no such other relationship, as the case may be;

5. The amount at which the property is carried on the utility's books;

6. A statement as to whether or not the property is income producing and, if so, details as to whether the petitioner pays all carrying charges, including taxes. In addition, such statement shall include the assessed valuation of the property;

7. A statement, in the case of a proposed sale, that the property is not used by or useful to the utility, and in the case of a proposed lease, grant or permission, that the transaction will not compromise the ability of the utility to render service;

8. A verification by a properly authorized officer, partner or proprietor of the statements contained in the notice;

9. A blank space of three inches shall be provided at the bottom of the first page of the notice for the Department certification.

(f) The Department may, within the aforesaid 15-day notice period, or at any time prior to the actual consummation of the transaction, suspend the provisions of this rule and require the filing of a petition for the approval of the sale, lease, encumbrance or other disposition.

(g) Any buses of an age of ten years or over from the end of the year of manufacture, or where the sales price is \$50,000 or less, which is owned by autobus utilities under the jurisdiction of this Department may be sold without formal petition to the Department for approval of the sale thereof, provided that the autobus utility shall first notify the Department in writing 20 days prior to the date of the proposed sale. (See N.J.S.A. 48:3-7(b), as amended.)

1. The Department may, following receipt of the notice, suspend the provisions of this subsection and require the filing of a formal petition for approval of the sale. However, if no such action is taken by the Department within 20 days of filing, a notice filed under this paragraph shall be considered approved.

2. The notice shall contain the following information:

i. A complete description including make, model, year of manufacture, serial number and year when acquired, of the bus or buses proposed to be sold;

ii. The name and address of the vendee and the amount of the selling price of the bus or buses;

iii. Whether the selling price is attainable;

iv. What steps were taken to place the bus or buses on the market to accomplish the sale;

v. What other offers were received, if any, and how it was determined that the proposed offer is the best price obtainable;

vi. The relationship between the autobus utility and the vendee;

vii. Whether the bus is encumbered and, if so, state the amount and the date when the release will be granted;

viii. A statement that the equipment is not used or considered economically useful in the vendor's public utility operations;

ix. A statement that the utility has sufficient available autobus equipment to meet its service requirements (indicate the number of buses owned before and after the proposed sale and what arrangements were or will be made to replace the equipment proposed to be sold); and

x. A statement that the sale will not adversely affect the ability of the vendor to render safe, adequate and proper service on its regular New Jersey intrastate bus routes.

16:51-3.6 Petitions for authority to transfer capital stock

(a) Petitions for authority to transfer upon the books and records of any autobus company, under N.J.S.A. 48:3-10, any share or shares of its capital stock, shall conform to the provisions of N.J.A.C. 16:51-2.7, 3.1 through 3.6 to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. The respective name and address of the proposed transferor and transferee;

2. A description of the capital stock proposed to be transferred, including the classification of shares; the number of shares of stock authorized for issuance; the par or stated value of the stock; and the total number of shares outstanding;

3. The percent and interest of the outstanding capital stock of the autobus company that, either by itself or in connection with other previous sales or transfers, will vest in the proposed transferee;

4. Proof of publication of public notice thrice, one week apart, in a newspaper of general and regular circulation in the proposed service area which:

i. States that a petition for the transfer of capital stock has been filed with the Department;

ii. Briefly describes the purpose of the petition;

iii. States that objections and other comments should be addressed to the Office of Regulatory Affairs, New Jersey Department of Transportation and provides the address of said office; and

iv. Lists each municipality served by the transferor under its regular route authority, if any, and each county in which the proposed transferor is authorized to make pickups under its charter and/or special authority, if any.

5. Proof of service of a copy of the petition upon:

i. The clerk of each county in which the transferor is authorized to make charter and/or special pickups; and

ii. The clerk of each county in which regular route service is provided by the transferor.

6. A detailed explanation of any reasonably expected changes to be made, if the petition is approved, in the subject autobus company's:

i. Board of directors;

ii. Officers and active managers; or

iii. Policies with respect to its operations, financing, accounting, capitalization, rates, depreciation, maintenance, service or any matters affecting the public interest.

7. A statement as to the transferee's ability to provide the regular route service that it would be responsible for if the transfer were approved (if applicable);

8. A description of the proposed transferee, including information as to whether the proposed transferee is a public utility, a holding company either separately or by affiliation in a utility holding company system, or other domestic or foreign corporation or a natural person;

9. If applicable, the names and addresses of the officers, directors, and shareholders or partners or owners, as the case may be, of the proposed transferee and the extent of their respective interest in the proposed transferee. If the proposed transferee is a public corporation, the list of shareholders shall include only those persons that own five percent or more of the transferee's voting class of stock. If the transferee is a privately held corporation, the shareholders list shall include all persons owning the transferee's voting class stock.

10. A copy of the certificate of incorporation of the proposed transferee as filed with, and stamped by, the Office of the Secretary of State, State of New Jersey (if applicable); and

11. Petition filing fee as prescribed by statute.

(b) The Department may impose restrictions as public convenience and necessity reasonably require.

16:51-3.7 Petitions for discontinuance of service

(a) A petition for discontinuance of service, under N.J.S.A. 48:2-24, shall conform to the provisions of N.J.A.C. 16:51-2.7, and N.J.A.C. 16:51-3.1 through 3.6, to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. Whether the service to be discontinued is the only one of its type in the subject service area;

2. Whether reasonable alternative transportation service to that service area is available; and

3. The reason(s) for the proposed discontinuance.

16:51-3.8 Joinder of requests for relief

(a) A petitioner may join in a single petition more than one independent or alternative request for relief subject, however, to the payment of the statutory filing fees applicable to each of the approvals sought.

(b) The Department may in its discretion sever matters so joined for hearing and determination or take such other action as may be in the public interest.

16:51-3.9 Procedure of department on filing of petition

(a) If, in the opinion of the Department, a petition complies substantially with these rules and appears on its face to state a matter within the Department's jurisdiction, and necessary copies have been received and fees paid, the Director shall file same.

(b) Unless otherwise directed by the Department, petitions and subsequent pleadings shall be served by the parties as provided for in N.J.A.C. 16:51-2.7 and N.J.A.C. 16:51-2.8.

(c) If, within the time allowed for answer, the respondent makes an offer of satisfaction which is accepted by the petitioner, such offer and acceptance signed by the parties or their attorneys shall be filed with the Office and if not disapproved by the Department within 30 days of the Office's receipt of such offer and acceptance, the petition shall be deemed satisfied and the proceedings closed without further action.

(d) When the respondent has not satisfied the petition, the Department may for the purpose of administratively resolving the matter, schedule and conduct a conference between representatives of the Department, the respondent, and the petitioner, and/or any other person deemed by the Department to be an interested party. Thereafter the Department may issue such decision or order as the facts and circumstances appear to require; or the Department may transmit the matter to the Office of Administrative Law as a contested case.

16:51-3.10 Tariff filings which do not propose increases in charges to customers

(a) Tariff filings for the purpose of making effective initial tariffs or revisions, changes or alterations of existing tariffs and which are not filed because of the need for additional revenue from products or services covered by existing tariffs and which do not propose increases in charges to customers, shall conform to the provisions of N.J.A.C. 16:51-2 (Pleadings Generally) and N.J.A.C. 16:51-3.1 through 3.5, to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. Four copies of the proposed tariff or revision, change or alteration thereof, together with an explanation of the manner in which the tariff or change differs from the existing or a prior tariff, and the effect, if any, upon revenues;

2. A statement of the reasons why the tariff or change is proposed to be filed;

3. A statement of notices given, if any, together with a copy of the text of each of said notices;

4. A statement as to the date on which it is proposed to make the tariff or change effective, which date shall not be earlier than 30 days after the filing unless otherwise permitted by the Department.

5. In the case of initial tariffs pro forma income statements for each of the first two years of operations and actual or estimated balance sheets as at the beginning and end of each year of said two-year period.

16:51-3.11 Tariff filings or petitions which propose increases in charges to customers

(a) Filings or petitions for the purpose of making tariff effective or for making revisions, changes or alterations of existing tariffs which propose to increase any rate, fare, toll, rental or charge or to alter any classification, practice, rule or regulation so to result in such an increase (other than filings to effectuate the operation of an existing fuel adjustment clause) shall conform to the provisions of N.J.A.C. 16:51-2 and N.J.A.C. 16:51-3.1 through 3.5, to the extent applicable, and shall in the body thereof or in attached exhibits contain all applicable information and data set forth in N.J.A.C. 16:51-3.10 (Tariff filings which do not propose increases in charges to customers), and in addition shall contain the following: (financial statements shall be prepared in accordance with the Uniform System of Accounts):

1. A comparative balance sheet for the most recent three-year period (calendar year or fiscal year);

2. Comparative income statement for the most recent three-year period (calendar year or fiscal year);

3. A balance sheet at the most recent date available;

4. A statement of the amount of revenue derived in the calendar year last preceding the institution of the proceedings from the intrastate sales of the product supplied, or intrastate service rendered, the rates, tolls, fares or charges which are the subject matter of the filing;

5. A pro forma income statement reflecting operating income at present and proposed rates and an explanation of all adjustments thereon, as well as calculation showing the indicated rate of return on the average net investment (for the same period as that covered by the pro forma income statement), that is, investment in plant facilities plus supplies and working capital to the extent claimed, less the reserve for depreciation and advances and contributions for facilities. If the request for rate relief is based upon N.J.S.A. 48:2-21.2, there shall be included, in lieu of the requirements of the foregoing paragraph, a statement showing that the facts of the particular situation meet the statutory requirements.

i. In any such proceeding on a tariff filing or petition pursuant to N.J.A.C. 16:51-3.11, the parties shall be given an opportunity to be heard on issues relating to the design of the proposed tariffs after the determination by the Department of the amount of any rate relief, but prior to the acceptance of the new tariffs. No new evidence shall be submitted except by permission of the Department and the parties shall address themselves only to matters in the existing record. The opportunity to be heard shall be on written comment filed within five days of the company's filing of its proposed rate design. The Department may in its discretion set oral argument on short notice concerning rate design issues;

ii. In providing the information required by the immediately preceding subsection, a company may also file, in addition to the new rates proposed to become effective, alternative rate changes designed to produce the full revenue request, which alternatives are illustrative of the application of other possible rate designs to the filing.

6. An itemized schedule showing all payments or accruals to affiliated companies or organizations and to those who own in excess of five percent (5%) of the utility's capital stock regardless of the form or manner in which such charges are paid or accrued and an explanation of the service performed for such charges;

7. A copy of the form of notice to customers.

(b) Financial statements shall be prepared in accordance with the Uniform System of Accounts.

(c) Each utility that makes a filing under subsection (a) (Tariff filings or petitions which propose increases in charges to customers) of this Section shall, unless otherwise ordered or permitted by the Department, give notice thereof as follows:

1. Serve a notice of the filing and a copy of the proposed tariff or a copy of the petition or a statement of the effect of the proposed filing upon the municipal clerk in each of the municipalities in which there is rendered a regular route service, the charge for which is proposed to be increased;

2. Serve a notice of the filing and two copies of the petition or tariff on the Director, Division of Rate Counsel, Department of the Public Advocate;

3. Notice of the filing and the effect upon patrons of various classes shall be given by posting of notices in the stations, cars and buses on the affected route of such utility, and by publication in newspapers published and circulated in the utility's service area.

(d) Each utility that makes a filing under (a) above shall, after being advised by the Department or the Office of Administrative Law of the time and place fixed for hearing, if any, and unless otherwise ordered or permitted by the Department or the Office of Administrative Law serve notice of the hearing at least 20 days prior to such time on those persons specified in (c) above and shall give such notice to those persons designated in (c)3 above no more than 30 days and no less than 20 days prior to the date set for hearing, in newspapers published and circulated in the utility's service area and by posting in the stations, cars and buses on the affected route of such utility, at least 20 days prior to the date set for hearing. Such notices shall remain posted in said vehicles through the hearing date.

(e) Where notice is prescribed under this rule it shall be at the cost and expense of the party obligated to give or serve the notice.

(f) Proof of service and/or notice required by this rule shall be filed with the Department at least five days before the date set for hearing. (Also see N.J.A.C. 16:51-11.1 et seq.)

16:51-3.12 Petitions for permission to keep books and records outside the State of New Jersey

(a) Petitions for authority to keep books, records, accounts, documents and other writings outside the State of New Jersey, filed with the Department as required under N.J.S.A. 48:3-7.8, shall conform to the provisions of N.J.A.C. 14:1-5 and N.J.A.C. 14:1-6.1 through 6.5 to the extent applicable, and shall in the body thereof or in attached exhibits also provide the following information:

1. Complete description of the specific books, records, accounts, documents and other writings proposed to be kept outside the State of New Jersey;

2. The exact location where the books and records will be kept;

3. If all books and records will not be kept outside the State, what remaining records will be kept at the New Jersey location;

4. The reason for proposing to keep its books and records at a location outside the State;

5. The availability of adequate required space, facilities and experienced personnel at the new location;

6. The cost to the petitioner of maintaining the books and records at the new location as compared with that of maintaining the records at the New Jersey location;

7. The extent of the financial advantage to the customers and other benefits to the public utility which will result from keeping the books and records outside the State;

8. Whether the books and records which will be kept at the location outside the State will be, on notice in writing of the Department, produced at such time and place within this State as the Department may designate;

9. Whether the petitioner will pay to the Department any reasonable expenses or charges incurred by the Department for any investigation or examination, if the Department grants said permission;

10. The location where the petitioner will continue to maintain an office within the State of New Jersey for the convenience of its customers to pay bills, file complaints and conduct other business with the utility;

11. The name and address of the petitioner's statutory agent.

SUBCHAPTER 4. MOTIONS: INTERVENTION

16:51-4.1 Motions; generally

(a) Where a party other than a petitioner seeks an order of the Department, the party shall apply by motion.

1. A movant shall make each motion in writing, unless it is made orally during an informal department hearing.

2. No technical forms of motion are required. In a motion, a party shall state the grounds upon which the motion is made and the relief or order being sought.

(b) A party shall submit a proposed form of order with each motion, unless this requirement is waived by the Director.

(c) A party shall file each motion with the Director, except for motions made during an informal Department hearing and emergency motions.

1. If the party provides an extra copy of the motion and a self-addressed stamped envelope, the Director shall mark the copy filed and mail it to the movant.

(d) If a motion for substantially the same relief as that previously denied, a party shall specifically identify the previous proceeding and its disposition.

16:51-4.2 Motions in writing with no oral argument, generally; time limits

(a) With the exception of emergency relief applications made under N.J.A.C. 16:51-3.4, when a motion is in writing no action shall be taken thereon until at least 20 days have expired from the date of service upon the opposing party unless an expedited schedule is ordered for good cause shown.

(b) The moving papers shall establish a submission date at least 20 days from the date of service upon the opposing party, when the matter will be submitted to the Department for disposition. Proof of service shall be filed with the moving papers or promptly thereafter.

(c) The opposing parties shall file and serve responsive papers, that is, an answer, no later than 10 days after receiving the moving papers.

(d) The movant may file and serve further papers, that is, a reply, responding to any matter raised by the opposing party and shall do so no later than five days after receiving the responsive papers.

(e) All motions in writing shall be submitted for disposition on the papers unless a settlement conference or an informal Department hearing is arranged for by the Director.

(f) All motions shall be deemed denied if not decided within 60 days from the filing thereof, except as otherwise specified in these rules.

(g) A motion to intervene against a petition for approval, modification or transfer of a Certificate must be filed with the Department no later than 30 days after the date of service of the petition upon the movant, in those cases where the movant has been served a copy of the petition; and, in all other such cases, 30 days after the last date of publication required under N.J.A.C. 16:51-3.1(c)1. In any event, such motions must be filed either prior to the transmittal of the case to the Office of Administrative Law as a contested case or prior to the issuance of the Department's final decision on the matter, whichever is earlier.

(h) The time requirements of this rule may be modified in the discretion of the Commissioner for good cause shown.

16:51-4.3 Affidavits; briefs and supporting statements

(a) Motions and answering papers, i.e., answers and replies, shall be accompanied by all necessary supporting affidavits and briefs or supporting statements. All motions and answering papers shall be supported by affidavits for facts relied upon which are not of record or which are not the subject of official notice. Such affidavits shall set forth only facts to which the affiants are competent to testify. Properly verified copies of all papers or parts of papers referred to in such affidavits may be annexed thereto.

(b) In the discretion of the Commissioner, a party or parties may be required to submit briefs or supporting statements pursuant to the schedule established in N.J.A.C. 16:51-4.2 or as ordered by the Commissioner.

16:51-4.4 Disposition of motions to intervene; generally

(a) If a movant demonstrates that it has a substantial and specific interest in the subject matter which will be affected by the proceeding and if such interest with respect to the proceeding would not otherwise be adequately represented, the Commissioner or the Director may grant the motion to intervene by written order or decision on such terms as the Commissioner or the Director, as the case may be, may prescribe.

(b) Whenever it appears during the course of a proceeding that an intervenor has no substantial and specific interest which would be affected by the proceeding, the Commissioner or the Director may dismiss the intervenor from the proceeding.

(c) Timely filed motions to intervene shall be considered prior to any disposition of the petition to which they are directed.

16:51-4.5 Disposition of motions to intervene in regular route petitions

(a) With respect to petitions for regular route service (original authority or modification requests), in order for a movant to demonstrate that it has an interest in the subject matter that will be substantially and specifically affected by the proceeding, its motion must clearly indicate that:

1. It operates an authorized regular route service in the proposed service area; and that the granting of the relief sought may jeopardize the profitability of said regular route service;

2. There is insufficient public need for the proposed regular route service;

3. The petitioner has failed to make a request for which the Department can grant relief;

4. The petition lacks veracity; or

5. That the petitioner is unfit to conduct the proposed regular route service.

(b) For purposes of (a)5 above, items relating to fitness shall include, but are not limited to:

1. The availability of the requisite equipment or personnel to provide the proposed service;

2. Whether petitioner has a history of illegal operations such that to grant the relief requested by petitioner might disserve the public interest;

3. Whether petitioner has been convicted of an offense listed in N.J.S.A. 5:12-86(c);

4. Whether petitioner has otherwise acted in such a way that it would be inimical to the public interest to grant petitioner's relief request.

16:51-4.6 Disposition of motions to intervene in proceedings involving charter and/or special operations

(a) With respect to petitions for charter and/or special autobus service, in order for a movant to demonstrate that it has an interest in the subject matter that will be substantially and specifically affected by the proceeding, its motion must clearly indicate:

1. That the petitioner has failed to make a request for which the Department can grant relief;

2. The petition lacks veracity; or

3. That the petitioner is unfit to conduct the proposed service.

(b) For purposes of (a)3 above, items relating to fitness shall include, but are not limited to:

1. The availability of the requisite equipment or personnel to provide the proposed service;

2. Whether petitioner has a history of illegal operations such that to grant the relief requested by petitioner might disserve the public interest;

3. Whether petitioner has been convicted of an offense listed in N.J.S.A. 5:12-86(c); or

4. Whether petitioner has otherwise acted in such a way that it would be inimical to the public interest to grant petitioner's relief request.

SUBCHAPTER 5. REHEARING, REARGUMENT OR RECONSIDERATION

16:51-5.1 Method of instituting

(a) A motion for rehearing, reargument or reconsideration of a proceeding may be filed by any party within 10 days after the issuance of any final decision or order by the Department.

1. Such motion shall state in separately numbered paragraphs the alleged errors of law or fact relied upon and shall specify whether reconsideration, reargument, rehearing, or further hearing is requested and whether the ultimate relief sought is reversal, modification, vacation or suspension of the action taken by the Department, or other relief.

2. Where opportunity is also sought to introduce additional evidence, the evidence to be adduced shall be stated briefly together with reasons for failure to previously adduce said evidence.

(b) The Department at any time may order a rehearing, reargument or reconsideration on its own motion and extend, revoke or modify any decision or order made by it.

16:51-5.2 Motions and answers on rehearing

(a) A copy of the motion shall be served by the moving party upon all other parties or their attorneys of record, forthwith upon the filing hereunder. The moving party shall also give such notice, as the Department may direct, of the filing of the motion to all other persons to whom notice of the original proceeding had been given.

(b) Any answer to the motion shall be filed within ten days following the service of the motion. Failure to file an answer shall be deemed to be a waiver of any objection to the granting of the motion.

(c) Any motion hereunder which is not granted or otherwise expressly acted upon by the Department within 30 days after the filing thereof, shall be deemed denied.

(d) The filing or granting of any motion under this rule shall not operate as a stay of the Department's decision or order. A stay will be granted only for good cause shown.

SUBCHAPTER 6. CONFERENCES

16:51-6.1 Purposes

(a) Informal conferences of parties or their attorneys may be held at any time to provide opportunity for settlement, subject to the approval of the Department of a proceeding or any of the issues therein, and for the submission and consideration of facts, arguments, offers of settlement or proposals of adjustment, as time, nature of proceeding and the public interest may permit.

(b) Unaccepted proposals of settlement and proposed stipulations not agreed to shall not be taken into account in the Department's disposition of a petition or other pleading.

SUBCHAPTER 7. REPORTING ACCIDENTS

16:51-7.1 Procedures

(a) Accidents resulting from the operations, use or maintenance of autobuses or street cars under the jurisdiction of the Department of Transportation shall be reported as follows:

1. Report by mail to the Department's Office of Regulatory Affairs, McCarter Highway and Market Street, P.O. Box 10009, Newark, NJ 07101 on the form prepared for this purpose (Form 501) within 48 hours of the occurrence of the accident. (Forms may be obtained from the Office of Regulatory Affairs.)

2. Notify the Office immediately by telephone between 8:30 A.M. and 4:30 P.M., and at all other times notify one of the persons listed in the Department's Autobus Accident Contact Persons List (available from the Office of Regulatory Affairs) immediately by telephone, in the case of:

- i. Grade crossing accidents;
- ii. Overturning of buses;
- iii. Runaway buses and other accidents of an unusual nature, whether or not bodily injury results;
- iv. Accidents involving serious bodily injury, for example, broken limbs or severe lacerations; or
- v. Accidents involving a fatality.

(b) If at the time of the submission of the written report, the autobus company is unable to state the corrective measures taken or make recommendations to avoid a recurrence of the accident, the autobus company shall, within 30 days of the date of the accident, file a report which shall set forth the aforementioned corrective measures and recommendation. This report shall show the same accident report number as the original accident report.

(c) The autobus company shall not take corrective measures prior to the inspection of said utility's vehicle involved in the accident by an employee of the Department trained to perform post accident autobus inspection, in the accident is of a type described in N.J.A.C. 16:51-7.1(a)2.

(d) The Department may summarily invoke the sanctions provided for by law for violation of this subchapter.

SUBCHAPTER 8. PROVISION OF SERVICE

16:51-8.1 Commencement of operations

The operation of a route which has been approved by the Department shall be inaugurated within 60 days from the date of said approval. Failure to do so shall terminate the Department's approval and make the same inoperative and void.

16:51-8.2 Change of route

There shall be no deviation from the approved route without the approval of the Department except in emergency, in which case the Department shall be promptly notified of such change. The approved route must be resumed immediately upon approval of the cause for temporary rerouting.

16:51-8.3 Discontinuance of service

(a) No autobus or trolley utility shall discontinue the operation of a route or routes, or a portion thereof, without first filing a petition with the Department, which petition shall give the reasons for such discontinuance. Such proposed discontinuance shall not become effective until approved by the Department.

(b) Should any utility discontinue operation without the permission of the Department, the Department may summarily invoke the sanctions provided for by law.

16:51-8.4 Interruption of service

Where service on a route or routes has been interrupted and such interruption appears likely to continue for a period in excess of four hours, a report shall be made to the Department by the speediest means of communication available, with a full statement of the cause and probable duration. The public along the route or routes shall be promptly notified of service interruptions by such means as are feasible and practicable including announcements and notices at terminals and ticket offices, if any, and notification to news disseminating agencies and municipalities affected. Telephone reports shall be promptly confirmed by a telegraphic or other written report.

16:51-8.5 Emergency equipment

All autobus and trolley utilities shall maintain sufficient reserve equipment to insure the reasonable maintenance of the established routes and fixed time schedules.

16:51-8.6 Stops before grade crossings

All autobus and trolley utilities shall have their vehicles come to a full stop before crossing the tracks of any railroad at grade: such stop to be made not less than 15 feet nor more than 50 feet from the nearest rail, the stopping point to be determined by the physical conditions at the crossing permitting a view of approaching trains from the near rail of the tracks before proceeding from stop position.

16:51-8.7 Doors to be closed

All autobus and trolley utilities shall keep the doors of the vehicles closed when the vehicles are in motion.

16:51-8.8 Drivers conversing

Autobus and trolley utilities shall not allow the drivers of any autobus or trolley to engage in any unnecessary conversation with the passengers.

16:51-8.9 Filling fuel tanks

(a) Fuel tanks on autobuses shall be filled from outside the autobus and shall not be filled or replenished with fuel while passengers are in said autobus.

(b) Fuel tanks shall not be filled or replenished while the motor is running.

SUBCHAPTER 9. OFFICES

16:51-9.1 Location

(a) Each utility shall maintain in, or within reasonable proximity of, its service area an office, the current location of which shall be furnished to the Department, where applications for service, complaints, service inquiries, bill payments, and so forth, will be received.

(b) Each utility shall furnish the Department with the current location of the offices where maps and records covering the various service areas are available to supply, upon reasonable request, information to customers, governmental bodies, and other utilities and contractors.

16:51-9.2 Personnel to be contacted

(a) Each utility shall furnish to the Department and keep current a list of names, addresses and telephone numbers of responsible officials to be contacted in connection with routine matters during normal working hours.

(b) Each utility shall also furnish to the Department and keep current a list of names, addresses, and telephone numbers of responsible officials who may be contacted in event of emergency during other than normal working hours.

16:51-9.3 Emergency telephone numbers

(a) Each public utility shall maintain a listed emergency number in appropriate telephone directories, and file same with police departments, fire departments, municipal clerks and other appropriate governmental agencies.

SUBCHAPTER 10. RECORDS

16:51-10.1 Location and examination

Each utility shall notify the Department, upon request, of the office or offices at which various records are kept. These records shall be open for examination by the Department's inspectors.

16:51-10.2 Periodic reports

Every utility shall file with the Department on or before March 31 of each year a summary of its finances and operations for the preceding calendar year on forms prescribed and furnished by the Department. In special instances, utilities may be required to submit reports quarterly and monthly as directed by the Department. Other periodic reports shall be filed on or before the due date noted on the report form.

16:51-10.3 Accidents

Each utility shall keep a record of and report to the Department all accidents, as set forth in N.J.A.C. 16:51-7.

16:51-10.4 Public records

(a) All records, except those records set forth in (d) below, which specifically are required by statute to be made, maintained or kept by and for the Department shall be public records within the meaning of N.J.S.A. 47:1A-1 et seq.

(b) All other records of the Department shall not be subject to the provisions of N.J.S.A. 47:1A-1 et seq., and shall be available for inspection and examination only to the extent and for such purposes as may be expressly authorized by the Commissioner of the Department.

(c) The fee for copies of records, instruments and documents of the Department shall be the fee established by law.

(d) All records which are required to be made, maintained or kept by and for the Department which relate to accidents and investigation of accidents concerning public utilities and to safety inspections and surveys of property and equipment of public utilities shall not be deemed public records, copies of which may be purchased or reproduced under the provisions of N.J.S.A. 47:1A-1 et seq.

SUBCHAPTER 11. TARIFFS

16:51-11.1 Filing with department access to public

Every autobus company and trolley company shall file with the Department and keep open to public inspection in each office where applications for service may be made, tariffs applicable to such territory, the business of which is commonly transacted at such office, showing all rates and charges made, established, or enforced, or to be charged or enforced, all rules and regulations relating to rates and charges or services used or to be used, and all general privileges and facilities granted or allowed. The same shall be readily accessible to the public at all times during office hours, and on demand by any person shall be produced for examination immediately. All tariffs legally filed with the Department and now in effect shall continue in force until legally changed. The Department may direct the reissue or modification of any tariff or any part thereof at any time.

16:51-11.2 Letter of transmittal

(a) Four copies of tariffs, parts of tariffs or supplements thereto shall be filed with the Department except that two copies shall be filed by railroads. All such tariffs, parts of tariffs, or supplements shall be accompanied by a letter of transmittal addressed to the Office of Regulatory Affairs. If acknowledgement is desired, such letter shall be in duplicate and shall be accompanied by a self-addressed stamped envelope.

(b) The letter of transmittal shall take the following form:

LETTER OF TRANSMITTAL
(Name of Common Carrier)

Transmittal Advice No. _____ Place and Date _____

To: Office of Regulatory Affairs
State of New Jersey
Newark, New Jersey

The enclosed tariff, issued _____ is transmitted for filing in compliance with the requirements of the Department of Transportation, State of New Jersey

(If a complete tariff)

N.J.D.O.T. (P.U.C.N.J. or I.C.C.) No. _____ Effective _____

(Or if a revised page)

_____ Revised Page No. _____

Effective _____

(Or if a supplement)

Supplement No. _____ to N.J.D.O.T. (P.U.C.N.J. or I.C.C.) No. _____

Effective _____

(Name of Utility)

(Signature of Officer Transmitting)

16:51-11.3 Statement of proposed changes

Except in the case of tariffs published under an order of the Department, each letter of transmittal shall be accompanied by a statement showing the changes which are proposed to be made and the reason for each change.

16:51-11.4 Timelines of filing

Except as provided by N.J.A.C. 16:51-6.16, every tariff, part of tariff, or supplement thereto shall be filed with the Department, as hereinbefore provided, not less than 30 days prior to the date on which it is proposed to be made effective, unless the Department, for good cause shown, shall permit or require the proposed tariff, part of tariff, or supplement to become effective on less than 30 days notice.

16:51-11.5 Separate series issuance; number; prefix

(a) Tariffs shall be issued in separate series and the tariffs in each series shall be numbered in consecutive order. Each number shall show as a prefix N.J.D.O.T. (or P.U.C.N.J.) as the case may be, and shall further show the number of the tariff or tariffs to be superseded, if any, except that the Department will receive for filing any tariffs which apply to the intrastate transportation of passengers or freight by railroad within New Jersey which are identified by either an N.J.D.O.T. or a P.U.C.N.J. number or an I.C.C. number. Both numbers need not appear on any one tariff but a tariff bearing only an I.C.C. number will not be accepted unless it contains a reference note indicating that it applies in intrastate transportation within New Jersey.

(b) Rate tariffs shall be prepared and arranged as follows:

- 1. Title Page;
- 2. Table of Contents;
- 3. General Information;
- 4. Classification and Rates.

16:51-11.6 Complete document; references

Each classification and rate shall be complete in itself, except that reference may be made to rules and regulations appearing in the schedule under General Information or in a separate schedule under General Information or in a separate schedule referred to therein. General rules and regulations appearing or referred to in a schedule under General Information shall apply to service to be furnished under each Classification or rate unless otherwise expressly provided. Any exception to the application of a general rule or regulation must be clearly stated.

16:51-11.7 Preparation; paper

Tariffs and supplements shall be prepared on hard finished, durable paper. Sheets shall not exceed 8 x 11 inches in size. Typewriting, photocopying, or any printing process may be used.

16:51-11.8 Consecutively numbered pages

When a complete tariff is filed, each page, except the title page, which in all cases shall be considered as Page No. 1, shall be issued consecutively numbered. (Example: "Page No. 2," "Page No. 3," and so forth.)

16:51-11.9 Supplement or reissue

A supplement to or reissue of a filed tariff shall indicate the number of prior tariff or supplement in connection with the N.J.D.O.T. or (P.U.C.N.J. number) or I.C.C. number.

16:51-11.10 Suspension; supplement form

When a tariff or portion thereof is suspended by order of the Department a consecutively numbered supplement shall be issued bearing notice in substantially the following form:

"By order of the Department of Transportation, State of New Jersey made _____ (Here list suspended tariffs) has (have) been suspended to and including _____. Pending restoration, reissue or cancellation, the rates, rules and regulations in (Here list tariffs which it was proposed to supersede) shall apply."

16:51-11.11 Less than 30 days' notice request; application

(a) Any common carrier desiring permission to change existing rates on less than 30 days' notice shall file with the Department a tariff, part of tariff, or supplement, if necessary, containing the proposed change and the application in the form prescribed herein requesting authority to put such tariff into effect in less than 30 days after filing, and indicating the date it is desired that such rates become effective. Where special conditions arise necessitating a change in the proposed effective date, extension may be requested. Such application shall be contained in the statement of tariff changes.

APPLICATION FOR AUTHORITY TO MAKE CHANGES
EFFECTIVE ON LESS THAN THIRTY DAYS NOTICE

To: Office of Regulatory Affairs
State of New Jersey
Newark, New Jersey

(Name of Common Carrier) by (Name of Officer)

its (Title of Officer) _____ hereby applies for

authority to make effective the following rates, N.J.D.O.T. (or P.U.C.N.J. or I.C.C.) No. _____ on _____ 19____ by filing with the Department on _____ days notice. This application is based upon the following special circumstances and conditions:

_____ (Name of Utility)
_____ (Name and title of
_____ authorized representative)

(b) If the application is granted, the permission will specify the number of days on which such tariff may become effective after date of filing with the Department.

16:51-11.12 Notation form

(a) On tariffs authorized to be made effective on less than 30 days' notice, a notation in the following form shall be shown:

"Effective on (date) _____ on _____ days notice, under authority of the Department of Transportation, State of New Jersey. Special Permission (Order No.) _____, made _____."

(b) In the case of an entire tariff, the notation need appear on the title page only, immediately following the effective date. In the case of separately issued supplements, it shall appear on each supplement immediately above the lower marginal line.

16:51-11.13 Late filing, rejection

Tariffs or supplements received for filing too late to give the Department the notice prescribed by permission of the Department, or which fail to plainly state the changes proposed to be made in the tariff then in force and the time when the changes proposed will go into effect, are subject to rejection and return. If a tariff is rejected, the number which such tariff bears shall not be used again. Such tariff shall not thereafter be referred to as cancelled, amended, or otherwise, but the tariff issued in lieu of such rejected tariff shall bear, under the statement specifying the tariff superseded thereby, a notation in substantially the following form:

"Issued in lieu of _____, rejected by the Department."

EXAMPLE

Supplement No. 2 Issued in lieu of Supplement No. 1 rejected by the Department of Transportation, State of New Jersey.

16:51-11.14 Rules or classifications prescribed by department

When rates or classifications are prescribed by decision or by order of the Department, or when tariffs are to be revised in conformity with such decision or order, the changes made pursuant thereto shall be established by supplements or reissues of the tariff or tariffs affected, filed and posted as provided in this Subchapter. Each title page containing rates or provisions established pursuant to the order of the Department shall bear the following notation:

Issued in compliance with decision (or order) of the State of New Jersey, dated _____.

16:51-11.15 Passenger fares for named or limited period

(a) Passenger fares covering a named and limited period, issued for special parties, conventions, excursions, and other extraordinary reasons, may properly be established on short notice. To avoid the necessity for special application in cases of this kind, the Department has made a general order fixing the named time of notice of round-trip excursion fares. Railroads may be governed accordingly.

(b) Fares for an excursion limited to a designated period of not more than ten days may be established upon posting a tariff one day in advance of the effective date in two public and conspicuous places in the waiting room of each station where tickets for such excursions are sold and mailing two copies of tariff to the Department.

(c) Fares for an excursion limited to a designated period of more than ten days and not more than 30 days may be established upon posting a tariff three days in advance of the effective date in two public and conspicuous places in the waiting room of each stations where tickets for such excursions are sold and mailing two copies of tariff to the Department.

(d) The term "limited to a designated period" used in this section means the period beginning with the first day on which the transportation can be used and ending with, and including, the day upon which the return trip must be completed.

(e) A series of temporary round-trip excursion fares limited for designated period as set forth in (b) and (c) above, the effectiveness of which extends over a period exceeding 30 days but not more than one year, may be published in the same tariff and established as provided in (c) above as to certain of the fares and accompanying provisions, and on statutory notice as to the remainder. For example, tariff is filed with the Department March 2 to be effective March 7, 14, 21, 28, April 4, 11, 18 and 25, with final return limit of eight days in addition to date of sale. From March 7 to final return limit of ticket sold, April 25, is 58 days. In connection with the sales dates of March 7, 14, 21 and 28, the tariff must indicate by appropriate symbol that insofar as it is effective on those dates it is issued under authority of the Department of Transportation, State of New Jersey. The tariff insofar as it is effective on that date of April 4, 11, 18, 25, is filed on statutory notice, and no notation to that effect is necessary.

(f) Supplement permitted; changes in tariff.

1. No supplement may be issued to a tariff filed under authority of (b) above, except for the purpose of cancelling the tariff, and the title page of tariff must so state.

2. A tariff issued under authority of (c) and (e) above may have only one supplement in effect at one time.

3. Changes in tariffs of two or more pages issued under authority of (c) and (e) above may be made for the following purposes:

i. To change or add dates of sale; but the effectiveness of a tariff, as amended, issued under authority of (e) above shall not extend over a period exceeding one year;

ii. To extend return limit;

iii. To add selling stations or destinations, routes, or privileges;

iv. To reduce fares.

4. Changes specified in (f)3 above in a tariff issued under authority of (c) above established by supplement to the tariff in the same manner as authorized in said subsection (c) for the tariff.

5. Changes specified in (f)3 above in tariffs issued under authority of (e) above may be made by supplement, or reissue of the tariff, by filing and posting such changes not later than three days before they are to become effective.

(g) Each tariff or supplement issued hereunder must bear a notation on the title page "Issued under authority of the Department of Transportation, State of New Jersey, (N.J.A.C. 16:51-11.15)."

16:51-11.16 Agent authorization

If tariffs and supplements thereto, classifications, and so forth, are filed with the Department by a designated and authorized agent of the carrier, notice of such authorization must be filed with the Department, by and

in the name of the carrier. In cases of change of agency similar authorization shall be filed by and in the name of the carrier. The type or form of such authorization is not hereby specified and one or more agents may be shown thereon.

SUBCHAPTER 12. NOTICE REGARDING CHANGES IN FARES OR OPERATING SCHEDULES

16:51-12.1 Notices regarding fares

(a) In order that adequate and proper notice may be given to the public of any hearing, change in schedule or fares, or any matter in which the Department may require that public notice be posted, every public utility owning, operating, managing or controlling any bus or rail service operation for public use within the State of New Jersey, by the approval of the Department shall post such notices in the vehicles and places required by the Department so as to be plainly visible to the public.

(b) The heading of the notice which shall contain information as to the title of the notice, such as "Notice of Public Hearing," "Notice of Change in Fare," "Notice of Change in Schedule," and so forth, shall be printed and set forth in letters not less than 3/4 inch in size.

(c) The body of this notice which shall contain full information as to the matter or matters upon which notice to the public is required shall be printed and set forth in letters not less than 3/8 inch in size.

(d) Such notice or notices shall remain posted until after such hearing is had or such effective date or the occasion for such notice has passed.

16:51-12.2 Notices regarding operating schedules

(a) In order that adequate and proper service may be continuously assured, every public utility owning, operating, managing or controlling any autobus or service operation for public use within the State of New Jersey, with approval of the Department shall, not less than 20 days before putting into effect any change or alteration in any existing operating schedule which would result in a substantial reduction of the service or materially change or alter headways and the arriving or leaving time of the vehicle, comply with the following:

1. File with the Department of Transportation, by mailing to Office or by delivery thereto, two copies of a notice setting forth therein the proposed change or alteration;

2. File with the clerk of each municipality served and affected by the proposed changes or alteration, two copies of the aforesaid notice;

3. Immediately following the filing of the aforesaid notice, such public utility shall post notice of its intent to change or alter its schedule for a period of 15 days in the vehicles operated by it. Such notice shall contain the following information:

i. From whom and where information of the extent of such change or alteration may be obtained;

ii. That notice has been filed by the company with the Department of Transportation.

iii. That notice has been filed with the clerk of each municipality served and affected by the proposed changes or alterations.

(b) Such public utility may, 10 days after the expiration of the aforesaid 15-day notice period, place the change or alteration in effect unless the Department shall have otherwise provided. When under the provisions of this section it is permissible to place into effect such a change in schedules, the utility shall immediately notify the Department in writing whether or not the proposed schedule change is being effectuated.

SUBCHAPTER 13. COMPLIANCE WITH ORDERS, DECISIONS AND RECOMMENDATIONS

16:51-13.1 Orders and decisions

Upon issuance of an order or decision of the Department, the party to whom the same is directed must notify the Department in writing on or before the date specified in said order or decision whether or not compliance has been made in conformity therewith.

16:51-13.2 Recommendations

Upon the making of any recommendation by the Department, the party to whom the same is directed must within 15 days after the making of the recommendation, unless otherwise specifically required, notify the Department in writing of the acceptance or rejection thereof. Failure to comply with this rule will be deemed an acceptance of the recommendation.

16:51-13.3 Extension of time limits

In instances where the Department's decision or order contains a specific time or date of compliance, and the petitioner desires extension of such time limit, petition to the Department shall be made in writing at least five days before the expiration of the time limit.

16:51-13.4 Answers to communications

Unless otherwise specified, any letter or telegram from the Department directing investigation of any matter under its jurisdiction must be complied with by the autobus company and a report received by the Department within 15 days from the date of the letter or telegram. If circumstances prevent compliance with this rule, the autobus company must advise the Department in writing, within the above prescribed period, of its inability to comply and the reasons therefor.

**SAMPLE ACCIDENT REPORT FORM--
ALL OTHER UTILITIES
REPORT OF ACCIDENTS**

Report No. _____

Name of Reporting Utility: _____

Date of Accident: _____ Time of Day _____

Place of Accident: _____

Details of Casualties to Persons: _____

Details of Effect on Service: _____

Details of Accident (Nature and Cause): _____

Corrective Measures: _____

Recommendations to Avoid Recurrence: _____

SIGNED: _____ TITLE: _____ DATE: _____

TREASURY-GENERAL

DIVISION OF PENSIONS

(a)

**Public Employees' Retirement System
Election of Member-Trustee**

Adopted Amendment: N.J.A.C. 17:2-1.4

Proposed: January 5, 1987 at 19 N.J.R. 52(a).

Adopted: February 27, 1987 by the Board of Trustees, Public Employees' Retirement System, Janice Nelson, Secretary.

Filed: March 5, 1987 as R.1987 d.157, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 43:15A-17.

Effective Date: April 6, 1987.

Expiration Date: December 17, 1989.

Summary of Public Comments and Agency Responses:

No comments were received on the proposal. However, the Board has amended the rule upon adoption.

Under the adopted rule, biographical information on candidates will be prepared by the Division of Pensions and be submitted to candidates for approval. The information would be subject to final approval by the board of trustees. This procedure is different than that provided in the original proposal. Under the original proposal, candidates would have prepared and submitted the information which would have been subject to editing by the board and rejection of any information which it considered other than biographical in nature.

The reason for the change is to eliminate the potential for disputes between the board of trustees and candidates over the information to be included in the biographical information sheets. This change is not substantive because it does not change the basic nature of the proposal or add any significant new material to the proposal. The change is merely in the procedure for developing the information to be included in the information sheets.

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

17:2-1.4 Election of member-trustee

(a) The election of the Board of Trustee members will include the use of nominating petitions.

1.-5. (No change.)

6. Biographical information on the candidates will be distributed to the certifying officer of each employing agency at the time of distribution of ballots or notices of election without balloting.

(b)-(g) (No change.)

(h) Rules concerning biographical information on candidates are as follows:

*[1. Each candidate may submit a statement of biographical information of no more than 200 words for inclusion in an informational sheet of biographical information on the candidates.

2. The board may edit any information submitted to correct spelling or grammatical errors, and may refuse to include any information from a candidate's statement in the informational sheet if the board determines that the information is other than biographical in nature.]*

1. An informational sheet of biographical information on each candidate shall be prepared by the Division of Pensions. The information to be included on each candidate shall be approved by the candidate. The informational sheet shall be approved by the board.

*[3.]**2.* Copies of the informational sheet shall be distributed to the certifying officer of each employing agency at the time of distribution of ballots or notices of election without balloting.

*[4.]**3.* The informational sheets shall be posted at appropriate places throughout the workplace of each employing agency or be otherwise distributed so that the members of the retirement system will have reasonable opportunity to read and consider the biographical information on the candidates.

(a)

**Public Employees' Retirement System
Enrollment Dates**

Adopted Amendments: N.J.A.C. 17:2-2.4, 3.1 and 5.2

Proposed: November 17, 1986 at 18 N.J.R. 2320(b).

Adopted: February 11, 1987, by the Board of Trustees, Public

Employees' Retirement System, Janice Nelson, Secretary.

Filed: February 24, 1987 as R.1987 d.144, without change.

Authority: N.J.S.A. 43:15A-17.

Effective Date: April 6, 1987.

Expiration Date: December 17, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

17:2-2.4 Enrollment date

(a) A new appointee in the classified service shall be considered as beginning his or her service on the date of his or her regular appointment. The compulsory enrollment date shall be fixed as the first of the month for an appointee whose regular appointment date falls between the first through the 16th of the month and the compulsory enrollment date shall be fixed as the first of the following month for an appointee whose regular appointment date falls between the 17th and the end of the month. If an applicant, an optional enrollee, fails to give the date of his or her enrollment application that he or she desires to enroll in the system, the applicant shall be enrolled as of the first of the month following the receipt of the enrollment application.

(b) (No change.)

1. (No change.)

2. The date of compulsory enrollment shall be fixed as the first of the month for an appointee whose beginning employment date falls between the first through 16th of the month and the compulsory enrollment date shall be fixed as the first of the following month for an appointee whose beginning employment date falls between the 17th and the end of the month.

(c) (No change.)

17:2-3.1 Compulsory and optional enrollment

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

(c) When proof of insurability is required, the member's opportunity to prove such insurability shall expire one year (12 months) from the date the initial written notice is sent advising him or her that he or she must prove insurability by taking a medical examination.

17:2-5.2 New enrollment purchase or rate adjustment

Upon enrollment or reenrollment, a veteran shall contribute at the present rate applicable to the age resulting from the subtraction of his or her years of prior service (pre-1955) from the date he or she began his or her present employment or the date of enrollment, whichever is later, provided that the member submits satisfactory evidence of prior public employment in New Jersey.

(b)

**Police and Firemen's Retirement System
Enrollment Dates**

**Adopted Amendments: N.J.A.C. 17:4-5.1
and 5.2**

Proposed: November 17, 1987 at 18 N.J.R. 2321(a).

Adopted: March 6, 1987 by the Board of Trustees, Police and Firemen's Retirement System.

Filed: March 13, 1987 as R.1987 d.167, without change (see previous Notice of Adoption at 19 N.J.R. 410(b)).

Authority: N.J.S.A. 43:16A-13(17).

Effective Date: April 6, 1987.

Expiration Date: July 1, 1990.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

17:4-5.1 Temporary service

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

17:4-5.2 (Reserved)

(c)

**Police and Firemen's Retirement System
Loan Revaluations**

Adopted Repeal and New Rule: N.J.A.C. 17:4-4

Proposed: December 15, 1986 at 18 N.J.R. 2437(b).

Adopted: February 19, 1987 by the Board of Trustees, Police and Firemen's Retirement System, Anthony Ferrazza, Secretary.

Filed: March 4, 1987 as R.1987 d.153, without change.

Authority: N.J.S.A. 43:16A-13(17).

Effective Date: April 6, 1987.

Expiration Date: July 1, 1990.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

17:4-4.4 Loan tolerance

Interest will be calculated on a periodic basis on the unpaid loan balance. If scheduled payments are not paid timely, interest will be accrued and added to the remaining outstanding loan balance. If, at the end of the loan schedule, there is a balance of less than \$10.00, it will be written off. If the balance is equal to or greater than \$10.00, the member will be assessed.

(a)

**Supplemental Annuity Collective Trust
Deposits to Trust**

Adopted Amendment: N.J.A.C. 17:8-3.7

Proposed: January 5, 1987 at 19 N.J.R. 52(c).

Adopted: March 9, 1987 by the Supplemental Collective Trust
Council, Douglas R. Forrester, Secretary.

Filed: March 12, 1987 as R.1987 d.162, **without change.**

Authority: N.J.S.A. 52:18A-111.

Effective Date: April 6, 1987.

Expiration Date: June 27, 1990.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

17:8-3.7 Separate pension accounts; deposits to trust

(a) Contributions received by the various pension systems for partici-
pants shall be recorded in a separate account and deposited into the trust.

(b) (No change.)

OTHER AGENCIES

CASINO CONTROL COMMISSION

(b)

**Casino Hotel Alcoholic Beverage Control
General Regulations Concerning Operating
Conditions of Licensees**

Adopted Amendment: N.J.A.C. 19:50-1.6

Proposed: December 15, 1986 at 18 N.J.R. 2439(b).

Adopted: March 11, 1987, by the Casino Control Commission,
Walter N. Read, Chairman.

Filed: March 12, 1987 as R.1987 d.165, **without change.**

Authority: N.J.S.A. 5:12-69(a), 70(q), 103(d) and (e).

Effective Date: April 6, 1987.

Expiration Date: May 23, 1988.

Summary of Public Comments and Agency Responses:

The Division of Gaming Enforcement recommended that the Com-
mission adopt the proposed amendment.

Full text of the adoption follows.

19:50-1.6 General regulations concerning operating conditions of
licensees

(a)-(k) (No change.)

(l) (Reserved)

(m)-(y) (No change.)

EMERGENCY ADOPTION

HEALTH

RESEARCH, POLICY AND PLANNING

(a)

Uncompensated Care Trust Fund

Adopted Emergency New Rules: N.J.A.C. 8:31B-7.4 and 7.5

Emergency New Rules Adopted: March 5, 1987 by Molly Joel Coye, M.D., M.P.H., Commissioner, Department of Health (with the approval of the Health Care Administration Board).

Gubernatorial Approval: (N.J.S.A. 52:14B-4(c)); March 12, 1987
Emergency New Rules Filed: March 12, 1987 as R.1987 d.164.

Authority: P.L. 1986, c.204.

Emergency New Rules Effective Date: March 12, 1987.

Emergency New Rules Expiration Date: May 11, 1987.

The new rules were adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4).

The agency emergency adoption follows.

Summary

The adopted new rules are designed to implement P.L. 1986, c. 204, the New Jersey Uncompensated Care Trust Fund Act, which was signed into law on January 5, 1987. This legislation established the New Jersey Uncompensated Care Trust Fund which will collect and distribute payments to and from hospitals to distribute the cost of charity care and bad debt across all the state's hospitals paid pursuant to Chapter 83 legislation.

In order that hospitals which are required to pay into the Trust Fund do so in a time and manner that will enable the Trust Fund to make its required payments to the hospitals that provide a high proportion of uncompensated care, it is necessary that rules governing the procedure and schedule for payments to the Uncompensated Care Trust Fund be adopted immediately since the short period of time between the enactment of the Uncompensated Care Trust Fund Act and the required implementation of the Act makes it impossible to promulgate the necessary rules, pursuant to the Administrative Procedure Act.

As a result, the Commissioner of Health has determined that a state of imminent peril exists with respect to payments for uncompensated care which ensures access to hospital care for the poor and with respect to the need to promulgate rules permitting the Commissioner of Health to establish a schedule and mechanism for collection and distribution of the payments to and from the Trust Fund.

N.J.A.C. 8:31B-7.4 specifies that all payments to and from the Trust Fund shall be made via automated clearing house by electronic fund transfer. Payments from hospitals are required by the statute to be made on the last working day of each month. Payments from the Trust Fund will normally be made on the 15th of each month or the next working day if the 15th is not a working day.

N.J.A.C. 8:31B-7.5 defines delinquent payments as insufficient funds in a hospital account which is accessible to the Department on the scheduled day of the transfer via automated clearing house. This section also establishes penalties for delinquent payments. The schedule of penalties uses the same time frames as the prompt day discount under the Chapter 83 system. In addition, after 45 days the Department may recommend to the Commission that the uncompensated care add-on be removed from the hospital's rates until payment is received. The amount of these penalties may not be recovered from either the Uncompensated Care Trust Fund or the Chapter 83 system.

Social Impact

The new rules implement a recently enacted statute establishing the New Jersey Uncompensated Care Trust Fund. Much of the impact of these rules is more directly attributable to the statute. The Trust Fund is designed to make the current system of paying for uncompensated care more equitable by spreading out the amounts collected through the Chapter 83 system among all hospital's rates. This allows hospitals that

traditionally provide a high proportion of uncompensated care to compete more effectively for business from price conscious paying patients without having to worry about access issues.

The rules seek to assure private and governmental payers of care that their funds are being spent for services that are appropriate, effective, reasonably priced and verifiable through audit. It states a societal consensus that the legitimate cost associated with charity care and bad debt is to be paid by those paying for hospital care.

Economic Impact

The Uncompensated Care Trust Fund rules provide for a minimal system-wide economic impact. The Trust Fund does not provide new funding for uncompensated care services; it merely alters the way payments are collected and distributed.

The rates of hospitals with a high proportion of charity care and bad debt will be reduced because these hospitals will collect the average percentage of uncompensated care costs through the rates and receive the balance through the Trust Fund. Hospitals with a low proportion of uncompensated care will have higher rates than before because their uncompensated care add-on will increase to the average and they will pay the excess beyond their requirements to the Trust Fund. Twenty-nine hospitals will receive payments from the Fund and sixty will pay into the Trust Fund during the first six months.

The add-on will include costs of the Department of Health's administration of the Fund; research into alternatives to the Trust Fund, as required by law; and audits of hospital's uncompensated care reports. These activities are directed to reduce future amounts of uncompensated care. The rate add-on will be reduced by the amount of interest accrued by the Trust Fund.

Regulatory Flexibility Statement

The Department of Health has determined that the proposed rules affect only the 89 hospitals whose rates are established by the Hospital Rate Setting Commission. All but one of these hospitals each employ more than 100 full-time employees and therefore do not fall into the category of small businesses as defined in Section 2 of the New Jersey Regulatory Flexibility Act (P.L. 1986, c. 169).

The new rules do not add reporting, recordkeeping or other compliance requirements.

Consistent application of these rules is necessary to preserve the public health by ensuring access to hospital services for the medically indigent.

Full text of the emergency adoption follows.

8:31B-7.4 Payments of Hospital and Trust Fund

(a) Payments to the Trust Fund shall be made on the last banking day of the month through an automated clearing house by electronic fund transfer or in any other method specified by the Commissioner.

(b) Payments from the Trust Fund shall be made on the 15th day of each month through an automated clearing house or any other method specified by the Commissioner. If the 15th day of the month falls on a weekend or holiday, payment shall be made on the first banking day after the 15th.

8:31B-7.5 Delinquent payments

(a) Payments to the Trust Fund are delinquent if there are insufficient funds in the hospital's account which is accessible to the Department by automated clearing house or other method specified by the Commissioner to pay the hospital's required payment to the Trust Fund on the last day of the month, or if the hospital fails to provide access to an account.

(b) The penalty for any delinquent payments shall be one percent of the amount owed. The penalty will rise to two percent after 15 days, three percent after 30 days, four percent after 60 days and five percent after 90 days. After 45 days, the Department may recommend to the Commission that the delinquent hospital's rates be reduced by the amount of the uniform statewide uncompensated care add-on until all delinquent payments are received by the Department. After all delinquent payments are received, the statewide add-on may be returned to the hospital's rates by the Commission. Uncompensated Care revenues for the period when the add-on was removed will be collected through the hospital's rates, not through the Trust Fund.

(c) Penalties within the stated limits shall be implemented by the Commission. Hospitals may not recover the amount of penalties from either the Uncompensated Care Trust Fund or the Chapter 83 system.

MISCELLANEOUS NOTICES

ENVIRONMENTAL PROTECTION

(a)

OFFICE OF THE COMMISSIONER

Condemnation of Shellfish Beds Dangerous to Health

Public Notice

Pursuant to statutory authority granted the Department of Environmental Protection appearing at N.J.S.A. 58:24-2 and 3 et seq. and because contaminated shellfish are being relocated to waters previously classified as approved for the purposes of establishing a hard clam spawner sanctuary, but which may render the taking of shellfish therefrom dangerous to health, the Department hereby condemns and prohibits the taking of all shellfish from those State waters previously classified as approved including specifically those waters of Barnegat Bay bounded by latitude 39 degrees 46 minutes 02.92 seconds N; longitude 74 degrees 11 minutes 06.16 seconds W; latitude 39 degrees 46 minutes 02.92 seconds, N, longitude 74 degrees 10 minutes 59.78 seconds W; latitude 39 degrees 45 minutes 58.31 seconds N, longitude 74 degrees 10 minutes 59.31 seconds W; latitude 39 degrees 45 minutes 58.31 seconds N; longitude 74 degrees 11 minutes 06.16 seconds W., containing 5.006 acres. The Department will endeavor to maintain corner markers at these locations. Sanctuary areas will also be identified on the Department's Annual Shellfish Growing Water Classification Charts.

This hard clam sanctuary site (hereinafter known as "Hard Clam Sanctuary Site 2") will be used in a cooperative program of the Department; Rutgers, The State University; and the shellfish industry to reestablish shellfish populations in areas which previously supported natural populations.

This condemnation and prohibition shall take effect immediately.

(b)

DIVISION OF WATER RESOURCES

Amendment to the Raritan Water Quality Management Plan

Public Notice

Take notice that on December 30, 1986 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Rules (N.J.A.C. 7:15-3.4), an amendment to the Upper Raritan Water Quality Management Plan was adopted by the Department. This amendment will allow the expansion of its existing advanced wastewater treatment facility located in Bedminster Township, Somerset County. As part of this amendment, a Wastewater Management Plan was provided detailing the proposed expansion and areas to be provided sewer service within the franchise area. The Township of Bedminster will be designated as the Wastewater Management Agency and the co-permittee for this facility.

(c)

NEW JERSEY CLEAN AIR COUNCIL

Notice of 1987 Public Hearing

Ozone: New Jersey's Health Dilemma

Take notice that the New Jersey Clean Air Council will hold a public hearing entitled "Ozone: New Jersey's Health Dilemma." The public hearing will be held on:

Monday, April 27, 1987 at 9:00 A.M.
Lewis Herrmann Labor Education Center
Labor Education Center Auditorium
Rutgers University
Ryders Lane
New Brunswick, New Jersey

Title I, Part D (Plan Requirements for Nonattainment Areas) of the Federal Clean Air Act, as amended, requires that the State of New Jersey and all other states be in attainment of the national primary ambient air quality standard for photochemical oxidants no later than December 31, 1987. Despite implementing numerous control strategies to reduce the emission of precursors of ozone into the atmosphere, New Jersey will not be in attainment of the standard by the end of 1987.

The 1987 Clean Air Council public hearing will focus on this situation. The hearing will address the hazard and damage to human, animal, and plant life which is presented by ozone, and the control strategies which are available to reduce ozone precursor emissions.

Experts in the field of photochemical oxidants have been invited to address the technical issues related to ozone. In addition, the Council invites members of the public to participate in the hearing by asking questions, presenting oral statements, or submitting written testimony. The Clean Air Council will use the information gathered at this hearing in its mission to advise the Commissioner of the Department of Environmental Protection on matters relating to air pollution.

Persons wishing to make oral presentations are asked to reserve a 10 minute time period by writing to Mrs. Helen Benedetti, NJ Department of Environmental Protection, CN027, 401 East State Street, Trenton, NJ 08625, or by telephoning 609-292-6704. Presenters should bring 15 copies of their remarks to the hearing for the Council members and the press. The hearing record will be held open for 15 days following the date of the public hearing so that additional written testimony can be received.

Questions the Clean Air Council wants to explore at the public hearing on Ozone: New Jersey's Health Dilemma are:

1. Is there a hazard to public health in New Jersey from ozone pollution? Are there thresholds for the health effects of ozone, and, if so, what are they? Over what time period should ozone levels be measured to best reflect its impact on human health? On vegetation? Who would be the primary beneficiaries of additional ozone precursor control (for example, by age group, by geographic residence, by family income, by occupation, etc.)? How should the public be alerted when ozone levels exceed the health standard? What can an individual do?

2. Are there any ecologic and economic damages (animal life, property, agricultural, decreased visibility, etc.) caused by the concentrations of ozone that New Jersey experiences?

3. What control strategies are available to New Jersey to reduce ozone precursor emissions? What amount of emission reduction can be expected? What is the estimated cost of each of these control strategies? What are these costs per ton of emission reduction for each strategy? Since New Jersey has the greatest motor vehicle density per square mile, have all reasonable transportation control measures been studied, adopted, funded, utilized, enforced?

4. What actions can New Jersey take to reduce ozone and its precursors that flow into New Jersey from other states and regions?

(d)

DIVISION OF WATER RESOURCES

Amendment to the Atlantic County Water Quality Management Plan

Public Notice

Take notice that on January 21, 1987 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), an amendment to the Atlantic County Water Quality Management Plan was adopted by the Department. This amendment is to expand the sewer service area in Galloway Township to include Block 891, Lots 3.01, 3.02, 4, 5, 6, and 9, excluding environmentally sensitive areas from the proposed Hampton Inn development.

(a)

**DIVISION OF FISH, GAME AND WILDLIFE
Notice of Extension of Commercial Shooting
Preserve Season**

Take notice that the Commissioner, Department of Environmental Protection, hereby extends the commercial shooting preserve season from March 16, 1987 to April 15, 1987, inclusive, upon the recommendation of the Director of the Division of Fish, Game and Wildlife pursuant to statutory authority granted at N.J.S.A. 23:3-32.

HEALTH

(b)

**Petition for Rulemaking
Advertising by Hospitals and Licensed Ambulatory
Care Facilities
N.J.A.C. 8:43B and 8:43A
Petitioner: The New Jersey Board of Medical
Examiners**

Take notice that on December 1, 1986, the New Jersey Board of Medical Examiners petitioned the State Department of Health to amend its Manuals of Standards for Hospital Facilities (N.J.A.C. 8:43B) and Ambulatory Care Facilities (N.J.A.C. 8:43A) concerning advertising by those facilities. There are currently no regulations regarding such advertising in either Manual.

Notice was published in the February 2, 1987 issue of the New Jersey Register at 19 N.J.R. 306(d), indicating that the matter had been transmitted to the Division of Health Facilities Evaluation within the Department of Health for further consideration, and that a Notice of Action would be published in March, 1987, once the issues raised in the petition were reviewed.

However, due to the complex nature of the legal and policy issues presented in the Board of Medical Examiners' petition, the Department has yet to complete its review. Once that review is finalized and a decision reached on the petition, another Notice of Action will be published in the New Jersey Register.

HUMAN SERVICES

(c)

**DIVISION OF PUBLIC WELFARE
General Assistance Rate in Residential Health Care
Facilities
Public Notice**

Take notice that in accordance with N.J.A.C. 10:85-3.3(f)4i, the Department of Human Services announces that the rate to be paid for General Assistance recipients in Residential Health Care Facilities has been increased from \$486.05 to \$490.05 monthly. This change is effective January 1, 1987 and is the same in both the amount and effective date as the change in the rate for the same service paid to recipients under the Federal program of Supplemental Security Income.

INSURANCE

(d)

**REAL ESTATE COMMISSION
Notice of Petition for Declaratory Ruling and/or
Rulemaking Limiting the Scope of Advertising
Regulations: N.J.A.C. 11:5-1.15**

**Petitioner: Coldwell Banker Residential Real Estate,
Inc.**

Authority: N.J.S.A. 45:15-3; N.J.S.A. 45:15-6; N.J.S.A. 45:15-17.

Take notice that on February 19, 1987 petitioners filed a petition with the New Jersey Real Estate Commission requesting a declaratory ruling and/or an amendment to N.J.A.C. 11:5-1.15 limiting the scope of certain sections of these advertising rules.

Specifically, petitioners are requesting a declaratory ruling that certain sections of the advertising regulations of the New Jersey Real Estate Commission, N.J.A.C. 11:5-1.15, shall not be applicable to any advertising by Coldwell Banker which is "non-specific media advertising", i.e. advertising not related to sale of particular property in New Jersey, non-specific signs, office stationery, contracts, business cards, brochures, circulars and the like. In the alternative, petitioners are requesting that N.J.A.C. 11:5-1.15 be amended to exempt such advertising from the provisions of N.J.A.C. 11:5-1.15(a), (b), (c), (j), (k) and (m).

Petitioner states that the requested limitation on the scope of the Commission rules governing advertising by licensees will permit Coldwell Banker and other similar national organizations to advertise in such a way as to "project a uniform public image as a full service real estate organization". It is asserted that the petitioner's legal rights and interests in doing so justify either a construction or amendment of the regulation "to exempt all forms of . . . non-specific advertising from local control."

This petition will be considered by the New Jersey Real Estate Commission in accordance with N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6.

(e)

**THE COMMISSIONER
Notice of Rescission of Circular Letter # 75
Public Notice**

Take notice that Kenneth D. Merin, Commissioner, Department of Insurance, hereby rescinds Circular Letter #75 of April 24, 1984 concerning a transmittal letter required to be attached to the automobile insurance written notice/buyer's guide and coverage selection form. The Commissioner has determined that the transmittal letter is no longer necessary to enhance the notice requirements of N.J.S.A. 39:6A-23. Thus, automobile insurers are no longer required to provide consumers with a copy of the transmittal letter. Automobile insurers shall continue to provide consumers with a written notice/buyer's guide and coverage selection form pursuant to the requirements of N.J.S.A. 39:6A-23, N.J.A.C. 11:3-13, 11:3-14 and 11:3-15.

LAW AND PUBLIC SAFETY

(f)

**DIVISION OF MOTOR VEHICLES
Application for Certificate of Public Convenience
Public Notice**

Take notice that Glenn R. Paulsen, Director, Division of Motor Vehicles pursuant to the authority of N.J.S.A. 39:5E-11 hereby lists the name and address of an applicant who has filed an application for a common carrier's Certificate of Public Convenience permit to engage in the business of transporting bulk commodities in intrastate commerce.

COMMON CARRIER (NON-GRANDFATHER)
Shute's Motor Transportation
Hazel Ave. & Gateway Blvd.
Westville, NJ 08093

Protests in writing and verified under oath may be presented by interested parties to the Director, Division of Motor Vehicles, 25 S. Montgomery St., Trenton, New Jersey 08666 within 20 days following the publication of this notice of application.

(a)

BOARD OF OPTOMETRISTS

**Petition for Rulemaking
Delegation of Licensee Functions to Assistants:
N.J.A.C. 13:38**

Petitioner: Eye Dr. Contact Lens Outlet, Paul Giblin, Esq.,
Attorney for Petitioner

Take notice that on February 10, 1987 the Eye Dr. Contact Lens Outlet, 1255 Broad Street, Bloomfield, New Jersey petitioned the New Jersey State Board of Optometrists to define and to establish by regulation which activities within the scope of the licensed practice of optometry may lawfully be delegated by an optometrist to unlicensed employees. It is the position of petitioner that licensed optometrists should be permitted to delegate any act or practice they themselves are licensed to perform to technicians who work under their direction and supervision and that, specifically, they should be permitted to delegate the activities encompassed within the practice of ophthalmic dispensing.

Take further notice that, pursuant to N.J.A.C. 1:30-3.6(c)3., the Board reviewed the petition at its February 18, 1987 meeting and voted to refer the matter to the Division of Law initially for advice on the issue of whether the Board's enabling legislation, N.J.S.A. 45:12-1 et seq., permits such delegation. The Board is not prepared to initiate rulemaking on this issue at this time but will engage in further deliberation based on the advice of the Division of Law and will inform petitioner of the results of such deliberations, notice of which shall be published pursuant to N.J.S.A. 52:14B-4(f). It is anticipated that the Board decision on this issue will be made at its May 20, 1987 meeting.

TREASURY-GENERAL

(b)

DIVISION OF BUILDING AND CONSTRUCTION

Architect-Engineer Selection

Notice of Assignments—Month of February

Solicitations of design services for major projects are made by notices published in construction trade publications and newspapers and by direct notification of professional associations/societies and listed, pre-qualified New Jersey consulting firms. For information on DBC's pre-qualification and assignment procedures, call (609) 984-6979.

Last list dated February 2, 1987.

The following assignments have been made:

DBC No.	PROJECT	A/E	CCE
P531	Pipeline Stabilization	John S. Truhan	\$50,000
Reassigned Project	Double Trouble State Park Ocean County, NJ	Consulting Engineers, Inc.	

M676	Sewer Line Improvements Reassigned Project Mercer County Day Training Center Trenton, NJ	Maitra Associates, Inc.	\$60,000
A518	Septic System Renovations Reassigned Project Superintendents' Residences Yardville Youth Correctional Institute Bordentown, NJ	Anders Engineering, Inc.	\$45,000
A311	Service Yard Reconfiguration State Commerce Building Trenton, NJ	Geddes Brecher Qualls Cunningham	\$388,939
S192	Testing/Inspection Services Parking Lot N.J. State Police Headquarters West Trenton, NJ	United States Testing Co., Inc.	\$5,000 Services Competitive- Unit Prices
C331	Smoke Purge System Trenton State Prison Trenton, NJ	Syska & Hennessy, Inc.	\$7,500 Services
S212	Bulkhead Replacement-Study Marine Police Facility Pt. Pleasant, NJ	BCM Eastern, Inc.	\$1,500 Services
E171	Interior Painting Academic High School, Nursery and Lower School Buildings Marie H. Katzenbach School for the Deaf W. Trenton, NJ	Matthew L. Rue, AIA	\$32,000
C324-01	Roof Replacement Willow Hall Ancora Psychiatric Hospital Hammonon, NJ	Glen A. Kahley	\$100,000
M661	Repair Storm Drainage Trenton Psychiatric Hospital Trenton, NJ	Van Note-Harvey Assoc.	\$283,000
M626	New Maintenance Building N J Memorial Home Vineland, NJ	Basco Associates, PA	\$170,000

COMPETITIVE PROPOSALS

	Basco Associates, PA	7.92%	
	Kitchen Associates	15.29%	
	Lammey & Giorgio, PA	15.30%	
M710	Roof Replacement Building #2 Memorial Home at Menlo Park Menlo Park, NJ	Herbert J. Cannon Associates, PA	\$430,000

COMPETITIVE PROPOSALS

	Herbert J. Cannon Associates, PA	3.65%	
	Kitchen Associates, PA	3.953%	
	Shive/Spinelli/Perantoni Associates	5.29%	
	Richard M. Horowitz, AIA	9.96%	
H880	Renovations to Fine & Performing Arts Building Montclair State College Upper Montclair, NJ	Mylan Architectural Group	\$525,000

COMPETITIVE PROPOSALS

	Mylan Architectural Group	6.84%	
	Tarquini Organization	10.85%	
	The Hillier Group	No Proposal Received	
H883	Re-Roofing Gym/Maintenance Building Kean College of NJ Union, NJ	Shive/Spinelli/Perantoni & Associates	\$300,000

COMPETITIVE PROPOSALS

	Shive/Spinelli/Perantoni & Associates	5.49%	
	Basco Associates	7.96%	
	The Balsamel Longo Partnership	12.5%	

REORGANIZATION PLAN

OFFICE OF THE GOVERNOR

Governor Thomas H. Kean

Notice of a Plan for the Organization and Coordination of Responsibility for Certain Hazardous and Solid Waste Matters Within the Department of Environmental Protection

Take notice that on March 9, 1987, Governor Thomas H. Kean issued the following Reorganization Plan (No. 001-1987) to provide for the increased efficiency and effectiveness of the State's hazardous and solid waste management programs by the dissolution of the Department of Environmental Protection's Division of Waste Management and establishment within the Department of the new Divisions of Hazardous Waste Management, Hazardous Site Mitigation, and Solid Waste Management.

General Statement of Purpose

At the present time, the Department of Environmental Protection oversees the myriad of complex issues involving hazardous and solid wastes in this State through its Division of Waste Management.

This Reorganization Plan is precipitated by the recognition of a need to restructure the department's approach towards management of such wastes so as to maximize its effectiveness, efficiency, and productivity. This Reorganization Plan constitutes a structural and functional recognition that publicly and privately funded hazardous waste cleanups should be managed separately. This Plan also recognizes the regulatory advantages inherent in consolidating several existing programs aimed at effectuating corrective action at hazardous waste sites by responsible parties under the regulatory supervision of the State.

In accordance with the provisions of the Executive Reorganization Act (P.L. 1969, c.203), I find and declare that the reorganization embodied in this Plan is necessary to accomplish the purposes set forth in Section 2 of that Act and will do the following:

- (1) It will promote the better execution of the laws, the more effective management of the Executive Branch and of its agencies and functions and the expeditious administration of public business;
- (2) It will increase the efficiency of the operations of the Executive to the fullest extent practicable; and
- (3) It will group, coordinate and consolidate agencies and functions of the Executive, as nearly as may be, according to major purposes.

While same are more fully described hereafter, the following delineates the primary components of this Reorganization Plan:

The Division of Waste Management within the Department of Environmental Protection is hereby dissolved and reconstituted as the Division of Hazardous Waste Management, the Division of Hazardous Site Mitigation and the Division of Solid Waste Management.

The respective new divisions shall assume the appropriate functions, powers and duties of the former Division of Waste Management. The elevation in status of these units will properly reflect the expanded scope of responsibility, particularly the tasks of the department in dealing with the areas of hazardous waste management, the cleanup of publicly-funded hazardous waste sites and the issue of solid waste management.

The Divisions of Hazardous Waste Management and Hazardous Site Mitigation shall be responsible to an Assistant Commissioner of Hazardous Waste Management. Each division shall be supervised by a director who shall perform such duties as may be prescribed by the Commissioner.

The Division of Solid Waste Management as established herein shall report to the Assistant Commissioner for Environmental Management and Control within the Department of Environmental Protection and shall be headed by a director who shall perform such duties as may be prescribed by the Commissioner.

The specific organizations, names and functions of the elements, bureaus, offices, sections and programs of these three Divisions shall be determined by the Commissioner of Environmental Protection, and may be modified hereby from time to time as the Commissioner deems appropriate in order to effectuate the purposes and provisions of this Reorganization Plan.

All transfers directed by the Reorganization Plan shall be effective pursuant to the "State Agency Transfer Act" (P.L. 1971, c.375).

All unexpended balances of all funds appropriated or otherwise made available for functions heretofore by the Division of Waste Management are hereby transferred as follows:

- (1) To the Division of Solid Waste Management, those funds appropriated, or otherwise made available, for solid waste management purposes;
- (2) To the Division of Hazardous Waste Management, those funds appropriated, or otherwise made available, for hazardous waste management purposes; and
- (3) To the Division of Hazardous Site Mitigation, those funds appropriated, or otherwise made available, for the remediation of hazardous discharge sites.

Whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Division of Waste Management in the Department of Environmental Protection, the same shall mean and refer to the Division of Hazardous Waste Management, Hazardous Site Mitigation or Solid Waste Management, as appropriate.

All acts and parts of acts inconsistent with any provisions of this reorganization plan are superseded to the extent of such inconsistencies. Any provisions of this plan which conflict with Federal law are null and void.

A copy of this Reorganization Plan was transmitted to the Legislature on March 9, 1987 and a copy filed with the Secretary of State and the Office of Administrative Law on March 13, 1987. This Plan shall become effective in 60 days on May 8, 1987 unless disapproved by each House of the Legislature by the passage of a concurrent resolution stating in substance that the Legislature does not favor this Reorganization Plan, or at a date later than May 8, 1987 should the Governor establish such a later date for the effective date of the Plan by Executive Order.

Take notice that this Reorganization Plan, if not disapproved, has the force and effect of law and will be printed and published in the annual edition of the public laws under a heading of "Reorganization Plans."

OFFICE OF ADMINISTRATIVE LAW NOTE: A substantial background document entitled "Basis for Reorganization" was filed with this Plan. This document consists of a text explaining the areas of responsibility for the new Division created by the Plan, organizational charts and copies of pertinent Administrative Orders from the Commissioner of the Department of Environmental Protection. This document is available for review at the Office of Administrative Law, Quakerbridge Plaza, Building 9, CN 301, Trenton, New Jersey 08625.

EXECUTIVE ORDER NO. 66(1978) EXPIRATION DATES

Pursuant to N.J.A.C. 1:30-4.4, all expiration dates are now affixed at the chapter level. The following table is a complete listing of all current New Jersey Administrative Code expiration dates by Title and Chapter. If a chapter is not cited, then it does not have an expiration date. In some instances, however, exceptions occur to the chapter-level assignment. These variations do appear in the listing along with the appropriate chapter citation, and are noted either as an exemption from Executive Order No. 66(1978) or as a subchapter-level date differing from the chapter date.

Current expiration dates may also be found in the loose-leaf volumes of the Administrative Code under the Title Table of Contents for each executive department or agency and on the Subtitle page for each group of chapters in a Title. Please disregard all expiration dates appearing elsewhere in a Title volume.

This listing is revised monthly and appears in the first issue of each month.

OFFICE OF ADMINISTRATIVE LAW—TITLE 1

N.J.A.C.	Expiration Date
1:1	5/15/90
1:2	5/15/90
1:5	10/20/91
1:6	8/18/91
1:6A	1/1/88
1:7	8/9/90
1:10	3/4/90
1:10A	9/16/90
1:10B	10/6/91
1:11	3/4/90
1:20	8/1/88
1:21	7/15/90
1:30	2/14/91
1:31	8/12/87

N.J.A.C.	Expiration Date
3:7	9/16/90
3:11	3/19/89
(Except for 3:11-2 which expired 6/3/85)	
3:13	11/17/91
3:17	6/18/91
3:19	3/17/91
3:21	2/2/92
3:22	5/21/89
3:23	5/3/87
3:24	8/20/89
3:26	12/31/90
3:27	9/16/90
3:28	12/17/89
3:30	10/17/88
3:38	9/7/87
3:41	10/16/90

AGRICULTURE—TITLE 2

N.J.A.C.	Expiration Date
2:1	9/3/90
2:2	10/3/88
(Except for 2:2-9 which expired 6/11/84)	
2:3	6/18/89
(Except for 2:3-4 which expired 1/8/86)	
2:5	6/18/89
2:6	9/3/90
2:7	9/29/88
2:9	7/7/91
2:16	5/7/90
2:22	1/18/87
2:23	6/6/88
2:24	2/11/90
2:32	2/3/91
2:48	11/27/90
2:50	7/15/87
2:52	6/7/90
2:53	3/3/91
2:54	Exempt (7 U.S.C. 601 et seq. 7 C.F.R. 1004)
2:68	8/1/88
2:69	10/3/88
2:70	5/7/90
2:71	9/1/88
2:72	9/1/88
2:73	7/18/88
2:74	9/1/88
2:76	8/29/89
2:90	6/24/90

CIVIL SERVICE—TITLE 4

N.J.A.C.	Expiration Date
4:1	1/28/90
4:2	1/28/90
4:3	6/4/89
4:4	12/5/91
4:6	5/5/91

COMMUNITY AFFAIRS—TITLE 5

N.J.A.C.	Expiration Date
5:3	9/1/88
5:10	12/1/88
5:11	3/1/89
5:12	1/1/90
5:13	1/1/88
5:14	12/1/90
5:17	6/1/89
5:18	2/1/90
5:18A	2/1/90
5:18B	2/1/90
5:22	12/1/90
5:23	4/1/88
5:24	9/1/90
5:25	3/1/91
5:26	3/1/91
5:27	6/1/90
5:28	12/20/90
5:29	6/18/91
5:30	6/1/88
5:31	12/1/89
5:37	11/18/90
5:38	11/7/88
5:51	9/1/88
5:70	8/16/87
5:71	3/1/90
5:80	5/20/90
5:91	6/16/91
5:92	6/16/91
5:100	5/7/89

BANKING—TITLE 3

N.J.A.C.	Expiration Date
3:1	1/6/91
3:2	4/15/90
3:6	3/3/91
(Except for 3:6-8 which expired 4/9/85)	

DEPARTMENT OF DEFENSE—TITLE 5A

N.J.A.C.	Expiration Date
5A:2	5/20/90

EDUCATION—TITLE 6

N.J.A.C.	Expiration Date
6:2	3/1/89
6:3	8/18/88
6:8	1/5/92
6:11	12/12/90
6:12	4/2/91
6:20	8/9/90
6:21	8/9/90
6:22	9/3/90
6:24	4/2/91
6:26	1/24/90
6:27	1/24/90
6:28	6/1/89
6:29	3/25/90
6:30	8/31/88
6:31	1/24/90
6:39	10/18/89
6:43	4/7/91
6:46	12/1/87
6:53	9/1/87
6:64	5/1/88
6:68	4/12/90
6:70	1/25/90
6:79	2/1/88

ENVIRONMENTAL PROTECTION—TITLE 7

N.J.A.C.	Expiration Date
7:1	9/16/90
7:1A	6/7/87
7:1C	6/17/90
7:1D	12/1/88
7:1E	7/15/90
7:1F	3/27/87 (Governor's Waiver)
7:1G	10/1/89
7:1H	7/24/90
7:1I	11/18/88
7:2	7/19/88
7:4	Expired 8/16/84
7:6	12/19/88
7:7	5/7/89
7:7E	7/24/90
7:7F	12/6/87
7:8	2/7/88
7:9	1/21/91
(Except for 7:9-1 which expired 4/25/85)	
7:10	9/4/89
7:11	6/6/88
7:12	6/6/88
7:13	5/4/89
7:14	4/27/89
(Except for 7:14-5 which expired 6/23/85)	
7:14A	6/4/89
7:15	4/2/89
7:17	4/7/91
7:18	8/6/91
7:19	4/15/90
7:19A	2/19/90
7:19B	2/19/90
7:20	5/6/90
7:20A	12/19/88
7:22	1/5/92
7:23	6/18/89
7:24	5/19/91
7:25	2/18/91

N.J.A.C.	Expiration Date
(Except for 7:25-1 which expired 9/17/85)	
7:25A	5/6/90
7:26	11/4/90
(Except for 7:26-5 which expired 10/7/85)	
7:27	Exempt
7:27A	Expired 10/7/85
7:27B-3	Exempt
7:28	10/7/90
7:29	3/18/90
7:29B	4/5/87
7:30	12/6/87
7:36-1	8/5/90
7:36-2	Expired 1/9/86
7:36-3	Expired 1/9/86
7:36-4	8/5/90
7:36-5	Expired 1/9/86
7:36-6	Expired 1/9/86
7:36-7	8/5/90
7:37	Exempt
7:38	9/18/90
7:45	Expired 1/11/85

HEALTH—TITLE 8

N.J.A.C.	Expiration Date
8:7	9/16/90
8:8	5/21/89
8:9	2/18/91
8:13	8/2/87
8:19	6/28/90
8:20	3/4/90
8:21	11/18/90
(Except for 8:21-1 which expired 5/15/85;	
8:21-4 which expired 7/21/83;	
8:21-6 which expired 9/18/85)	
8:21A	4/1/90
8:22	8/4/91
8:23	12/17/89
8:24	4/4/88
8:25	5/20/88
8:26	8/4/91
8:31	11/5/89
8:31A	3/18/90
8:31B	10/15/90
(Except for 8:31B-1 which expired 7/19/84)	
8:32	Expired 3/12/85
8:33	10/7/90
8:33A	4/15/90
8:33B	10/7/90
8:33C	8/20/89
8:33D	2/1/87
8:33E	2/4/90
8:33F	1/14/90
8:33G	7/20/89
8:33H	7/19/90
8:33I	9/15/91
8:33J	5/17/89
8:33K	4/16/89
8:34	11/18/88
8:39	6/20/88
8:40	4/15/90
8:41	2/17/92
8:42	3/18/90
8:42A	6/12/91
8:42B	8/1/88
8:43	1/21/91
8:43A	9/3/90
8:43B	1/21/91
8:43E	1/17/88
8:43F	3/18/90

N.J.A.C.	Expiration Date
3:43G	9/8/91
3:44	11/7/88
3:45	5/20/90
3:48	8/20/89
3:51	9/16/90
3:52	12/15/91
3:53	8/4/91
3:57	6/18/90
3:58	Expired 5/1/84
3:59	10/1/89
3:60	5/3/90
3:61	10/6/91
3:65	12/2/90
3:70	9/17/88
3:71	4/2/89

HIGHER EDUCATION—TITLE 9

N.J.A.C.	Expiration Date
9:1	1/17/89
9:2	6/17/90
9:3	10/17/88
9:4	10/30/91
9:5	1/21/91
9:6	5/20/90
9:7	4/13/88
9:8	11/4/90
9:9	10/3/88
9:11	1/17/89
9:12	1/17/89
9:14	5/20/90
9:15	10/25/88

HUMAN SERVICES—TITLE 10

N.J.A.C.	Expiration Date
0:1	5/6/88
0:2	1/5/92
0:3	9/19/88
0:4	1/3/88
0:5	12/19/88
0:6	2/21/89
0:12	1/5/92
0:36	8/18/91
0:37	11/4/90
0:38	5/28/91
0:40	3/15/89
0:42	8/18/91
0:43	9/1/88
0:44	10/3/88
0:44A	2/7/88
0:44B	4/15/90
0:45	9/19/88
0:47	11/4/90
0:48	1/21/91
0:49	8/12/90
0:50	3/3/91
0:51	10/28/90
0:52	2/19/90
0:53	4/29/90
0:54	3/3/91
0:55	3/11/90
0:56	8/26/91
0:57	3/3/91
0:58	3/3/91
0:59	3/3/91
0:60	8/27/90
0:61	3/3/91
0:62	3/3/91
0:63	11/29/89
0:64	3/3/91
0:65	11/5/89
0:66	12/15/88

N.J.A.C.	Expiration Date
10:67	3/3/91
10:68	7/7/91
10:69A	4/26/88
10:69B	11/21/88
10:70	6/16/91
10:80	8/23/89
10:81	10/15/89
10:82	10/29/89
10:85	1/30/90
10:87	3/1/89
10:89	9/11/90
10:90	11/15/87
10:94	1/6/91
10:95	8/23/89
10:97	4/16/89
10:98	7/12/87
10:99	2/19/90
10:100	2/6/89
10:109	3/17/91
10:112	2/17/89
10:120	9/26/88
10:121	3/13/89
10:121A	8/6/87
10:122	8/6/89
10:122A	Exempt
10:122B	9/10/89
10:123	7/20/90
10:124	7/19/87
10:125	7/16/89
10:127	9/19/88
10:129	10/11/89
10:130	9/19/88
10:131	9/20/87
10:132	1/5/92
10:140	12/31/86
10:141	2/21/89

CORRECTIONS—TITLE 10A

N.J.A.C.	Expiration Date
10A:3	10/6/91
10A:4	7/21/91
10A:5	10/6/91
10A:9	1/20/92
10A:16	4/6/92
10A:17	12/15/91
10A:31	2/4/90
10A:32	3/4/90
10A:33	7/16/89
10A:34	4/6/92
10A:70	Exempt
10A:71	4/15/90

INSURANCE—TITLE 11

N.J.A.C.	Expiration Date
11:1	2/3/91
11:1-20	7/7/88
11:1-22	7/7/88
11:2	12/2/90
11:3	1/6/91
11:4	12/2/90
11:5	11/7/88
11:10	7/15/90
11:12	10/27/91
11:13	12/6/87
11:14	7/2/89
11:15	12/3/89
11:16	2/3/91

LABOR—TITLE 12

N.J.A.C.	Expiration Date
12:15	8/19/90
12:16	4/1/90
12:17	1/6/91
12:20	11/5/89
12:35	8/5/90
12:45	5/2/88
12:46	5/2/88
12:47	5/2/88
12:48	5/2/88
12:49	5/2/88
12:51	6/30/91
12:56	9/26/90
12:57	9/26/90
12:58	9/26/90
12:90	12/17/89
12:100	11/5/89
12:105	1/21/91
12:120	5/3/90
12:175	12/9/88
12:190	9/5/87
12:195	9/6/88
12:200	8/5/90
12:235	5/5/91

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

N.J.A.C.	Expiration Date
12:10-1	8/15/89
12A:100-1	9/8/91

LAW AND PUBLIC SAFETY—TITLE 13

N.J.A.C.	Expiration Date
13:1	7/19/88
13:1C	Expired 12/1/83
13:2	8/5/90
13:3	8/1/88
13:4	1/21/91
13:10	5/27/89
13:13	6/17/90
13:18	4/1/90
13:19	8/23/89
13:20	12/18/90
13:21	12/16/90
13:22	1/7/90
13:23	6/4/89
13:24	11/5/89
13:25	3/18/90
13:26	10/17/88
13:27	4/1/90
13:27A	11/1/87
13:28	9/3/90
13:29	6/3/90
13:30	4/15/90
13:31	12/12/91
13:32	11/1/87
13:33	3/18/90
13:34	11/21/88
13:35	11/19/89
13:36	11/19/89
13:37	2/11/90
13:38	10/7/90
13:39	1/6/91
13:39A	7/7/91
13:40	9/3/90
13:41	9/3/90
13:42	11/3/88
13:43	9/8/88
13:44	8/20/89
13:44A	Expired 5/17/84

N.J.A.C.	Expiration Date
13:44B	5/3/87
13:44C	6/2/91
13:45A	12/16/90
13:46	6/3/90
13:47	2/2/92
13:47A	8/16/87
(Except for 13:47A-25 which expired 8/14/83)	
13:47B	1/4/89
13:47C	8/20/89
13:48	1/21/91
13:49	12/19/88
13:51	6/21/87
13:54	10/5/91
13:58	9/7/89
13:59	9/16/90
13:60	1/20/92
13:70	2/25/90
13:71	2/25/90
13:75	8/20/89
13:76	9/6/88

PUBLIC UTILITIES—TITLE 14

N.J.A.C.	Expiration Date
14:1	12/16/90
14:3	5/6/90
14:5	12/16/90
14:6	3/3/91
14:9	4/15/90
14:11	1/27/92
14:10	9/8/91
14:17	5/7/89
14:18	7/29/90

ENERGY—TITLE 14A

N.J.A.C.	Expiration Date
14A:2	4/17/89
14A:3	10/7/90
(Except for 14A:3-10 which expired 9/1/85)	
14A:4	10/19/88
14A:5	10/19/88
14A:6	8/6/89
14A:7	9/16/90
14A:8	9/20/89
14A:9	Expired 4/27/84
14A:11	9/20/89
14A:12	2/7/88
14A:13	2/2/92
14A:14	2/6/89
14A:20	2/3/91
14A:21	11/21/90
14A:22	6/4/89

STATE—TITLE 15

N.J.A.C.	Expiration Date
15:2	3/7/88
15:3	7/7/91
15:5	2/17/92
15:10	2/18/91

TRANSPORTATION—TITLE 16

N.J.A.C.	Expiration Date
16:1	8/5/90
16:2	10/3/88
16:6	9/3/90
16:13	5/7/89
16:16	11/7/88

N.J.A.C.	Expiration Date
16:17	11/7/88
16:20A	12/17/89
16:20B	12/17/89
16:21	9/3/90
16:21A	8/20/89
16:22	2/3/91
16:25-12	Expired 2/5/84
16:25-13	Expired 2/5/84
16:26	8/6/89
16:27	9/8/91
16:28	11/7/88
16:28A	11/7/88
16:29	11/7/88
16:30	11/7/88
16:31	11/7/88
16:31A	10/20/88
16:32	4/15/90
16:33	9/3/90
16:41	11/15/87
16:41A	2/19/90
16:41B	3/4/90
16:43	9/3/90
16:44	10/3/88
16:49	3/18/90
16:51	4/6/92
16:53	3/19/89
16:53A	4/15/90
16:53C	9/19/88
16:53D	5/7/89
16:54	4/7/91
16:55	11/7/88
16:56	6/4/89
16:60	11/7/88
16:61	11/7/88
6:62	4/15/90
6:72	3/31/91
6:73	1/30/92
6:75	6/6/88
6:76	12/19/88
6:77	1/21/90
6:78	10/7/90
6:79	10/20/91

TREASURY-GENERAL—TITLE 17

N.J.A.C.	Expiration Date
7:1	6/6/88
7:2	12/17/89
7:3	6/6/88
7:4	7/1/90
7:5	12/2/90
7:6	2/19/89
7:7	6/6/88
7:8	6/27/90
7:9	6/6/88
7:10	6/6/88
7:12	8/15/89
7:16	12/2/90
7:19	3/18/90
Except for 17:19-10 which expired 3/3/85)	
7:19A	Expired 2/1/84
7:20	11/7/88
7:25	6/18/89
7:27	11/7/88
7:28	9/13/90
7:29	10/18/90

TREASURY-TAXATION—TITLE 18

N.J.A.C.	Expiration Date
18:3	4/23/89
18:5	4/16/89
18:6	4/2/89
18:7	4/2/89
18:8	4/2/89
18:9	8/12/88
18:12	8/12/88
18:12A	8/12/88
18:14	8/12/88
18:15	8/12/88
18:16	8/12/88
18:17	8/12/88
18:18	4/2/89
18:19	4/6/89
18:22	4/2/89
18:23	4/2/89
18:23A	8/5/90
18:24	8/12/88
18:25	1/6/91
18:26	8/12/88
18:30	4/2/89
18:35	8/12/88
18:36	2/4/90
18:37	8/5/90

OTHER AGENCIES—TITLE 19

N.J.A.C.	Expiration Date
19:3	6/19/88
19:3B	Exempt (N.J.S.A. 13:17-1)
19:4	11/7/88
19:4A	5/2/88
19:8	6/1/88
19:9	7/13/88
19:12	8/7/91
19:16	8/7/91
19:17	7/15/88
19:25	1/9/91
19:30	10/7/90
19:40	9/26/89
19:41	5/17/88
19:42	5/17/88
19:43	4/27/89
19:44	10/13/88
19:45	4/7/88
19:46	5/4/88
19:47	5/4/88
19:48	10/13/88
19:49	3/29/88
19:50	5/23/88
19:51	8/14/91
19:52	9/25/91
19:53	5/4/88
19:54	4/15/88
19:61	7/7/91
19:65	7/7/91
19:75	1/17/89

**REGISTER INDEX OF RULE PROPOSALS
AND ADOPTIONS**
The research supplement to the New Jersey Administrative Code

**A CUMULATIVE LISTING OF CURRENT
PROPOSALS AND ADOPTIONS**

The Register Index of Rule Proposals and Adoptions is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

At the bottom of the index listing for each Administrative Code Title is the Transmittal number and date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the February 2, 1987 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to adopt a proposed rule on a timely basis requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(d).

Terms and abbreviations used in this Index:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1987 d.1 means the first rule adopted in 1987.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A number and date certifying the currency of rules found in each Title of the New Jersey Administrative Code: Rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find the issue of publication of a rule proposal or adoption.

MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: JANUARY 20, 1987.

NEXT UPDATE WILL BE DATED FEBRUARY 17, 1987.

Note: If no changes have occurred in a Title during the previous month, no update will be issued for that Title.

N.J.R. CITATION LOCATOR

If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register	If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register
18 N.J.R. 583 and 726	April 7, 1986	18 N.J.R. 2069 and 2148	October 20, 1986
18 N.J.R. 727 and 868	April 21, 1986	18 N.J.R. 2149 and 2234	November 3, 1986
18 N.J.R. 869 and 1018	May 5, 1986	18 N.J.R. 2235 and 2344	November 17, 1986
18 N.J.R. 1019 and 1122	May 19, 1986	18 N.J.R. 2345 and 2408	December 1, 1986
18 N.J.R. 1123 and 1222	June 2, 1986	18 N.J.R. 2409 and 2472	December 15, 1986
18 N.J.R. 1223 and 1326	June 16, 1986	19 N.J.R. 1 and 164	January 5, 1987
18 N.J.R. 1327 and 1432	July 7, 1986	19 N.J.R. 165 and 260	January 20, 1987
18 N.J.R. 1433 and 1504	July 21, 1986	19 N.J.R. 261 and 324	February 2, 1987
18 N.J.R. 1505 and 1640	August 4, 1986	19 N.J.R. 325 and 392	February 17, 1987
18 N.J.R. 1641 and 1726	August 18, 1986	19 N.J.R. 393 and 430	March 2, 1987
18 N.J.R. 1727 and 1862	September 8, 1986	19 N.J.R. 431 and 476	March 16, 1987
18 N.J.R. 1863 and 1978	September 22, 1986	19 N.J.R. 477 and 586	April 6, 1987
18 N.J.R. 1979 and 2078	October 6, 1986		

N.J.A.C. CITATION	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
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ADMINISTRATIVE LAW—TITLE 1

1:1, 1:2—1:21 Administrative hearings

18 N.J.R. 1728(a)

(TRANSMITTAL 25, dated December 15, 1986)

AGRICULTURE—TITLE 2

2:6-1	Sale and use of animal biologics	18 N.J.R. 2151(a)	R.1987 d.85	19 N.J.R. 286(a)
2:50	Milk production and supply	19 N.J.R. 433(a)		
2:71-2.2—2.7	Jersey Fresh Quality Grading Program	18 N.J.R. 2347(a)	R.1987 d.89	19 N.J.R. 287(a)
2:71-2.2—2.7	Jersey Fresh Quality Grading Program: effective date			19 N.J.R. 355(a)
2:76-5.3	Cost-share assistance for soil and water conservation projects	18 N.J.R. 1981(a)	R.1987 d.90	19 N.J.R. 288(a)
2:76-6.15	Acquisition of development easements: deed restrictions	18 N.J.R. 513(a)	Expired	
2:90-1.3	Soil erosion and sedimentation control	18 N.J.R. 2081(a)	R.1987 d.171	19 N.J.R. 513(a)
2:90-1.5, 1.13, 1.14	Soil erosion and sediment control	19 N.J.R. 395(a)		

(TRANSMITTAL 44, dated October 20, 1986)

BANKING—TITLE 3

3:7-5.1	Statement of interest and bank holding companies	19 N.J.R. 327(a)		
3:11-11.13	Leeway investments: confidentiality of approval process	18 N.J.R. 1224(a)		
3:13-4.2	Interstate acquisitions: correction	18 N.J.R. 1982(a)	R.1986 d.475	19 N.J.R. 289(a)
3:21-2.1	Credit union parity	18 N.J.R. 2237(a)	R.1987 d.93	19 N.J.R. 289(b)
3:41	Cemeteries: disinterment and reinterment of human remains	18 N.J.R. 1642(a)		

(TRANSMITTAL 36, dated December 15, 1986)

PERSONNEL (CIVIL SERVICE)—TITLE 4

4:1-2.1, 5.2, 11.2, 16, 24	Separations, demotions, layoffs; review and appeals	18 N.J.R. 450(a)	Withdrawn	
4:1-12.18	Disposition of certification by appointing authority	18 N.J.R. 1642(b)	Withdrawn	
4:1-15	Assignments and transfers	18 N.J.R. 592(a)	Withdrawn	
4:1-18	Workweek programs	18 N.J.R. 1764(a)	Withdrawn	
4:1-27.1	Overtime rules	19 N.J.R. 327(b)		
4:2-15.1	Assignments and transfers	18 N.J.R. 592(a)	Withdrawn	
4:2-16	Separations and demotions	18 N.J.R. 450(a)	Withdrawn	
4:2-18	Workweek programs	18 N.J.R. 1764(a)	Withdrawn	
4:2-27	Overtime rules	19 N.J.R. 327(b)		
4:3-16	Separations and demotions	18 N.J.R. 450(a)	Withdrawn	
4:6	Overtime Committee Rules	19 N.J.R. 327(b)		

(TRANSMITTAL 1987-1, dated January 20, 1987)

COMMUNITY AFFAIRS—TITLE 5

5:18-2.5, 2.7, 2.11, 2.14, 3.2, 4.1, 4.7, 4.9-4.13, 4.17, 4.18	Uniform Fire Code: Fire Safety Code	18 N.J.R. 1225(a)		
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N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
5:18A-2.3, 4.3, 4.4	Fire Code Enforcement	18 N.J.R. 1225(a)		
5:23-2.23, 7.57	Barrier-Free Subcode	18 N.J.R. 2348(a)	R.1987 d.91	19 N.J.R. 289(c)
5:23-3.15	Plumbing subcode	18 N.J.R. 2237(b)	R.1987 d.81	19 N.J.R. 289(d)
5:23-3.18, 6.1-6.3	Energy subcode; solar energy property tax exemptions	19 N.J.R. 433(b)		
5:23-4.5	Uniform Construction Code enforcement: conflict of interest	19 N.J.R. 332(a)		
5:23-7.100-7.116	Barrier Free Subcode	18 N.J.R. 757(a)		
5:80-21	Housing and Mortgage Finance: single family loans	18 N.J.R. 2238(a)		
5:91-1.2, 1.3, 2.1, 3.1, 5.1, 7.1, 13.3, 13.4	Council on Affordable Housing: procedural rules	18 N.J.R. 1643(a)	R.1987 d.110	19 N.J.R. 355(b)
5:92-6.1, 8.2	Council on Affordable Housing: municipal credits; wetlands identification	19 N.J.R. 3(a)	R.1987 d.123	19 N.J.R. 407(a)

(TRANSMITTAL 1987-1, dated January 20, 1987)

DEFENSE—TITLE 5A

(TRANSMITTAL 1, dated May 20, 1985)

EDUCATION—TITLE 6

6:3-2	Pupil records	19 N.J.R. 333(a)		
6:8-7.1	High school graduation requirements	19 N.J.R. 4(a)		
6:8-7.1	High school graduation requirements	19 N.J.R. 4(b)		
6:20-2.14	Appropriation of free balance by local district	19 N.J.R. 437(a)		
6:20-4	Tuition for private schools for the handicapped	19 N.J.R. 336(a)		
6:21-10	Pupil transportation in small private vehicles	18 N.J.R. 2155(a)	R.1987 d.94	19 N.J.R. 290(a)
6:21-18	Inspection of vehicles used for pupil transportation	19 N.J.R. 5(a)		
6:46	Area Vocational Technical and Private Schools: waiver of Executive Order No. 66 (1978) sunset provision	18 N.J.R. 1996(b)		
6:46-1	Area vocational technical schools	18 N.J.R. 1511(a)		
6:68-7	Municipal branch library services	19 N.J.R. 6(a)		
6:68-8	Evaluation and development of library collections	19 N.J.R. 7(a)		
6:68-9	Maintenance of library collections	19 N.J.R. 8(a)		

(TRANSMITTAL 1987-1, dated January 20, 1987)

ENVIRONMENTAL PROTECTION—TITLE 7

7:1-3	Interim Environmental Cleanup Responsibility Act rules	19 N.J.R. 10(a)	R.1987 d.147	19 N.J.R. 514(a)
7:1-6	Disposal of solid waste	18 N.J.R. 883(a)		
7:1A	Water Supply Bond Loan Program	19 N.J.R. 437(b)		
7:1F-1, 2	Industrial Survey Project rules	19 N.J.R. 11(a)		
7:1G-2.1, 2.2, 4.1, 4.2, 5.4	Worker and Community Right to Know: hazardous substances and materials	19 N.J.R. 438(a)		
7:2-11	Natural Areas System	18 N.J.R. 2349(b)		
7:6-1.26, 1.37, 3.2, 3.5, 3.10, 3.11, 3.12, 4.5, 4.7	Boating and water-skiing	19 N.J.R. 396(a)		
7:6-1.42	Boating rules: diving and swimming	18 N.J.R. 1712(a)	R.1987 d.125	19 N.J.R. 408(a)
7:7-1, 2, 3, 4, 6	Coastal Permit Program	18 N.J.R. 2156(a)		
7:7-2.2	Monmouth County wetlands maps	18 N.J.R. 2162(a)		
7:9-4.14	Water quality criteria for Mainstem Delaware River Zones	18 N.J.R. 1435(a)		
7:9-13	Sewer connection bans	18 N.J.R. 2163(a)		
7:9-13	Sewer connection ban: extension of comment period	19 N.J.R. 263(b)		
7:11-3	Use of water from Delaware and Raritan Canal and Spruce Run/Round Valley Reservoir Complex	18 N.J.R. 1330(a)		
7:13-7.1	Floodway delineations along East Branch of Stony Brook, South Branch of Rockaway Creek, and Whale Pond Brook	18 N.J.R. 1239(a)	R.1987 d.138	19 N.J.R. 449(a)
7:13-7.1(d)	Redelineation of Raritan River and Peters Brook: repropose	19 N.J.R. 167(b)		
7:13-7.1(d)	Redelineation of Wolf Creek in Hackensack Basin	18 N.J.R. 2355(a)		
7:13-7.1(d)	Redelineation of Holland Brook in Somerset County	18 N.J.R. 1866(a)		
7:13-7.1(d)	Redelineation of North Branch Raritan River in Somerset County	18 N.J.R. 1866(b)		
7:13-7.1(e)	Redelineation of Henderson Brook in Passaic River	18 N.J.R. 2169(a)		
7:13-7.1(g)	Flood hazard areas along the Saddle, Ramapo and Mahwah rivers, and Masonicus Brook	19 N.J.R. 169(a)		
7:14A-1, 2, 3, 5, 10, 12	New Jersey Pollutant Discharge Elimination System	18 N.J.R. 2085(a)		
7:14A-1, 2, 3, 5, 10, 12	New Jersey Pollutant Discharge Elimination System: comment period extended	18 N.J.R. 2411(a)		
7:14A-1.9, 12	Sewer connection bans	18 N.J.R. 2163(a)		
7:14A-1.9, 12	Sewer connection bans: extension of comment period	19 N.J.R. 263(b)		
7:14A-6.16	Disposal of solid waste	18 N.J.R. 883(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:22-6	Pinelands Infrastructure Trust Fund procedures	18 N.J.R. 1896(a)		
7:22-7	Determination of allowable costs: Pinelands	18 N.J.R. 1904(a)		
7:25-2.18, 2.22	Use of land and water areas	19 N.J.R. 398(a)		
7:25-18A.4	Sale of striped bass	18 N.J.R. 2170(a)	R.1987 d.126	19 N.J.R. 408(a)
7:26-1.4, 2, 2A, 2B, 5, 12.11, 12.12	Disposal of solid waste	18 N.J.R. 883(a)		
7:26-1.4, 7.5, 7.7, 8.13	Waste oil	18 N.J.R. 878(a)		
7:26-2.9	Closure and post-closure care of sanitary landfills	18 N.J.R. 2170(b)	R.1987 d.117	19 N.J.R. 356(a)
7:26-2.13	Solid waste facilities: recordkeeping	19 N.J.R. 171(a)		
7:26-7.2, 9.1, 9.3, 10.8, 11.4	Hazardous waste management: containers, landfills, existing facilities	19 N.J.R. 441(a)		
7:26-8.14	Hazardous waste listing: ethylene dibromide wastes	19 N.J.R. 443(a)		
7:26-9.1, 9.3, 10.4, 10.8, 11.4, 12.1, 12.2	Hazardous waste management	18 N.J.R. 2356(a)		
7:26-9.1, 9.3, 10.4, 10.8, 11.4, 12.1, 12.2	Hazardous waste management: extension of comment period	19 N.J.R. 263(c)		
7:26-12.2	Hazardous waste facilities: application signatories	19 N.J.R. 11(b)		
7:26-15	Recycling Grants and Loans Program	18 N.J.R. 2358(a)		
7:26-17	Scales at solid waste facilities	18 N.J.R. 1154(a)		
7:27-16.1, 16.3	Air pollution control: Stage II vapor recovery	18 N.J.R. 1867(a)		
7:28-14	Therapeutic radiation installations	18 N.J.R. 1157(a)		
7:28-19.2, 19.3, 19.4, 19.6, 19.9, 19.10, 19.12	Licensure of orthopedic and urologic x-ray technologists	18 N.J.R. 2361(a)	R.1987 d.139	19 N.J.R. 449(b)
7:28-42.1	Workplace exposure to radio frequency radiation	18 N.J.R. 1166(a)		
7:30-2.3	Pesticide Control Code: correction to Administrative Code	_____	_____	19 N.J.R. 466(b)
7:50	Pinelands Comprehensive Management Plan	18 N.J.R. 2239(a)		
7:50	Pinelands Comprehensive Management Plan: public hearings	18 N.J.R. 2411(b)		

(TRANSMITTAL 1987-1, dated January 20, 1987)

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8:2-1	Birth certificates	18 N.J.R. 2278(a)		
8:2-1	Birth certificates: extension of comment period	19 N.J.R. 264(a)		
8:8-1.2, 5.5, 6.2	Screening of human blood	18 N.J.R. 2280(a)	R.1987 d.111	19 N.J.R. 356(b)
8:21-2.41	Sale of striped bass	18 N.J.R. 2174(a)	R.1987 d.127	19 N.J.R. 409(a)
8:21-4	Control of new drugs and Laetrile use	18 N.J.R. 2363(a)		
8:21-5	Foods, drugs, cosmetics, devices: order to remove from sale and recall	18 N.J.R. 1361(b)		
8:21-5	Order to remove from sale and recall of foods, drugs, cosmetics, and devices: extension of proposal comment period	18 N.J.R. 1715(b)		
8:26	Public recreational bathing: public hearing rescheduled	19 N.J.R. 12(a)		
8:26-3.9, 5.6, 5.7, 5.9, 7.6, App.	Public recreational bathing	18 N.J.R. 2281(a)	R.1987 d.99	19 N.J.R. 290(b)
8:31-25.1	Mobile intensive care: administration of medications	18 N.J.R. 602(a)	R.1987 d.112	19 N.J.R. 357(a)
8:31-26.3, 26.4	Home health agencies: employee physicals; child abuse and neglect	18 N.J.R. 2283(a)		
8:31B-2.2, 3.51, 3.57, 3.73, 4.40	Hospital reimbursement: Same Day Surgery services	18 N.J.R. 1908(a)		
8:31B-3.27, 4.42	Hospital reimbursement: capital facilities allowance	18 N.J.R. 1912(a)		
8:31B-3.41, 4.15, 4.38, 4.39	Hospital reimbursement: uncompensated care	18 N.J.R. 2283(b)		
8:31B-3.72	Hospital reimbursement: periodic adjustments	18 N.J.R. 1917(a)		
8:31B-3.73, App. IX	Hospital reimbursement: cost/volume methodology	18 N.J.R. 2284(a)		
8:31B-3.73, App. IX	Hospital reimbursement: correction to cost/volume methodology	19 N.J.R. 264(b)		
8:31B-7.4, 7.5	Uncompensated Care Trust Fund	Emergency	R.1987 d.164	19 N.J.R. 568(a)
8:41-8	Mobile intensive care: administration of medications	18 N.J.R. 602(a)	R.1987 d.112	19 N.J.R. 357(a)
8:42	Licensure of home health agencies	18 N.J.R. 2287(a)		
8:43E-1	Hospital Policy Manual	18 N.J.R. 825(a)		
8:43E-5	Intermediate Adult and Special Psychiatric Beds: certification of need	19 N.J.R. 171(b)		
8:52-1.8	Local health educators	19 N.J.R. 398(b)		
8:71	Generic drug list additions: public hearing (see 18 N.J.R. 1381(a), 1463(b), 1957(a), 2015(a), 19 N.J.R. 118(a), 216(b))	18 N.J.R. 537(a)	R.1987 d.133	19 N.J.R. 450(a)
8:71	Generic drug list additions (see 18 N.J.R. 1955(b), 2208(b), 19 N.J.R. 116(b), 216(c))	18 N.J.R. 1167(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
8:71	Generic drug additions (see 19 N.J.R. 116(c), 217(a))	18 N.J.R. 1775(a)		
8:71	Interchangeable drug products (see 19 N.J.R. 215(a))	18 N.J.R. 2100(a)		
8:71	Interchangeable drug products (see 19 N.J.R. 216(a))	18 N.J.R. 2101(a)		
8:71	Interchangeable drug products	19 N.J.R. 13(a)		

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HIGHER EDUCATION—TITLE 9

9:1-1.4	Submission of financial statements by independent special purpose and theological institutions	18 N.J.R. 2364(a)	R.1987 d.150	19 N.J.R. 514(b)
9:1-6.1	Approval of courses-for-credit offered by out-of-state institutions	18 N.J.R. 2365(a)	R.1987 d.151	19 N.J.R. 514(c)
9:4-1.5	Community college chargeback system	19 N.J.R. 14(a)	R.1987 d.152	19 N.J.R. 515(a)
9:5-1.1	Student dependency status defined	19 N.J.R. 264(c)		
9:6-6	Student membership on State college board of trustees	19 N.J.R. 265(a)		
9:7-2.6	Student assistance programs: student dependency status defined	19 N.J.R. 176(a)	R.1987 d.169	19 N.J.R. 515(b)
9:7-3.1	Tuition Aid Grant Program: 1987-88 Award Table	19 N.J.R. 177(a)	R.1987 d.170	19 N.J.R. 516(a)
9:7-9	Carl D. Perkins Scholarship Program	18 N.J.R. 2174(b)	R.1987 d.168	19 N.J.R. 516(b)
9:11-1.2	Student residency	18 N.J.R. 1777(a)	R.1987 d.135	19 N.J.R. 450(b)
9:11-1.4	Educational Opportunity Fund: student dependency status defined	19 N.J.R. 266(a)		
9:11-1.5	Educational Opportunity Fund: undergraduate grants	19 N.J.R. 15(a)		
9:11-1.7	Educational Opportunity Fund: undergraduate grants	19 N.J.R. 399(a)		
9:12-1.5, 2.3	Educational Opportunity Fund Program	18 N.J.R. 801(b)	R.1987 d.134	19 N.J.R. 451(a)

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HUMAN SERVICES—TITLE 10

10:49-1.5	Records retention by long-term care facilities	18 N.J.R. 2411(c)		
10:51-2.6, 5.18	Correction to Administrative Code			19 N.J.R. 466(d)
10:52-1.5, 1.17	Out-of-state inpatient hospital services	18 N.J.R. 538(a)	Expired	
10:56-3	HCPCS codes for dental services	19 N.J.R. 15(b)	R.1987 d.166	19 N.J.R. 519(a)
10:60-2.2, 2.3, 3.1	Personal care assistant services	18 N.J.R. 2365(b)		
10:61-1, 2	Independent laboratory services	18 N.J.R. 540(a)	Expired	
10:62-1, 2, 3	Vision Care Manual	18 N.J.R. 1246(a)		
10:63-1.14	Records retention by long-term care facilities	18 N.J.R. 2411(c)		
10:65-1.5, 1.8	Medical day care centers: recordkeeping	19 N.J.R. 30(a)		
10:66-2, 3	Independent clinic services	18 N.J.R. 541(a)	Expired	
10:66-3	Independent clinic transportation services: HCPCS codes	18 N.J.R. 1252(a)		
10:68-2	Chiropractor billing procedures	18 N.J.R. 810(a)		
10:81-3.12	PAM: parent-minor and AFDC	19 N.J.R. 31(a)		
10:81-3.18	PAM: exemption from WIN registration	18 N.J.R. 2301(a)	R.1987 d.132	19 N.J.R. 451(b)
10:81-3.34	PAM: temporary absence of child from home	18 N.J.R. 1675(a)		
10:81-4.9, 5.2, 7.1	PAM: administration of AFDC program	19 N.J.R. 341(a)		
10:81-7.29	Retroactive funeral payments	18 N.J.R. 2176(a)	R.1987 d.136	19 N.J.R. 452(a)
10:81-11.7, 11.9	PAM: annual notice of child support collections	19 N.J.R. 343(a)		
10:81-11.18	PAM: child support guidelines	18 N.J.R. 2178(a)		
10:82-1.3, 4.16	ASH: household defined; court-ordered support	19 N.J.R. 31(b)		
10:82-3.2, 4.13, 4.14, 4.15	ASH: resources and income in AFDC	19 N.J.R. 344(a)		
10:82-4.15	ASH: lump sum income	19 N.J.R. 32(a)		
10:85-2.2, 3.1-3.4	GAM: correction to Administrative Code			19 N.J.R. 307(b)
10:85-3.2	GAM: exemption from work requirement and unemployability	18 N.J.R. 2183(a)		
10:85-3.3	GAM: Medically Needy eligibility	18 N.J.R. 1781(a)		
10:85-3.3, 3.4	GAM: treatment of agent orange payments	19 N.J.R. 32(b)		
10:85-4.9	Retroactive funeral payments	18 N.J.R. 2176(a)	R.1987 d.136	19 N.J.R. 452(a)
10:85-5.3	GAM: payment of medical insurance premiums	19 N.J.R. 33(a)		
10:85-8.4	GAM: information concerning PAAD	18 N.J.R. 1343(b)		
10:94	Medicaid Only Manual recodified to 10:71			19 N.J.R. 466(e)
10:94-5.4, 5.5, 5.6, 5.7	Medicaid Only: eligibility computation amounts	Emergency	R.1987 d.78	19 N.J.R. 245(a)
10:100-3.6	Submission of cemetery petition by funeral directors	19 N.J.R. 345(a)		
10:100-3.10	Retroactive funeral payments	18 N.J.R. 2176(a)	R.1987 d.136	19 N.J.R. 452(a)
10:100-App. A	Supplemental Security Income payment levels	19 N.J.R. 246(a)	R.1987 d.172	19 N.J.R. 533(a)
10:121A-2.2	Certification period for adoption agencies	18 N.J.R. 1923(a)	R.1987 d.106	19 N.J.R. 358(a)

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CORRECTIONS—TITLE 10A

10A:4-4.1	Inmate discipline: prohibited acts	19 N.J.R. 178(a)	R.1987 d.154	19 N.J.R. 534(a)
10A:4-5.2	Inmate discipline: schedule of sanctions at Youth Complex	19 N.J.R. 178(b)	R.1987 d.155	19 N.J.R. 534(b)
10A:9-4.6	Reduced custody consideration for inmates with mandatory minimum sentences of 24 months or less	19 N.J.R. 178(c)	R.1987 d.156	19 N.J.R. 534(c)

V.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10A:16	Medical and health services	18 N.J.R. 1662(a)	R.1987 d.160	19 N.J.R. 535(a)
10A:18	Mail, visits, and use of telephone	19 N.J.R. 33(b)		
10A:34-2	Municipal detention facilities	18 N.J.R. 2412(a)	R.1987 d.149	19 N.J.R. 548(a)

(TRANSMITTAL 1987-1, dated January 20, 1987)

INSURANCE—TITLE 11

11:1-20, 22	Cancellation and nonrenewal of commercial policies	18 N.J.R. 2301(b)	R.1987 d.114	19 N.J.R. 359(a)
11:1-22.3	Reinstatement of commercial lines policies	18 N.J.R. 2414(a)	R.1987 d.113	19 N.J.R. 358(b)
11:1-24	Credit cards and payment of insurance premiums	18 N.J.R. 1999(a)		
11:2-17.11, 17.14	Settlement of automobile damage claims	18 N.J.R. 2415(a)		
11:3-7	Automobile Reparation Reform: additional personal injury protection	19 N.J.R. 44(a)	R.1987 d.140	19 N.J.R. 453(a)
1:3-10.3, 10.10	Settlement of automobile damage claims	18 N.J.R. 2415(a)		
1:3-13.1, 13.3, 13.4, 13.5, 13.6	Deductibles for private passenger automobile coverage	19 N.J.R. 46(a)	R.1987 d.142	19 N.J.R. 455(a)
1:3-16	Pre-proposal: Private passenger automobile rate filings	18 N.J.R. 1083(a)		
1:3-17.4, 17.5	Private passenger automobile rate filings	19 N.J.R. 47(a)	R.1987 d.141	19 N.J.R. 455(b)
1:4-16.6	Daily hospital room and board coverage	18 N.J.R. 608(a)		
1:4-16.8	Medicare information brochure	18 N.J.R. 2103(a)	R.1987 d.96	19 N.J.R. 291(a)
1:4-21	Limited death benefit policies	18 N.J.R. 1085(a)		
1:4-23.8	Medicare information brochure	18 N.J.R. 2107(a)	R.1987 d.95	19 N.J.R. 291(a)
1:5-1.16	Obligations of real estate licensees	18 N.J.R. 1677(a)	R.1987 d.159	19 N.J.R. 5551(a)
1:5-1.16, 1.23	Public hearing: Obligations of real estate licensees	18 N.J.R. 2113(a)		
1:5-1.23	Obligations of real estate licensees	18 N.J.R. 1680(a)		
1:5-1.25	Sales of interstate properties	18 N.J.R. 2416(a)		
1:5-1.28	Certification as approved real estate education instructor	18 N.J.R. 1681(a)		
1:5-1.30	Transfer of real estate licenses	18 N.J.R. 2418(a)	R.1987 d.119	19 N.J.R. 409(b)
1:12	Pre-proposal: Legal services insurance	18 N.J.R. 1783(a)		
1:17-1	Surplus lines insurance guaranty fund surcharge	18 N.J.R. 1173(a)		

(TRANSMITTAL 1987-1, dated January 20, 1987)

LABOR—TITLE 12

2:16-19.1	Charging of unemployment benefits to employer's account	18 N.J.R. 1682(a)	R.1987 d.104	19 N.J.R. 363(a)
2:16-20.1	Work relief and work training programs: exempt employment	18 N.J.R. 1683(a)	R.1987 d.102	19 N.J.R. 363(b)
2:17-2.2, 2.4	Unemployment compensation claims and verification of Social Security numbers	18 N.J.R. 1683(b)	R.1987 d.103	19 N.J.R. 363(c)
2:17-3.1, 4.1, 4.2	"Week of partial unemployment" defined	18 N.J.R. 1684(a)	R.1987 d.101	19 N.J.R. 364(a)
2:60	Prevailing wages for public works	19 N.J.R. 345(b)		
2:100-4.2	Protection of firefighters	19 N.J.R. 48(a)		
2:100-4.2, 5.2, 6.2, 7	Public employees and exposure to toxic and hazardous substances	19 N.J.R. 267(a)		

(TRANSMITTAL 34, dated November 17, 1986)

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

2A:10-1	Award of contracts to small, female-owned and minority businesses	18 N.J.R. 2306(a)	R.1987 d.143	19 N.J.R. 457(b)
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(TRANSMITTAL 1, dated September 22, 1986)

LAW AND PUBLIC SAFETY—TITLE 13

3:27-8.12	Continuing education in landscape architecture	18 N.J.R. 2367(a)	R.1987 d.105	19 N.J.R. 364(b)
3:27-8.14	Advertising by persons not certified as landscape architects	19 N.J.R. 400(a)		
3:29-1.7	Conditional credit on Uniform CPA examination	19 N.J.R. 48(b)		
3:30-2.16	Continuing education in dental hygiene and dental assisting	18 N.J.R. 2113(b)	R.1987 d.97	19 N.J.R. 296(a)
3:30-8.6, 8.15	Practice of dentistry and referral fees	18 N.J.R. 2419(a)	R.1987 d.158	19 N.J.R. 552(a)
3:30-8.16	Dental X-rays and use of lead shield	18 N.J.R. 2113(c)	R.1987 d.98	19 N.J.R. 296(b)
3:31-1.12, 1.13, 1.14, 1.15	Licensure of electrical contractors	19 N.J.R. 49(a)		
3:31-1.16	Electrical contractor ID	19 N.J.R. 352(a)		
3:32-1.9	Master plumber ID	19 N.J.R. 352(b)		
3:35-1.5	Practice by medical school graduates in hospital residency programs	18 N.J.R. 2184(a)		
3:35-6.13	Medical Examiners Board: fee schedule	19 N.J.R. 353(a)		
3:36-1.9	Itemization of funeral expenses	18 N.J.R. 2186(a)		
3:39A-1.4	Licensure of physical therapists: fees and charges	18 N.J.R. 1177(a)		
3:39A-2.2	Authorized practice by physical therapist	18 N.J.R. 1177(b)		
3:39A-2.2, 3.3	Electromyographic testing by licensed physical therapist: public hearing	18 N.J.R. 1684(b)		
3:39A-3.3	Physical therapy: unlawful practices	18 N.J.R. 1178(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
13:39A-5.2—5.4, 5.6—5.9	Physical therapy educational credentials and examination standards	18 N.J.R. 1179(a)	R.1987 d.84	19 N.J.R. 297(a)
13:39A-6	Temporary licensure of physical therapists	18 N.J.R. 1179(b)	R.1987 d.83	19 N.J.R. 298(a)
13:40-5.1	Preparation of land surveys	18 N.J.R. 2367(b)		
13:44B-1	Compensation of professional and occupational licensing board members	19 N.J.R. 444(a)		
13:45A-2	Motor vehicle advertising practices	18 N.J.R. 2419(b)		
13:45A-6.2	Unlawful automobile sales practices	18 N.J.R. 2115(a)		
13:45A-24	Sale of gray market merchandise	19 N.J.R. 179(a)		
13:46-5.23	Boxing: time between bouts	18 N.J.R. 2423(a)		
13:46-8.14	Boxing: three knockdown rule	18 N.J.R. 2424(a)	R.1987 d.122	19 N.J.R. 409(c)
13:47-6.19	Prohibited prizes in games of chance	18 N.J.R. 1180(a)	R.1987 d.82	19 N.J.R. 298(b)
13:47-14.3	Rental of premises for bingo	18 N.J.R. 1180(b)		
13:47B-1.22	Approaches for vehicle scales	18 N.J.R. 2116(a)	R.1987 d.173	19 N.J.R. 552(b)
13:51	Chemical breath testing	19 N.J.R. 444(b)		
13:70-29.29—29.34	Thoroughbred racing: refunds of advance wagers	18 N.J.R. 2368(a)	R.1987 d.120	19 N.J.R. 409(d)

(TRANSMITTAL 1987-1, dated January 20, 1987)

PUBLIC UTILITIES—TITLE 14

14:3-7.9	Form of bill for metered service	18 N.J.R. 2425(a)	R.1987 d.163	19 N.J.R. 552(c)
14:3-7.12A	Residential electric and gas service during heating season	18 N.J.R. 2315(a)		
14:11	Board of Public Utilities: administrative orders	18 N.J.R. 2425(b)	R.1987 d.116	19 N.J.R. 365(c)

(TRANSMITTAL 1987-1, dated January 20, 1987)

ENERGY—TITLE 14A

14A:3-4.1—4.6	Energy subcode	19 N.J.R. 433(b)		
14A:3-4.4	Thermal efficiency standards: operative date			18 N.J.R. 2391(a)
14A:4-1.1—3.1	Solar energy property tax exemptions	19 N.J.R. 433(b)		
14A:3-4.4	Energy subcode: thermal efficiency standards	18 N.J.R. 2349(a)	R.1987 d.92	19 N.J.R. 298(c)
14A:11-4.2, 4.3, 4.4, 5.2, 5.3, 5.4	Reporting by retail fuel merchants and motor fuel dealers	19 N.J.R. 50(a)	R.1987 d.161	19 N.J.R. 552(d)
14A:13	Energy conservation in State buildings	18 N.J.R. 2187(a)	R.1987 d.80	19 N.J.R. 300(a)
14A:21-1.2, 2.2, 2.3, 3.4—3.7, 5.2, 6.1, 6.2, 7.1, 7.2, 7.5—7.7, 8.1—8.3, 9.4, 10.1, 11.2, 11.3	Home Energy Savings Program	18 N.J.R. 2001(a)	R.1987 d.88	19 N.J.R. 301(a)

(TRANSMITTAL 21, dated September 22, 1986)

STATE—TITLE 15

15:5	State Museum	18 N.J.R. 2368(b)	R.1987 d.100	19 N.J.R. 366(a)
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(TRANSMITTAL 18, dated October 20, 1986)

PUBLIC ADVOCATE—TITLE 15A

(TRANSMITTAL 1, dated March 20, 1978)

TRANSPORTATION—TITLE 16

16:28A-1.7, 1.41, 1.108	No parking zones along U.S. 9 in Little Egg Harbor, and Routes 77 and U.S. 40-N.J. 45 in Salem County	19 N.J.R. 180(a)	R.1987 d.145	19 N.J.R. 553(a)
16:28A-1.8, 1.18	Parking along Routes 10 in Livingston and 27 in Linden	19 N.J.R. 51(a)	R.1987 d.129	19 N.J.R. 455(c)
16:29-1.66	No passing zone along Route 140 in Carney's Point	19 N.J.R. 181(a)	R.1987 d.146	19 N.J.R. 553(b)
16:32-1.1, 1.2, 1.3, 3	Designated routes for double trailers and wide trucks	18 N.J.R. 2428(a)	R.1987 d.115	19 N.J.R. 374(a)
16:44-3.2, 3.4, 7.5-7.9	Contract administration: construction plans; deferred payments to contractors	19 N.J.R. 181(b)		
16:49-1.3	Transportation of hazardous materials	18 N.J.R. 933(a)		
16:51	Practice and procedure before Office of Regulatory Affairs	19 N.J.R. 182(a)	R.1987 d.148	19 N.J.R. 553(c)
16:53D-1.1	Zone of rate freedom	18 N.J.R. 2376(a)	R.1987 d.131	19 N.J.R. 456(a)
16:73	NJ TRANSIT: Reduced Fare Program for Elderly and Handicapped	18 N.J.R. 2437(a)	R.1987 d.121	19 N.J.R. 410(a)

(TRANSMITTAL 1987-1, dated January 20, 1987)

TREASURY-GENERAL—TITLE 17

17:1-1.10	Reconciliation of pension accounts	18 N.J.R. 2377(a)	R.1987 d.108	19 N.J.R. 380(a)
17:1-1.10	Balances in withdrawn pension accounts	19 N.J.R. 446(a)		
17:1-1.10	Positive and negative balances in pension accounts	19 N.J.R. 447(a)		
17:1-2.37	Alternate Benefit Program: transmittal of employee contributions	18 N.J.R. 1256(a)		
17:1-4.4	Enrollment schedule for State-administered retirement systems	18 N.J.R. 2320(a)	R.1987 d.76	19 N.J.R. 304(a)
17:1-4.36	Pension credit for peacetime military service	19 N.J.R. 353(b)		
17:1-7.4	Retirees returning to public employment	19 N.J.R. 51(b)	R.1987 d.128	19 N.J.R. 458(b)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
17:2-1.4	Public Employees' Retirement System: candidates for member-trustee	19 N.J.R. 52(a)	R.1987 d.157	19 N.J.R. 565(a)
17:2-2.4, 3.1, 5.2	Enrollment in PERS	18 N.J.R. 2320(b)	R.1987 d.144	19 N.J.R. 566(a)
17:2-3.7	PERS contributory coverage termination: correction			18 N.J.R. 2391(c)
17:2-4.4	Public Employees' Retirement System: accrual of loan interest	19 N.J.R. 194(a)		
17:3-4.4	Teachers' Pension and Annuity: accrual of loan interest	19 N.J.R. 52(b)	R.1987 d.130	19 N.J.R. 457(a)
17:3-6.15	Teachers' Pension and Annuity Fund: compulsory retirement	19 N.J.R. 195(a)		
17:4-2.6	Enrollment in Police and Firemen's Retirement System	18 N.J.R. 2321(a)	R.1987 d.124	19 N.J.R. 410(b)
17:4-4.4	Police and Firemen's Retirement System: loan interest	18 N.J.R. 2437(b)	R.1987 d.153	19 N.J.R. 566(b)
17:4-5.1, 5.2	Enrollment in Police and Firemen's Retirement System	18 N.J.R. 2321(a)	R.1987 d.167	19 N.J.R. 566(c)
17:8-3.7	Supplemental Annuity Collective Trust: investment of contributions	19 N.J.R. 52(c)	R.1987 d.162	19 N.J.R. 567(a)
17:12-6	Award of contracts to small, female-owned and minority businesses	18 N.J.R. 2306(a)	R.1987 d.143	19 N.J.R. 457(b)
17:16-32.11	Common Pension Fund A: distribution of realized appreciation	18 N.J.R. 2377(b)	R.1987 d.86	19 N.J.R. 304(b)
17:16-36.11	Common Pension Fund B: distribution of realized appreciation	18 N.J.R. 2378(a)	R.1987 d.87	19 N.J.R. 304(c)
17:16-38	Common Pension Fund C	18 N.J.R. 2438(a)	R.1987 d.107	19 N.J.R. 380(b)
17:20-4.4, 5.1, 6.2, 6.4	Lottery Commission rules	18 N.J.R. 1927(a)	R.1987 d.77	19 N.J.R. 304(d)
17:30	Urban Enterprise Zone Authority	18 N.J.R. 2191(b)		
17:30	Urban Enterprise Zone Authority: comment period reopened	19 N.J.R. 354(a)		

(TRANSMITTAL 1987-1, dated January 20, 1987)

TREASURY-TAXATION—TITLE 18

18:5-3.6	Purchase of cigarette revenue stamps	18 N.J.R. 2378(b)		
18:7-4.5, 4.6, 5.5	Corporation business tax: indebtedness, interest, and offsets	18 N.J.R. 2004(b)	R.1987 d.118	19 N.J.R. 410(c)
18:7-8.4	Corporation business tax: tangible personal property	18 N.J.R. 627(a)	R.1987 d.137	19 N.J.R. 464(a)
18:14-2.11	Veteran's and senior citizen's property tax deductions	19 N.J.R. 195(b)		
18:15-14.6	Farmland assessments	19 N.J.R. 447(b)		
18:24-1.1	Sales and use tax forms	18 N.J.R. 2192(a)		
18:24-1.2	Sales and Use Tax: "periodicals"	18 N.J.R. 1928(a)		
18:26-12.2	Representation of estates	18 N.J.R. 2321(b)		
18:38	Litter control tax	19 N.J.R. 400(b)		

(TRANSMITTAL 39, dated December 15, 1986)

TITLE 19—OTHER AGENCIES

19:4-4.152, 4.154, 4.155, 6.28	Commercial Park Zone	19 N.J.R. 53(a)		
19:4-6.28	Rezoning in Little Ferry	19 N.J.R. 53(b)		
19:4-6.28	Rezoning in Secaucus	19 N.J.R. 54(a)		
19:4-6.28	Zoning change in Secaucus	19 N.J.R. 448(a)		
19:17-2.1, 3.1-4.5	PERC: Appeal Board procedure	19 N.J.R. 196(a)		
19:17-2.1, 3.1—4.5	PERC Appeal Board procedure: rescheduled public hearing	19 N.J.R. 404(a)		

(TRANSMITTAL 1987-1, dated January 20, 1987)

TITLE 19 SUBTITLE K—CASINO CONTROL COMMISSION/CASINO REINVESTMENT DEVELOPMENT AUTHORITY

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