

NEW JERSEY



REGISTER

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** The New Jersey Register supplements the New Jersey Administrative Code. To complete your research of the latest State Agency rule changes, see the Register Index of Rule Proposals and Adoptions in this issue.*

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RULE PROPOSALS

Interested persons may submit, in writing, information or arguments concerning any of the following proposals until **August 14, 1985**. 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. 1:30-3.5. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice.

BANKING

DIVISION OF BANKING

Proposals numbered PRN 1985-373 and 379 are authorized by Mary Little Parell, Commissioner, Department of Banking.

Submit comments by August 14, 1985 to:
 Roger F. Wagner, Deputy Commissioner
 Division of Banking
 Department of Banking
 CN 040
 Trenton, N.J. 08625

(a)

Examination of Banks and Savings Banks

Proposed Amendments: N.J.A.C. 3:7-3.3, 3.6 and 3.7

Authority: N.J.S.A. 17:9A-253A.
 Proposal Number: PRN 1985-379.

The agency proposal follows:

Summary

Department of Banking regulations require every bank and savings bank to perform periodic confirmations of loans and deposits. Under current regulations, a public accountant or other approved examiner confirms with depositors and debtors, the correctness of deposits due and debts owed the bank or savings bank. These confirmations are mailed to at least 10 percent of the accounts and loans (N.J.A.C. 3:7-3.3). This proposal modifies the present regulation by eliminating the 10 percent requirement and places the responsibility on the public accountant to determine a satisfactory level of confirmations and results. The proposed amendment also requires the disclosure of certain information in the public accountant's report (N.J.A.C. 3:7-3.7(d)). In addition, the amendment sets out the responsibility of the public accountant when an internal bank auditor performs the confirmation program (N.J.A.C. 3:7-3.7(e)).

The proposed amendments governing examination of Banks and Savings Banks under the direction of Board of Directors, Board of Managers or Board of Trustees, will bring the confirmation requirement in line with regulations governing savings and loan associations, national banks and neighboring states.

Social Impact

The proposed amendments will allow public accountants the flexibility of determining the extent of confirmations necessary and to apply statistical sampling or any other sampling techniques in selecting accounts for confirmation as the public accountant feels appropriate relative to the adequacy of internal accounting controls in the institution under examination.

NEW JERSEY REGISTER

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Economic Impact

The proposed modification in the regulation will save institutions mailing expense and reduce costs of auditing expense without impacting negatively on the results of the confirmation program. Current statistical sampling techniques preclude the need for a standard fixed level of confirmations and yet still allows for the achieving of desired results. The proposed modification will economically benefit banks and savings banks by allowing the flexibility and use of audit time and funds in what might be considered more prudent ways.

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

3:7-3.3 Confirmation of deposits and debts

The public accountant or other approved person examining for the board of directors shall confirm with certain depositors and debtors the correctness of the deposits due them and debts owed to the bank on various types of loans and contracts purchased. Such confirmations, except for provided exclusions, shall be either of the positive or negative type or any combination of the two types and shall be mailed during each calendar year to [at least 10 percent of] the savings deposit accounts and other time deposits, [10 percent of] the demand deposit accounts and [10 percent of] any and all types of direct loans, serviced loans or contracts purchased. Collateral pledged to secure a loan shall be included in the confirmation. The person conducting the confirmation program will be responsible for resolving to his satisfaction any differences disclosed through the confirmation procedures which he deems to be of a material nature and all such differences which remain unresolved, shall be reported to the board of directors for its further disposition. A schedule reflecting the confirmation program shall be included as a part of the report or included in a supplement to the report.

3:7-3.6 Provision for sampling

Selection of accounts by random sampling, specific selection or any other form of statistical sampling is permitted to provide the proper latitude in achieving [the ten percent] a satisfactory confirmation level.

3:7-3.7 Review of internal controls and audit program

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

(d) **The public accountant shall determine the extent of confirmations that in his judgement are necessary pursuant to N.J.A.C. 3:7-3.3 to achieve a satisfactory confirmation level. The public accountant's report shall clearly disclose the number and dollar amount and percent of accounts confirmed. The report must also disclose the type of confirmation used (that is, positive or negative) and the basis used to select accounts for confirmation. If statistical sampling is used as the basis for selecting accounts, the report must also disclose the method used and the confidence level achieved.**

(e) **If the internal auditor has been granted permission to perform the confirmation program, the public accountant shall annually review the program and results to determine that the requirements in (d) above have been satisfactorily met and shall so note this in his report. If the confirmation program performed by the internal auditor is deemed to be insufficient, it shall be the public accountants responsibility to perform additional confirmations to satisfy the provisions of (d) above.**

(a)**CONSUMER CREDIT BUREAU****Small Loan Licensees
Mortgage Bankers and Brokers****Proposed Amendments: N.J.A.C. 3:17-7.1 and 7.3**

Authority: N.J.S.A. 17:10-13 and 17:10-23.
Proposal Number: PRN 1985-373.

The agency proposal follows:

Summary

The proposed amendments would amend N.J.A.C. 3:17-7.1(b) to include mortgage bankers and brokers as another permissible business that may be conducted from the same premises as the small loan business conducted by lenders pursuant to N.J.S.A. 17:10-1 et seq. The Commissioner of Banking realizes that many small loan licensees currently hold mortgage bankers and brokers licenses pursuant to N.J.S.A. 17:11B-1 et seq. and that this proposed amendment will clarify the operation of small loan lenders activities in connection with their licensed mortgage bankers and brokers business.

Social Impact

Licensed small loan lenders currently service residents of all twenty-one counties of the State providing consumer loan service to such residents. The provision of the proposed activity within the licensed offices is geographically advantageous to the citizens of this State and gives residents better financial availability in the primary home mortgage market.

Economic Impact

The expansion of the primary mortgage market to assist the homeowners to complete the sale of their property is economically desirable since it will assist both home seekers and home sellers and provide additional mortgage funds to the real estate market.

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

3:17-7.1 Permissible other businesses

(a) (No change.)

(b) Upon obtaining any necessary license or authorization, a small loan licensee may engage in the following other types of businesses:

1.-10. (No change.)

11. The mortgage bankers and brokers business. Any such business shall be conducted in accordance with the provisions of N.J.S.A. 17:11B-1 et seq., the Mortgage Bankers and Brokers Act.

[11.]12. Such other business as the Commissioner [in his discretion] may deem appropriate and for which specific approval is obtained pursuant to N.J.S.A. 3:17-7.3.

3:17-7.3 Procedure for obtaining approval

(a) Commencing 60 days from the effective date of this subchapter, no small loan licensee may conduct any business activity other than the business of making small loans, except those businesses specifically permitted by N.J.A.C. 3:17-7.1(b)1 through [10]11, without approval from the Commissioner obtained as specified in this section. Prior to commencing the

conduct of any of the other business activities permitted by N.J.A.C. 3:17-7.1(b) [11]12, a small loan licensee shall notify the Commissioner of its intention to do so. Such notice shall contain a detailed description of the proposed activity and a statement of the perceived public need for such activity. Within 30 days from the date of the Commissioner's Notice of Acceptance to the small loan licensee, if the Commissioner does not disapprove of that activity, the activity shall be deemed approved.

(b) (No change.)

(a)

CEMETERY BOARD

Cemeteries

Proposed Readoption: N.J.A.C. 3:41.

Authorized By: Mary Little Parell, Commissioner of Banking.

Authority: N.J.S.A. 8A:2-2.

Proposal Number: PRN 1985-380.

Submit comments by August 14, 1985 to:
William L. Ingling, Executive Director
New Jersey Cemetery Board
CN-040
Trenton, NJ 08625

The agency proposal follows:

Summary

N.J.A.C. 3:41-1.1 to 3:41-10.4, Chapter 41 of Title 3 of the New Jersey Administrative Code will expire on October 16, 1985. This Chapter was reviewed by the New Jersey Cemetery Board in June 1985 in compliance with Executive Order No. 66(1978) and was found to be necessary, adequate, reasonable, efficient, understandable, and responsive to the purposes for which it was originally promulgated. The Cemetery Board proposes to readopt this chapter without change.

The purpose of Chapter 41 is the promotion of the health, safety, and welfare of the public through the regulation of cemetery companies and their property, property rights, equipment and facilities. The proposed readoption is required for the continued effective enforcement and administration of the New Jersey Cemetery Act, N.J.S.A. 8A:1-1 et seq.

N.J.A.C. 3:41-1.1 sets the limits of the applicability of the chapter as to religious corporations or cemeteries owned by religious corporations.

N.J.A.C. 3:41-1.2 applies this chapter to cemetery companies, and their directors, trustees, officers, and employees.

N.J.A.C. 3:41-2.1 is a definitional rule which supplements the definitions found in the Cemetery Act.

N.J.A.C. 3:41-3.1 is concerned with the charge for copies of documents and the payment of fees.

N.J.A.C. 3:41-4.1 sets out the general duties of the Executive Director, New Jersey Cemetery Board.

N.J.A.C. 3:41-4.2 authorizes the Executive Director to approve the bulk sale of interment spaces to a membership, religious corporation, society, or other like entity under N.J.S.A. 8A:9-7.

N.J.A.C. 3:41-5.1 regulates the sale and installation of vaults, multiple death crypts and commercial bases to be attached to

bronze memorials. This rule additionally covers the replacement and repair of memorial foundations and the cost for such, the posting, collection, adjustments and disposition of certain charges made by a cemetery company and clarifies N.J.S.A. 8A:5-23 relative to the burial of memorials.

N.J.A.C. 3:41-5.2 regulates the collection and payment of monies into the Maintenance and Preservation Fund and other trust funds.

N.J.A.C. 3:41-5.3 regulates the investment of trust funds, the evaluation of the trust funds, recordkeeping and management of the funds. This rule also requires each cemetery to keep a map of the cemetery readily available, and to file affidavits regarding the gross sales and sales prices on resale of crypts or niches.

N.J.A.C. 3:41-6.1 permits reasonable memorialization of the remains, after interment and the removal of unsightly monumentation by a cemetery company.

N.J.A.C. 3:41-6.2 restricts the closing of a cemetery to no more than three consecutive days, unless a listed exception is met.

N.J.A.C. 3:41-6.3 provides for the transferability of unused interment spaces.

N.J.A.C. 3:41-7.1 is concerned with the sale of interment rights in multiple depth graves to two or more unrelated persons and to single purchasers.

N.J.A.C. 3:41-7.2 requires a disinterment order in the event the remains in an interment space must be lowered to accommodate an additional interment.

N.J.A.C. 3:41-7.3 allows cemetery companies to prohibit photographing disinterments, except in the case of owners or with the authority of owners, and as a part of a criminal investigation or by order of court.

N.J.A.C. 3:41-8.1 regulates the packaging and identification of crematory remains for shipment.

N.J.A.C. 3:41-9.1 provides for the licensing of cemetery salesman and clarifies who may be eligible.

N.J.A.C. 3:41-9.2 provides for a criminal history record information check on cemetery salesman applicants, and for the furnishing of a release of information to the Cemetery Board.

N.J.A.C. 3:41-9.3 sets the form of the cemetery salesman license.

N.J.A.C. 3:41-9.4 provides for the mailing of license renewal forms by the date of the valid license.

N.J.A.C. 3:41-9.5 requires a separate cemetery salesman license for each cemetery company for which he sells, but only one examination fee.

N.J.A.C. 3:41-9.6 prohibits counties and municipalities from licensing or requiring a bond in connection with the sale of cemetery property or services by licensed cemetery salesmen.

N.J.A.C. 3:41-10.1 reserves the right in the Cemetery Board to make exceptions, suspensions, or modifications in any rule or regulation where the public interest is best served, and authorizes the Board to make, amend, or repeal any rule or regulation in accord with the purpose of the Cemetery Act.

N.J.A.C. 3:41-10.2 allows the Cemetery Board the exercise of its discretion in matters not governed by the rules and regulations of the Board.

N.J.A.C. 3:41-10.3 includes the meaning of the feminine gender as to masculine words, unless a different meaning clearly appears from the context of a rule.

N.J.A.C. 3:41-10.4 provides for the liberal construction of the rules and regulations.

Social Impact

Chapter 41 directly affects cemetery companies, their directors and employees through the regulation of their operation,

management, and administration. The public has benefited through the positive effect of these practices on the maintenance and preservation of cemeteries and related services of cemetery companies regarding interment spaces and the disposal of human remains. The rules have promoted sound cemetery company operations, management and procedures and their readoption will continue effective administration of cemeteries.

Economic Impact

The readoption of this chapter will continue the present economic impact and no additional economic costs or burdens are anticipated. Cemetery companies, their directors and employees are affected by the minimal administrative costs of compliance with these rules. The agency incurs enforcement costs which are also minimal. There are no costs to the public.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 3:41-1.1 to 10.4.

COMMUNITY AFFAIRS

DIVISION OF HOUSING AND DEVELOPMENT

Proposals numbered PRN 1985-370 and 381 are authorized by John P. Renna, Commissioner, Department of Community Affairs.

Submit comments by August 14, 1985 to:
 Michael L. Ticktin, Esq.
 Administrative Practice Officer
 Division of Housing and Development
 CN 804
 Trenton, New Jersey 08625

(a)

Uniform Construction Code Licenses

Proposed Amendments: N.J.A.C. 5:23-5.7 and 5.11

Authority: N.J.S.A. 52:27D-124.
 Proposal Number: PRN 1985-370.

The agency proposal follows:

Summary

With reference to construction and subcode officials and inspectors, in order to more effectively distinguish license suspensions from revocations, the proposed amendments limit suspensions to 60 days while establishing additional requirements that must be satisfied before a person whose license has been revoked can get a new license. These additional requirements are (1) that at least two years shall have passed since the effective date of the revocation and (2) that the

applicant shall have demonstrated rehabilitation under the terms of the Rehabilitated Convicted Offenders Act (N.J.S.A. 2A:168-1 et seq.) in any case involving conviction of a code enforcement-related crime.

Social Impact

A suspension is warranted for a violation that is less serious than a violation warranting revocation. However, the regulations do not now impose any minimum period of time between revocation and issuance of a new license. As a result, in a situation in which no restitution is required, a suspended licensee may fare worse than a revoked one. The proposal would correct that inequity.

Economic Impact

Persons facing suspension will benefit by having their period of suspension limited to 60 days. Persons whose licenses are revoked would no longer become eligible to become licensed again after only a short period of time. Since a person cannot legally make a living in code enforcement while his license is suspended or revoked, economic detriment will correspond to the period of suspension or ineligibility for licensure.

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

5:23-5.7 Renewal of license and issuance of new license

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

(f) After revocation of a license upon any of the grounds set forth in these regulations, the office may not renew or reinstate such license; however, a person may file a new application for a license with the department. [When it can be shown that all loss caused by the act or omission for which the license was revoked has been fully satisfied and that all conditions imposed by the decision of revocation have been complied with, the department may issue a new license.]

(g) The department shall not issue a new license to an applicant whose license was previously revoked unless and until the following conditions are met:

1. At least two years shall have passed since the effective date of the revocation of the previous license;
2. If the applicant was convicted of a crime related in any way to code enforcement, the department shall have determined, in light of the factors set forth in N.J.S.A. 2A:168A-2, that the applicant has been fully rehabilitated and that licensing the applicant would not be detrimental to the public welfare;
3. The applicant shall have made full restitution to any person who sustained a loss as a result of the act or omission for which the previous license was revoked; and
4. All conditions imposed by the order of revocation shall have been complied with.

5:23-5.11 Revocation of licenses and alternative sanctions

(a) The department may [suspend or] revoke a license, **suspend a license for not more than 60 days and/or [access] assess a civil penalty of not more than \$500.00, if the department determines that the holder:**

1.-10. (No change.)

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

(a)**Condominium and Cooperative Conversion****Proposed Readoption with Amendments:
N.J.A.C. 5:24**

Authority: N.J.S.A. 2A:18-61.12 and 2A:18-61.38.
Proposal Number: PRN 1985-381.

The agency proposal follows.

Summary

Pursuant to Executive Order No. 66 (1978), N.J.A.C. 5:24 expires on October 1, 1985. The Department of Community Affairs proposes to readopt, with amendments, the Condominium and Cooperative Conversion regulations (N.J.A.C. 5:24). These rules outline the rights of tenants in buildings that are being converted to condominiums or cooperatives. Furthermore, these rules provide procedures by which tenants may realize these rights. The Department finds that these regulations continue to be necessary for the protection of the rights of tenants of buildings and mobile home parks being converted from the rental market to condominiums or cooperatives or to fee simple ownership of dwelling units or park sites.

The Department has reviewed the regulations and has proposed the amendments necessary to reflect recent statutory changes, especially regarding mobile home parks. The amendments enhance clarity and accuracy in the implementation of the underlying statutes. These statutes are N.J.S.A. 2A:18-61.12, which establishes certain protections generally applicable to tenants in converted buildings and mobile home parks and N.J.S.A. 2A:18-61.38, which establishes a 40-year period of protected tenancy to eligible senior citizens and disabled people.

Social Impact

If these regulations were to expire, there would be uncertainty as to procedures to be followed by tenants seeking to take advantage of the rights guaranteed to them by statute. Subchapter 2 of N.J.A.C. 5:24 which implements the Senior Citizen and Disabled Protected Tenancy Act (P.L. 1981, c.226), contains necessary information and standards to guide local administrators in determining whether or not applicants qualify for protected tenancy. These administrators would experience great difficulty in discharging their obligations without this subchapter. The amendments which are proposed make clear that the regulation applies to mobile home parks, and clarify and correct the rule.

Economic Impact

Protected tenancy generally has resulted in an economic benefit to qualified tenants at the expense of owners who, presumably, would prefer to sell the units free of encumbrance. Tenants are protected against excessive rent increases and are given the right to reside in presumably less expensive housing, as they can remain in their present homes at a cost which is lower than that entailed in purchasing their housing or moving elsewhere. Owners are blocked for substantial periods of time from evicting tenants by way of conversion (in the case of qualified senior citizens or disabled persons, for 40 years) and in the case of others, from three to eight years. This economic impact is created by statute, at N.J.S.A. 2A:18-61.12 and 61.38. By furthering

tenant awareness of the statutory protection, the regulations make it more likely that the economic impact will be felt. The readoption of this regulation is expected to continue this impact.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 5:24.

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

5:24-1.2 Procedures; terms

(a) When an owner seeks to convert a building from the rental market to a condominium or cooperative, **or a mobile home park from the rental market to a condominium or cooperative or fee simple ownership of two or more units or park sites**, there are several procedures required in section 3(g), 4, 5, 6, 7, 8 and 9 of [this act] N.J.S.A. 2A:18-61.12. These regulations, as provided in N.J.A.C. 5:24-1.9, are to assist owners and tenants to more easily understand and implement the requirements of the act. The terms used in this act and these regulations are defined as follows.

1. "Multiple dwelling" [, as in N.J.S.A. 55:13A-3,] shall mean any building or structure of one or more stories and any land appurtenant thereto, and any portion thereof, in which three or more units of dwelling space are occupied, or are intended to be occupied, by three or more persons who live independently of each other[,]; provided, that this definition shall not be construed to include any building or structure defined as a hotel in N.J.S.A. [55:13A-1 et seq.] **55:13A-3**, or [,] registered as a hotel with the Commissioner of Community Affairs, or occupied or intended to be occupied exclusively as such, **or any building under a condominium form of ownership.**

2. (No change.)

3. "Cooperative[s]" means a housing corporation or association which entitles the holder of a share of membership interest thereof to possess and occupy for dwelling purposes, a house, apartment or other structure owned or leased by said corporation or association, or to lease or purchase a dwelling to be constructed by said corporation or association.

4. "Mobile home park" means any park, including, without limitation, a trailer park or camp, equipped to accommodate mobile homes on a year-round basis.

5. "Rooming or boarding house" means a building or structure having at least two dwelling units which do not have separate cooking and sanitary facilities for the unit and which are occupied by persons living independently of each other, and having at least 15 percent of such units occupied by persons who either have no other residence or who reside there for more than 90 days.

5:24-1.3 Documents required

(a) Any owner who intends to convert a multiple dwelling, a **rooming or boarding house** or a mobile home park into a condominium or cooperative, **or to fee simple ownership of units or parks sites**, must first provide tenants with a "notice of intent" and a "full plan of conversion".

(b)-(d) (No change.)

(e) Any material change in the full plan of conversion or amendment to the Public Offering Statement (POS) under N.J.S.A. 45:22A-21 et seq. and N.J.A.C. 5:26-1.1 et seq. shall require such extension of the 90-day exclusive right to purchase

as may be necessary to allow tenants who have not yet purchased their units at least 30 days remaining in which to exercise such exclusive right. If the purchase contract offered by the developer does not include a contingency provision allowing a purchaser at least 60 days in which to secure financing for the purchase, then, unless the developer is providing such financing upon terms found by the Division of Housing and Development to be reasonable, the exclusive right to purchase period shall be extended as long as may be necessary to allow such tenants at least 60 days remaining in which to exercise such exclusive right.

1. (No change.)

2. A change shall be deemed "material" for the purpose of (e) of this section if so deemed by the Division of Housing and Development pursuant to N.J.A.C. 5:25-3.3(a).

3. Any determination by the Division of Housing and Development that a change in material shall be made within the 90 day exclusive right to purchase period or within such further period as may be required by the Division of Housing and Development in order to investigate any allegation made during such 90 day period as to the existence of any circumstance or condition that might constitute or necessitate a material change.

5:24-1.4 Contents of notice of intent to convert

(a) The notice of intent to convert shall consist of three items as follows:

1. (No change.)

2. Notice that the tenant in occupancy at this time shall have an exclusive right to purchase the unit or park site or shares of stock allocated thereto for the first 90 days after such notice, and that during this 90-day period the unit or site cannot be shown to a third party unless the tenant has in writing waived the right to purchase.

3. A copy of these regulations or any statement of tenants' rights in relation to conversion subsequently approved for this purpose by the Department of Community Affairs. These may be obtained from: Bureau of Housing Inspection, Office of Landlord-Tenant Relations, CN [804] 810, Trenton, New Jersey 08625.

5:24-1.5 Full plan of conversion

(a) (No change.)

(b) The full plan of condominium conversion shall contain the following documents and information:

1.-12. (No change.)

13. Disclosure as to the legal jurisdiction wherein the property lies, and a statement [that] as to the extent to which such property is in compliance with all applicable zoning and housing codes and other applicable regulations;

14. (No change.)

(c) The full plan of cooperative conversion shall contain the following documents and information, which shall be [Note: This is] in addition to any requirements which may be imposed by the Bureau of Securities in the New Jersey Department of Law and Public Safety[.];

1.-17. (No change.)

18. Disclosure as to the legal jurisdiction wherein the property lies and a statement [that] as to the extent to which such property is in compliance with all applicable zoning and housing codes and other applicable regulations;

19. (No change.)

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

5:24-1.6 Tenants in occupancy

(a) Tenants in occupancy prior to the recording of the master deed, **deed establishing a fee simple lot** or [agreement establishing a cooperative] **deed transferring the property to a cooperative corporation or association** who have received the three year notice of eviction on the grounds of conversion have the right, for 18 full months after the receipt of such notice, to request of the landlord, and **to be offered by the landlord** [must offer to the tenant], personally or through an agent, a reasonable opportunity to examine and rent "comparable housing".

1. "Comparable housing" means housing, or a park site in the case of a mobile home owner, which meets the following criteria: [as defined in this statute.]

i.-v. (No change.)

2. (No change.)

5:24-1.7 Evictions

(a) In order to evict for this cause at the end of the three year notice period, the owner must prove in court that the tenant was offered comparable housing as requested and as defined in N.J.A.C. 5:24-[1.5]1.6(a) and reasonable opportunity to examine and rent such housing as described in N.J.A.C.

5:24-[1.5]1.6(b).

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

5:24-1.9 Required statement

(a) Any tenants who begin their initial tenancy after the master deed [if] or **deed establishing fee simple lots or deed to a cooperative corporation or association** is filed by the owner [establishing a condominium, or an agreement establishing a cooperative is recorded] must be provided at the time of applying and at the establishment of a rental agreement with a separate statement conforming exactly to [these] the words in capital letters **which follow**. The statement must be included as the first clause of any written lease. This is the statement[.]:

STATEMENT

THIS BUILDING (PARK) HAS BEEN [IS BEING] CONVERTED TO [OR IS] A CONDOMINIUM OR COOPERATIVE OR TO FEE SIMPLE OWNERSHIP OF THE DWELLING UNITS OR PARK SITES. YOUR TENANCY CAN BE TERMINATED UPON 60 DAYS' NOTICE IF YOUR APARTMENT (OR PARK SITE) IS SOLD TO A BUYER WHO SEEKS TO PERSONALLY OCCUPY IT. IF YOU MOVE OUT AS A RESULT OF RECEIVING SUCH A NOTICE, AND THE LANDLORD ARBITRARILY FAILS TO COMPLETE THE SALE, THE LANDLORD SHALL BE LIABLE TO YOU FOR TREBLE DAMAGES AND COURT COSTS.

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

5:24-2.2 Application forms

(a) A tenant seeking protected tenancy status pursuant to the Act shall apply to the appropriate administrative agency or officer on a form prescribed by the Division of Housing and Development of the Department of Community Affairs.

(b) (No change.)

5:24-2.9 Procedural requirements for owners

(a) An owner providing notice to an administrative agency or officer of his or her intention to file an application for registration of conversion with the Division of Housing and Development shall provide to the administrative agency or officer sufficient current copies of the following forms provided by the Division of Housing and Development.

- 1.-6. (No change.)
- (b) (No change.)
- (c) Forms at variance with the forms provided by the Division of Housing and Development shall not be accepted.
- (d) Notice of the conversion recording shall be given by the owner to the administrative agency or officer and to the Division of Housing and Development within 10 days of such conversion recording.

5:24-2.10 Certification by administrative agency

- (a) (No change.)
- (b) Within two business days of the mailing of such notices, the administrative agency or officer shall provide to the owner an affidavit or certification of mailing by the person who mailed the notices. A duplicate of such affidavit or certification shall be included in the application for registration submitted by the owner to the Division of Housing and Development submission of such affidavit or certification with respect to all applications filed within the statutory 60 day period being a precondition to the issuance by the Division of Housing and Development of a notice of filing for registration.
- (c) Within two business days of having mailed notices of determination of eligibility to all applicants who filed during the statutory 60 day period, such determinations being required by the Act to be made in each case within 30 days of application, the administrative agency or officer shall provide to the owner a list of such determinations and an affidavit or certification by the person who mailed notices of such determination to the applicants. A duplicate of such list of determinations and affidavit or certification shall be assigned by the administrative agency or officer to the Division of Housing and Development receipt thereof being a precondition to registration.
- (d) (No change.)

EDUCATION

(a)

STATE BOARD OF EDUCATION

Standards for State Approval of Teacher Preparation

Proposed Amendments: N.J.A.C. 6:11-7

Authorized By: New Jersey State Board of Education,
 Saul Cooperman, Secretary.
 Authority: N.J.S.A. 18A:4-15, 18A:6-38.
 Proposal Number: PRN 1985-377.

Submit comments by August 14, 1985 to:
 Lorraine L. Colavita
 Executive Assistant for Administrative Practice
 and Procedure
 Department of Education
 225 West State Street
 Trenton, New Jersey 08625

The agency proposal follows:

Summary

The State Board of Education, pursuant to N.J.S.A. 18A:4-15 and 18A:6-38, proposes to amend and recodify Standards for State Approval of Teacher Preparation, N.J.A.C. 6:11-7, which become operative September 1, 1985. The amendments are proposed in order to: 1) establish consistency with parallel rules of the State Board of Higher Education; 2) provide clarification and consistency in light of other certification rule amendments adopted by the State Board of Education in September 1984; and 3) upgrade requirements for the subject preparation of teachers. The following is a summary of proposed amendments:

N.J.A.C. 6:11-7.1, Procedures for accreditation or approval: Subsection (b) has been recodified into a new section, 6:11-7.2.

N.J.A.C. 6:11-7.2, Admission, retention, and graduation of students: This is a proposed new section title that incorporates and recodifies the existing rules under N.J.A.C. 6:11-7.1(b)1 through 7.1(b)7. The recodification brings clarity to the rules and establishes consistency with parallel rules of the State Board of Higher Education (N.J.A.C. 9:2-12.1 through 12.3). Other proposed amendments are intended to clarify that a required sophomore practicum need not necessarily be a course and that a required pre-student teaching evaluation need not necessarily occur at the end of the junior year, but must be conducted as close as possible to the time of entry into student teaching. Amendments are also proposed to delete the requirement that colleges and universities administer pregraduation screening tests. The revision is recommended on the basis of amendments adopted in September 1984 which substantially reduced study requirements in one of the test areas and established a State postgraduate screening test.

N.J.A.C. 6:11-7.3, Curriculum: This is a proposed new section title that incorporates and recodifies the existing rules under N.J.A.C. 6:11-7.1(b)8 through 7.1(b)11. Amendments are proposed in order to clarify further the purpose of general education and to relocate an existing liberal education requirement previously contained under professional education (N.J.A.C. 6:11-7(b)10). Another proposed amendment is intended to require that all prospective teachers complete a college major instead of a 30 credit sequence of courses. This amendment will clarify the original intent of the rule and establish consistency with a parallel requirement for alternative certification candidates (N.J.A.C. 6:11-5.3(a)(2)). It will affect only those programs in which teacher education candidates do not currently meet requirements for a major. In such cases, students would be required to take some additional coursework or the college could request that the Board of Higher Education grant degree-major status to the existing 30-credit sequence. An additional proposed amendment is recommended to establish consistency with a rule adopted in September 1984 requiring approximately 30-credits of professional preparation (N.J.A.C. 6:11-7.1(b)10).

N.J.A.C. 6:11-7.4, Supervisor of practicum students: This is a proposed new section title that incorporates and recodifies the existing rule under N.J.A.C. 6:11-7.1(b)12 through -7.1(b)14.

N.J.A.C. 6:11-7.5, Exception to standards: This is a proposed new section title that incorporates and recodifies the existing rule under N.J.A.C. 6:11-7.1(b)15.

Social Impact

The proposed amendments will result, for the most part, in only technical improvements rather than socially significant changes. However, the requirement of an academic major is likely to improve somewhat the subject preparation of new teachers.

Economic Impact

The elimination of the requirement that colleges and universities institute pre-graduation screening tests will save those institutions, including publicly-funded colleges, the expense that would have resulted from implementing the requirement.

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

6:11-7.1 Procedures for accreditation or approval

(a) (No change.)

(b) In the evaluation of undergraduate teacher preparation programs the following standards shall apply:]

6:11-7.2 Admission, retention, and graduation of students

[1.] (a) Teacher preparation programs are those curricula which lead to a recommendation for a New Jersey instructional certificate irrespective of the organizational unit of the college by which the curriculum is offered. Formal admission to teacher preparation programs shall be reviewed at the beginning of the junior year and shall be granted only to those students who have:

[i.] 1. Maintained a cumulative grade point average (GPA) of at least 2.5 (4 equals A) for the first two years of college. It is the intent of this and other standards which refer to minimum grade point average to insure that institutions determine the intellectual competence of those recommended for certification. The required average of 2.5 should be viewed as only a minimal means of achieving this goal; the variability of the GPA among institutions should also be recognized. Therefore, institutions are encouraged to exceed this standard when appropriate and to develop additional criteria for insuring that prospective teachers are intellectually capable.

[ii.] 2. Achieved acceptable levels of proficiency in the use of English language (oral and written) and mathematics. Students with deficiencies in these areas upon admission to college shall be required to demonstrate the elimination of such deficiencies through an oral or written assessment by the beginning of the junior year.

[iii.] 3. Demonstrated aptitude for the profession of teaching through successful completion of an [introductory course which provides] appropriate practical experience[s] in an elementary or secondary school. This requirement would normally have to be met before the student is granted status as a junior in the program.

[2.] (b) Each student shall be evaluated at the end of the [junior year] **semester prior to student teaching** by college faculty (both education and subject matter) and confirmed as a candidate for certification on the basis of a comprehensive assessment of relevant indicators which shall include:

[i.] 1. Having maintained a cumulative grade point average of at least 2.5 (4 equals A);

[ii.] 2. Having demonstrated acceptable levels of teaching proficiency in junior field experience as indicated by the evaluation reports of college and school faculty. Such evaluations shall be communicated to the student and shall be included in the student's permanent file.

[3.] (c) Only students who have been confirmed as candidates for certification shall be assigned to student teaching.

[4.] (d) Colleges shall recommend for certification to the Department of Education only those students who have completed the certification program and have:

[i.] 1. Maintained a cumulative grade point average of 2.5 (4 equals A);

[ii.] 2. Demonstrated continued competence, aptitude, motivation, and potential for outstanding success in teaching as

indicated by assessments of student teaching performance by college and school supervisors. Such assessments shall be communicated to the student and shall be a part of the student's file[;].

[ii.] Demonstrated knowledge of the behavioral/social foundations of teaching/learning through successful completion at the end of the senior year of a comprehensive oral or written test devised or selected by the institution (this standard applies to all candidates);

iv. Demonstrated knowledge of the academic subject area major through successful completion at the end of the senior year of a comprehensive oral or written test devised or selected by the institution.]

[5.] (e) All standards are to be applied equitably to all students, including transfer students, and without discrimination based upon legally prohibited criteria. All admissions and retention processes are to be consistent with State and institutional affirmative action policies and goals.

[6.] (f) Colleges shall develop appropriate procedures for placing on probation and dismissing from the program students who fall below minimum requirements before graduation, and shall incorporate into these procedures methods for appeals by students.

[7.] (g) Students completing an approved program must be recommended for a certificate by their college or university before one will be issued by the State Board of Examiners.

6:11-7.3 Curriculum

[8.] (a) Each approved undergraduate teacher preparation program shall provide approximately 60 semester credit hours of general education including electives. General education courses shall be distributed among the arts, humanities, mathematics, science, technology and the social sciences. There must be some study in each area. The inclusion of technology as an aspect of general education is intended to allow for the inclusion of courses and topics (such as computer literacy, the history of technology and the sociological impact of technological advancement) which would contribute to the general technical literacy of students. The purpose of general education is to develop the prospective teacher as an educated person **rather than to provide professional preparation**. This component of the program shall exclude courses which are clearly professional or vocational in nature[.]. [but may include up to 12 semester credit hours of overlapping with the 30 semester credit hours required in the coherent sequence of study.]

[9.] (b) Each approved teacher preparation program shall require its students to complete a [coherent sequence of study no fewer than 30 semester credit hours] **major** in the arts[.], humanities, [behavioral/]social science, [and/or] mathematics[.], science or technology disciplines. [Introductory courses in the coherent sequence may also satisfy up to 12 semester credit hours of the general education requirements.] The inclusion of technology as a potential academic area is intended to provide for those candidates who will be certified to teach one of the technical disciplines such as distributive occupations or industrial technology.

(c) **At least 96 credits of the total program must be distributed among the general education, academic major, and behavioral/social science aspects of the program.**

[10.] (d) For purposes of certification, a central focus of the undergraduate teacher education program is the professional component. This component must meet all standards and study requirements of the National Association of State Directors of

Teacher Education and Certification. In addition, each approved undergraduate teacher preparation program shall provide study in the essential behavioral/social science and professional education areas listed in N.J.A.C. 6:11-8.2(a). Approximately 30 credit hours of instruction shall be devoted to professional preparation; a minimum of nine credits must be devoted to study in the behavioral/social sciences, and may be included in the professional or liberal arts components of the program. [At least 96 credits of the total program must be distributed among the general education, academic sequence, and behavioral/social science aspects of the program.] The professional component of the undergraduate program shall provide students, normally beginning in the sophomore year, with practical experiences in an elementary or secondary school setting; these opportunities shall increase in intensity and duration as the student advances through the program and culminate with a student teaching experience.

[11.] (e) The student teaching experience of each approved undergraduate program shall be the equivalent of a full-time experience of one semester's duration[, and credit hours for this experience shall be included among the minimum of 30 semester credit hours in the coherent sequence of professional courses] and shall be included within the professional component.

6:11-7.4 Supervision of practicum students

[12.] (a) Collegiate faculty assigned to supervise students shall:

[i.] 1. Have had experience supervising, consulting or otherwise working in an elementary/secondary school in contact with classroom teachers within the previous two years;

[ii.] 2. Be full-time faculty members of part-time faculty with demonstrated expertise in the field they are supervising.

[13.] (b) College supervisors of student teachers shall be assigned supervisory loads which permit observation of each student once every other week.

[14.] (c)[Physiology and hygiene.] In accordance with the provisions of N.J.S.A. 18A:26-8 students must take an examination in physiology and hygiene, including the effects of narcotics and alcohol (see N.J.A.C. 6:11-8.2(a)4).

6:11-7.5 Exception to standards

[15.] Exceptions to one or more of the rules in this subchapter may be granted by the Commissioner of Education in cases where an institution is able to document the qualitative equivalency of an alternative approach.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF COASTAL RESOURCES

Wetlands Management

Wetlands Map in Ocean County

Proposed Amendment: N.J.A.C. 7:7-2.2

Authorized By: Robert C. Hughey, Commissioner,
Department of Environmental Protection
Authority: N.J.S.A. 13:9A-1 et seq. and 13:1D-1 et seq.

DEP Docket No. 035-85-06.

Proposal Number: PRN 1985-387.

A public hearing concerning this proposal will be held on:
August 14, 1985 at 7:00 P.M.
Dover Township Municipal Building
(Committee Meeting Room)
Toms River, New Jersey 08753

Copies of the wetland maps affected by this proposal will be available for inspection beginning July 15, 1985 at the Clerk's Office, Ocean County Court House, Washington Street, Toms River, New Jersey.

Submit comments by August 23, 1985 to:

Robert Tudor
Department of Environmental Protection
Division of Coastal Resources
CN 401
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Wetlands Act (N.J.S.A. 13:9A-1 et seq.) authorizes the Department of Environmental Protection to regulate certain activities on mapped tidal wetlands throughout the State. The purpose of the proposed revision is to update the upper wetlands boundary of the mapped wetlands of Ocean County to reflect both natural changes and changes which have resulted from permitted filling and construction. Individual notice to affected property owners has been made and a public hearing scheduled, as required by the Wetlands Act. The list of affected wetlands appears at N.J.A.C. 7:7-2.2(c)3.

Nine new wetlands maps in Ocean County are being proposed. In addition to these nine new wetlands maps the Department proposed to physically alter 63 existing maps (shown in italic) to reflect changes which have occurred and one map number (254-2076) has been corrected to 259-2076.

Social Impact

The proposal will result in changes to existing wetlands maps, and will place some additional private lands under wetlands protection and will, as a result, impose requirements upon the use of those lands pursuant to N.J.A.C. 7:7E. All forms of development or disturbance within these designated areas are regulated except for mosquito control and continued commercial production of salt hay or other agricultural crops or activities.

Environmental Impact

The wetlands area protects the land from the force of the sea, moderates weather, provides a habitat for waterfowl and for two thirds of all our fish and shellfish and assists in absorbing discharge from the rivers of the land. Designation of specific wetlands areas and the regulation of activities in these areas will help to prevent further deterioration and destruction of wetlands. Among the regulated activities are dredging, filling, and the discharging of pollutants.

Economic Impact

The proposal is likely to result in a small reduction in property value of those land areas which will be designated as wetlands. However, in a net beneficial economic impact is expected due to a reduction in potential flood damage, recovery costs, and the maintenance of high water quality levels.

Full text of the proposal follows (those maps to be physically altered are shown in italic *thus*; new maps are shown in boldface **thus**).

7:7-2.2 Wetlands

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

(c) The Wetlands Order promulgated by the Commissioner of Environmental Protection in April 1972, any amendments thereto, and these rules shall be applicable only in those areas shown waterward of the upper wetland boundary on the following wetlands maps:

1.-2. (No change.)

3. Ocean County:

245-2088	252-2106	259-2112
245-2094	252-2112	259-2118
245-2100	259-2070	266-2070
245-2106	[254-2076]	266-2076
252-2076	259-2076	266-2082
252-2088	259-2082	266-2088
252-2094	259-2088	
252-2100	259-2094	
	259-2100	
	259-2106	
266-2094	322-2148	406-2118
266-2100	329-2124	406-2124
266-2106	329-2130	406-2130
266-2112	329-2136	406-2148
266-2118	329-2142	406-2154
273-2076	329-2148	406-2160
273-2088	329-2154	413-2118
273-2094	336-2124	413-2148
273-2100	336-2130	413-2154
273-2112	336-2142	413-2160
273-2118	336-2148	420-2142
273-2124	336-2154	420-2148
280-2088	343-2130	420-2154
280-2094	343-2148	420-2160
280-2100	343-2154	420-2166
280-2106	343-2160	427-2142
280-2112	350-2130	427-2148
280-2118	350-2136	427-2154
280-2124	350-2148	427-2160
280-2130	350-2154	434-2148
287-2094	350-2160	434-2154
287-2100	357-2124	434-2160
287-2106	357-2130	434-2166
287-2112	357-2136	441-2148
287-2124	357-2142	441-2154
287-2130	357-2154	441-2160
294-2100	357-2160	441-2166
294-2106	364-2130	441-2172
294-2112	364-2136	448-2142
294-2118	364-2142	448-2148
294-2124	364-2160	448-2154
294-2130	371-2136	448-2160
294-2136	371-2142	448-2166
301-2112	371-2148	448-2172
301-2118	371-2160	455-2154
301-2124	378-2142	462-2166
301-2130	378-2148	462-2154
301-2136	378-2160	462-2172
301-2142	385-2142	469-2154
308-2118	385-2148	

308-2124	385-2160
308-2130	392-2136
308-2136	392-2142
<i>308-2142</i>	392-2148
315-2124	392-2154
315-2130	392-2160
315-2136	399-2124
<i>315-2142</i>	399-3130
<i>315-2148</i>	399-2136
322-2124	399-2142
322-2130	399-2148
322-2136	399-2154
322-2142	399-2160
4.-11. (No change.)	

(a)

DELAWARE AND RARITAN CANAL COMMISSION

Delineation of the Review Zone within the Delaware and Raritan Canal State Park

Proposed New Rule: N.J.A.C. 7:45-1, 2, and 3

Authorized By: Benjamin B. Kirkland, Chairman,
Delaware and Raritan Canal Commission and
Robert E. Hughey, Commissioner, Department of
Environmental Protection

Authority: N.J.S.A. 13:13A-10.

DEP Docket No. 034-85-06.

Proposal Number: PRN 1985-386.

Submit comments by August 14, 1985 to:
James C. Amon, Executive Director
Delaware and Raritan Canal Commission
CN 402
Trenton, N.J. 08625

The agency proposal follows:

Summary

The "Delaware and Raritan Canal State Park Law of 1974," N.J.S.A. 13:13A-1 et seq., established the Delaware and Raritan Canal Commission (the commission) to plan for and protect the Delaware and Raritan Canal State Park (the park). The commission was directed to establish a zone for review of private and public projects that might adversely affect the park and then to conduct such reviews. To facilitate these duties, chapter 45 was adopted, effective January 11, 1980. Pursuant to Executive Order No. 66 (1978), chapter 45 expired as of January 11, 1985. The Department proposes to readopt the expired rules without change, as they continue to be necessary, reasonable, adequate, and proper for their originally intended purpose.

The expired rules have been very effective in managing the increased volume of stormwater as well as providing for a means to raise the quality of water adversely affected by intensive development in the drainage area of the Delaware and Raritan Canal (D&R Canal). Developers were required by the expired rules to manage storm runoff in such a manner as to prevent any adverse environmental consequences such as increased flooding,

channel and bank erosion, and deterioration of water quality downstream of a proposed development. Additionally, the rules have proved effective in detailing site planning techniques in areas adjacent to the park, thereby enhancing the natural environment.

All municipalities and counties located within the Review Zone of the D & R Canal have conformed with the expired rules and either approve development projects subject to commission approval or approve development projects previously approved by the commission. Compliance with the regulations has been mandatory for all developers (private and public).

A summary of the text of each readopted subchapter follows.

Subchapter 1, Review Zone of the Delaware and Raritan Canal State Park, sets forth the purposes of this chapter, delineates the review zones, sets out the scope of review within these zones, establishes procedures for project review, and sets out regulations addressing storm drainage and water quality, visual impacts and noise control. In addition, criteria for the granting of waivers from review are set forth.

Subchapter 2, Submission Requirements, sets forth the information required of the project sponsor for adequate review of projects by the commission, such as storm drainage, water quality, visual review and noise requirements.

Subchapter 3, Standards, sets forth design, drainage and general standards for commission review of projects.

Social Impact

Adoption of the proposed new rules will allow the commission to continue in full force and effect the expired rules which were designed to encourage consideration of the natural and recreational resources of the park and its waterway, and to promote cooperation between the commission, municipal and county and State reviewing agencies, and private land users. As such, only positive social impacts are anticipated.

Economic Impact

Adoption of the proposed rules will continue the economic impact associated with the expired rules. Included therewith are administrative costs to the commission and the costs to project sponsors of conformity with the commission's master plan, that is, project costs associated with compliance with standards addressing storm drainage and water quality, visual quality, and noise quality.

Environmental Impact

Adoption of the proposed rules will continue the environmental impact associated with the expired rule, that is, preservation of the natural and recreational resources of the park by requiring project sponsors to give adequate consideration to those values.

Full text of the proposed new rules follows:

CHAPTER 45
DELAWARE AND RARITAN CANAL STATE PARK
SUBCHAPTER 1. REVIEW ZONE OF THE DELAWARE
AND RARITAN CANAL STATE
PARK

7:45-1.1 Purposes of regulations

The Legislature of the State of New Jersey established the Delaware and Raritan Canal Commission in 1974 and gave it the job of planning for the protecting the Delaware and Raritan Canal State Park. In the Delaware and Raritan Canal State Park Law, the State directed the Commission to establish a zone for review of private and public projects that might adversely affect the park. This chapter establishes a procedure for that

review. They are intended to encourage consideration of the natural and recreational resources of the Canal Park and its waterways at the earliest stages of land-use planning and to promote cooperation between the Commission, municipal, county and State reviewing agencies, and private land users.

7:45-1.2 Review Zones

(a) The Review Zone is the region appertaining to and including the park in which proposed projects could cause an adverse drainage, aesthetic, or other ecological impact on the park. The Review Zone and its subzones are delineated in maps, available at the Commission's Trenton office, and at the offices of counties and municipalities whose boundaries encompass any part of the Review Zone. They are as follows:

1. In Hunterdon County: Delaware, East Amwell, Franklin, Kingwood, Lambertville, Raritan, Stockton, West Amwell;
2. In Mercer County: East Windsor, Ewing, Hamilton, Hightstown, Hopewell Borough, Hopewell Township, Lawrence, Pennington, Princeton Borough, Princeton Township, Trenton, Washington, West Windsor;
3. In Middlesex County: Cranbury, Monroe, New Brunswick, North Brunswick, Plainsboro, South Brunswick;
4. In Monmouth County: Millstone;
5. In Somerset County: Franklin, Hillsborough, Manville, Millstone, Montgomery, Rocky Hill, South Bound Brook.

(b) The Review Zone is divided into two subzones. They are as follows.

1. Zone A: The area within one thousand feet on either side of the center line of the canal;
2. Zone B: The balance of the Review Zone as delineated on maps available from the Commission's office.

7:45-1.3 Scope of review

(a) In the Review Zone, the Commission will review public and private land-use projects, and certain state permits for land-use activities, which have the potential to adversely affect the park. Generally, each project will be reviewed for its conformance with the overall objectives of the Master Plan of the Delaware and Raritan Canal State Park and with the specific standards of these regulations. Review will address three specific types of impact:

1. Storm drainage and water quality impact;
2. Visual impact;
3. Noise impact.

(b) In each case, the scope and depth of review will depend upon the size and location of the land-use activity. For each zone, the following definitions prevail.

1. "Project" means (in both Zones A and B):
 - i. "Governmental projects" means the undertaking of a public improvement, construction or land-use change by a governmental entity except interior alterations to an existing structure involving no change of use.
 - ii. "Private projects" means any application for development or structure or land-use change requiring any municipal approval or permit except interior alterations to an existing structure involving no change of use or connections to publicly owned sewerage systems.
2. "Major project" means:
 - i. If any part of the project site falls within Zone A, the project is "major" if it:
 - (1) Involves construction, development, or redevelopment of four or more dwelling units; or
 - (2) Involves no dwelling units, but will cover with impervious surfaces 10,000 square feet or more of previously uncovered land; OR

- (3) Involves any of these uses:
 - (A) Livestock pens, corrals, or feed lots;
 - (B) Pipelines, storage or distribution systems for petroleum products or chemicals;
 - (C) Liquid waste, storage, distribution or treatment facilities (excluding home septic system);
 - (D) Solid waste storage, disposition, incineration, or landfill;
 - (E) Quarries, mines or borrow pits;
 - (F) Land application of sludge or effluents.
- ii. If no part of the project site falls within the A Zone, but some of it falls within Zone B, the project is "major" if it:
 - (1) Involves construction or redevelopment of twenty-five or more dwelling units; or
 - (2) Involves no dwelling units, but will cover one acre of land with additional impervious surfaces; or
 - (3) Involves any of the land uses itemized in sub-subparagraph 3 under Zone A.
- 3. "Minor project" means:
 - i. Regarding Zone A, a project which is not a major project.
 - ii. Regarding Zone B, projects other than major projects are not subject to review in Zone B.
- (c) Rules concerning scope of review requirements are as follows.
 - 1. In Zone A:
 - i. Major projects require drainage of and water quality impact; visual impact; and noise impact (noise impact will be reviewed for non-residential projects only).
 - ii. Minor projects require drainage of and water quality impact; visual impact; and noise impact. Submission requirements are significantly less detailed for minor projects than for major projects: they are, however, expected to comply with the general standards in subchapter 3 of this chapter for water quality and visual impact. (Noise impact will be reviewed for non-residential projects only).
 - 2. In Zone B, major projects require drainage of and water quality impact.

7:45-1.4 Procedure for review

- (a) This section establishes the procedure by which the Commission reviews projects to approve, conditionally approve, or disapprove them as prescribed by law. This introduction provides a general description of these procedures:
 - 1. Private projects: An application for approval of a project in the review zone:
 - i. Must be submitted by the municipal reviewing agency after it has approved the project; but
 - ii. May be submitted by the project sponsor at any time prior to municipal review and approval, and
 - iii. May be presented at any time during the planning stages for pre-application discussion with the Commission.
 - 2. Governmental projects: Governmental entities must submit plans for reviewable projects prior to undertaking them and may discuss proposed projects with the Commission at the earliest planning stages.
- (b) Rules concerning the review of private projects are as follows.
 - 1. Projects which qualify for preemptory approval: The Commission has established preemptory "one stop" review procedures to eliminate the overlap of governmental review of private projects under the following conditions:
 - i. If a county adopts and implements standards which are determined by the Commission to be the equivalent of those of the Commission, the Commission may approve the project without further review upon receiving notice from the county reviewing agency that the project is in compliance with its standards.

However, in cases where those standards are relaxed by the county so as to grant approval without full compliance, the notice shall describe in detail the reasons for the relaxation of each such standard and, in such cases, the Commission may determine that the project is not eligible for preemptory review but is subject to full review as described in paragraph 2 of this subsection.

- ii. Where the county has not adopted standards determined by the Commission to be the equivalent of its standards, or where the county does not review the project, but where the project is reviewed by a municipal reviewing agency which has adopted and implements such standards, the Commission may approve the project without further review upon notification from the municipal reviewing agency that the project is in compliance with its standards. However, in the cases where those standards are relaxed by the municipal reviewing agency so as to grant approval without full compliance, the notice shall describe in detail the reasons for the relaxation of each such standard, and, in such cases, the Commission may determine that the project is not eligible for preemptory review but is subject to full review as described in paragraph 2 of this subsection.

2. Projects which are not eligible for preemptory approval:

- i. At any time before applying for Commission approval, a project sponsor may request a pre-application conference to discuss the project with the Commission staff. The purpose of this conference is to enable the project sponsor to plan economically for conformity with the Master Plan and its policies and standards and those of these regulations. Whenever it is possible, the Commission would prefer to schedule the pre-application conference in conjunction with municipal and county review agencies. No requirements are imposed by these regulations as to plans, documents, or data to be presented for discussion at a pre-application conference. However, subchapter 2 of this chapter contains a list of materials and data required as part of any application. It would be advisable that the project sponsor provide the Commission with as much as practicable of this information for the pre-application conference.

- ii. A report of the pre-application conference shall be prepared by the staff and may include:

- (1) A summary of the strengths and weaknesses of the project as related to the policies and standards of the Master Plan and these regulations.

- (2) A recommendation to the project sponsor and the reviewing municipal agency or official.

- iii. The staff report shall be mailed upon completion to the project sponsor, the county planning board, and the municipal reviewing agency.

- iv. Comments, findings, conclusions, and recommendations of the staff report and statements made during the pre-application conference are for guidance only and shall not be binding upon the project sponsor or the Commission.

3. Application procedure:

- i. Projects eligible for preemptory approval: Submission procedures for projects eligible for preemptory approval are established in paragraph 1 of this subsection and in N.J.A.C. 7:45-2.1.

- ii. Projects which are not eligible for preemptory approval: Upon its approval of a project in the review zone, a municipal reviewing agency shall notify the commission of its approval by transmitting the forms supplied by the Commission for that purpose. All other forms, documents, and data required for the Commission's review (see subchapter 2 of this chapter) may be submitted by the project sponsor either prior to approval by the municipal reviewing agency or forthwith upon such approval.

iii. Waiver of submission requirements: Under certain circumstances the Commission may waive some of the submission requirements. Such circumstances would include demonstration that the information is unnecessary for the review of the project or that the Commission already has the information requested.

4. Project review and decision:

i. Acceptance of application: The Commission shall declare the application complete within five working days after receipt of all forms, data, and documents required to be submitted under these regulations. Upon declaring the application complete, the Commission shall also notify the project sponsor by certified mail, shall notify the relevant municipal reviewing agency, and shall publish notice of the application in "The DEP Weekly Bulletin".

ii. Review and recommend action: The Executive Director will review the completed application in order to recommend a final action to the Commission. When the Executive Director plans to recommend rejection of the application or approval subject to conditions, he may advise the project sponsor of his intentions and that project sponsor is entitled to a hearing.

iii. Request for hearing: No hearing shall be held unless the Commission receives a written request from the project sponsor for the hearing. The request must be received within ten working days of the project sponsor's receipt of the notice of his right to a hearing and it must specifically state the nature of his objections to the recommended action.

iv. Commission decision: Within 45 days from the date when an application has been declared complete, the Commission shall take one of the following actions, based upon the recommendations and materials submitted to it by the Executive Director:

- (1) Approve the application;
- (2) Reject the application;
- (3) Approve the application subject to conditions.

Note: If the Commission approves the application subject to conditions or rejects it, and the project sponsor has requested a hearing, these actions shall be subject to a condition that a hearing shall be held. The Commission will make a final decision on the application after reviewing the record of the hearing officer assigned to conduct the hearing.

v. Notice of decision: The Commission shall advise the appropriate municipal and county reviewing agencies of its decision and shall notify the project sponsor of its final decision by certified mail.

5. Certificate of approval:

i. Construction shall not begin on any project prior to issuance of the Commission's Certificate of Approval which shall be issued within 10 days of the decision granting approval or conditional approval.

ii. A Certificate of Approval shall explicitly state any conditions imposed by the Commission.

iii. Failure to comply with any condition imposed in a Certificate of Approval shall render the approval null and void. Any deviation from the approved plans shall also render the approval null and void if the Commission determines that the deviation substantially alters the character of the project or impairs the intent of either the Master Plan or these review zone regulations. The Commission shall have free access to the project site for inspection.

iv. The Certificate of Approval shall lapse:

- (1) If construction does not commence within three years and no extension is granted by the Commission; or
- (2) If construction ceases for a period of one year; or

(3) If the municipal permits or approvals expire, lapse, or are revoked.

v. The Commission may require filing a record of a Certificate of Approval which imposes conditions relating to maintenance or other obligations to successors in interest. In such cases, the Certificate of Approval shall not be deemed to be issued until proof of filing in the office of the County Clerk or Registrar of Deeds in the name of the record owner is received at the Commission's office in Trenton.

(c) Rules concerning the review of government projects and permits are as follows.

1. Government projects:

i. Scope of review: No government entity shall physically undertake a project in the review zone unless a Certificate of Approval has been issued by the Commission. The Commission shall review and act upon the government entity's submission within 45 days of a declaration by the Commission that sufficient plans and data have been received.

ii. Review procedures: Any government entity planning to undertake a governmental project in the review zone:

(1) May submit its plans and such data required by the Commission for the Commission's review at any time prior to physically undertaking the project; and

(2) May informally discuss its plans with the Commission at any time prior to submission of its plans for review; but in any case,

(3) Must submit its plans to the Commission for its review and approval, rejection, or conditional approval not less than 60 days before physically undertaking the project.

iii. Notice to Governor: The Commission shall notify the Governor of each decision concerning State projects within the Canal Park.

2. Permits granted by State agencies:

i. Scope of review: The Commission shall review each permit or approval to be issued by any State agency to any person or governmental entity if the permit involves any portion of the Canal Park or any activity therein.

ii. Review procedure: Each reviewable permit, along with all information that accompanied the permit application, shall be submitted by the applicant to the Commission, unless the State agency involved has already done so, forthwith upon receipt. The Commission shall, within 45 days of receiving a copy of the permit and of all other information, either approve, disapprove, or approve with conditions the permit. The Commission shall notify the applicant and the state agency of the Commission's decision within ten days of that decision. The Commission encourages all state agencies to allow the Commission to review permit applications before the permit is issued, thereby promoting the "one stop" permit review process.

7:45-1.5 Storm drainage and water quality regulations

(a) The effect of development, especially intensive development, is to increase the volume and the rate of runoff, as well as the quality of pollutants carried by it. Adverse environmental effects of development, therefore, occur downstream in the form of increased flooding, channel and bank erosion, and deterioration of water quality. In principle, developers should be required to control and manage storm runoff in such a manner as to prevent any adverse environmental consequences which might arise from the effects of that development downstream. In general, it is impracticable to do this because available technology is more effective in dealing with some problems than it is in others. In particular, provisions for stormwater detention required to control excessive runoff from small and medium sized storms may be ineffective in the event of very large storms. Therefore,

the Commission's basic regulations require a degree of detention storage which will provide a positive reduction in runoff from small to moderate sized storms, in order to compensate for the inability of this degree of detention to control much larger storms. The Commission will accept, however, as an alternative, township or county regulations under which required stormwater retention will control all storms of up to 100 year frequency so that there will be no increase in the maximum rate of runoff which would have occurred from such a storm without the development. In this case, it will not be necessary to provide for a reduction in any storm flow below that which would have occurred without the development. In the case of either the basic regulation or of the alternative, the retardation of runoff by detention must encourage the holding of storm water runoff on the project's site, as close as practicable to its source. This detention may be accomplished by detention basins, or by equivalent alternative methods, as explained in subchapter 3 of this chapter.

(b) The Commission shall review projects that produce storm water runoff that will drain into the Canal Park, either directly or indirectly through a stream. All projects within Zone A and Zone B of the Review Zone, except those projects expressly exempted by these regulations or waived by the Commission, shall be subject to review for their drainage impact on the Canal Park.

(c) In reviewing projects for storm drainage and water quality impact, the Commission shall apply the standards set forth in subchapter 3 of this chapter.

7:45-1.6 Visual impact regulations

(a) The character and park-like features of the Delaware and Raritan Canal State Park are created in part by the perceived environment, which includes the lands adjoining the park corridor. Therefore, the visual character of a project that can be seen from the park has a strong effect on the park's character.

1. These visual impact review regulations are intended to provide a frame of reference for the applicant in the development of site and building plans as well as provide guidance for the Commission in its review of the proposed project. These regulations provide a performance framework for design, planning, and review, and are not a set of rigid rules. Particularly, they are not intended to discourage creativity, invention, and innovation. Therefore, the specification of particular architectural or design styles is not included in these regulations. The Commission encourages plans and designs which substantially meet the goals of these regulations, and which will maintain and enhance the visual character of the Canal Park and its environs.

(b) All projects within Zone A of the Review Zone, except those projects expressly exempted by these regulations or waived by the Commission, shall be subject to review for visual impact on the Canal Park.

(c) In reviewing projects for visual impact, the Commission shall apply the standards set forth in subchapter 3 of this chapter.

7:45-1.7 Noise control regulations

(a) In order to preserve the park for the enjoyment of present and future generations, the Canal Commission has determined to preclude noise intrusion into the park which might tend to injure the historic, aesthetic, and recreational use of the park.

(b) The Commission shall review all projects which are not exclusively residential and are wholly or partly within Zone A to determine their noise impact on the Canal Park.

(c) In reviewing projects for noise impact, the Commission shall apply relevant Department of Environmental Protection

regulations issued pursuant to N.J.S.A. 13:1G-1, et seq. as noted in subchapter 3 of this chapter.

1. With regard to highway noise, FHWA/NJDOT standards shall apply.

7:45-1.8 Waiver of governmental and private projects

(a) The project, even if it is so situated as to be subject to review for storm drainage and water quality impact, may be waived from such review upon a showing by the project sponsor for that particular project as follows:

1. The project will not adversely affect either the surface waters or the other environmental values of the Canal Park under either storm or normal conditions:

2. The groundwater effects produced by the project are unlikely to measurably affect the surface waters or groundwaters of the Canal Park.

(b) The Commission will waive its review of visual impact of projects in the A Zone if the project sponsor can demonstrate that the project cannot be seen from the Canal Park for any of the following reasons:

1. The topography of the land screens the entire project; or

2. Existing structures screen the entire project; or

3. Vegetation (winter conditions) screens the entire project.

Note 1: The Commission must be satisfied that screening will continue to exist in the future before it will waive review of the project.

Note 2: In those cases where the far banks of the Delaware River, the Raritan River, and Lake Carnegie are closer than 1,000 feet to the center line of the canal, those banks shall be the limit of the A Zone.

(c) The Commission will waive its review of any project in the A Zone if the project sponsor can demonstrate that:

1. The project consists solely of the reconstruction of a previously existing structure which was partially destroyed by fire, flood, or other natural disaster, and that the reconstruction will not increase the use of the exterior dimensions of the structure (Structures which are substantially destroyed by such natural disasters remain eligible for review.); or

2. The project consists solely of alterations to an existing structure and will not increase the use or the exterior dimensions of the structure.

(d) The Commission may, at its discretion, waive review or waive any requirement of these regulations, upon a clear and convincing demonstration by the sponsor of a governmental or private project that application of the review procedure, or of a specific regulation, would result in extreme economic hardship or extraordinary and unjustified expense, and that the project will not impair the intent and purpose of the Master Plan and these review zone regulations.

(e) Waiver of review for a project's visual or drainage impact does not constitute waiver for both. (A project may be waived for visual impact but still require drainage impact review and vice versa.)

7:45-1.9 Severability

If any section, subsection, provision, clause, or portion of these regulations is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected thereby.

SUBCHAPTER 2. SUBMISSION REQUIREMENTS

7:45-2.1 General provisions

(a) Each project sponsor is required to submit sufficient information as part of his application for the Commission to adequately review and consider the project. This section sets forth

these submission requirements. By reference to N.J.A.C. 7:45-1.3, a project sponsor can determine whether the project is subject to Canal Commission review.

(b) Project sponsors are permitted to combine exhibits for any project provided all required information is shown thereon with sufficient clarity to be understood.

(c) In addition to the application form available from the Commission office, the required submission materials are set forth below.

7:45-2.2 Storm drainage and water quality

(a) The rules in this section concerning vicinity maps, environmental site analysis and dam safety criteria do not apply to minor projects.

(b) Rules concerning storm drainage and water quality are as follows.

1. **Peremptory approval:** Projects may be eligible for peremptory approval as described in N.J.A.C. 7:45-1.4(b)1. For projects in Zone B which are eligible for peremptory approval, unless determined otherwise by the Commission, submission materials will be limited to a completed copy of the form supplied by the Commission and the data described in paragraphs 2, 5, 6i and 6iii of this subsection. Projects in Zone A shall comply with all submission requirements regardless of their eligibility for peremptory approval.

2. **Topographic base map:** Topographic base map of the site prior to improvement at a scale of 1" = 200' or greater, showing 2' contour intervals for slopes of 10% or less, and 5' contour intervals for slopes greater than 10%. (Where such information is not available, the Commission's approval of some other contour interval may be obtained.) The map shall indicate at least the following: existing surface water drainage, marshlands, outlines of woodland cover, existing man-made structures, roads, utilities, bearing and distances of property lines and significant natural and man-made features not otherwise shown. Minor projects which are additions or alterations to existing structures need not comply with this submission requirement.

3. **Vicinity Map:** Applicants must prepare a map at a scale of 1" = 400' or greater on a paper print of the latest air photograph available from the County Planning Board, up-dated in the field to reflect current conditions, showing the relationship of the proposed development to significant features in the general surroundings. The map must indicate the following: roads, pedestrian ways, access to the site, adjacent land uses, existing open space, public facilities, landmarks, and places of architectural and historic significance, utilities, the D & R Canal Park (or the direction to the park), drainage (including, specifically, streams and other surface water shown on USGS maps), and other significant features not otherwise shown.

4. **Environmental site analysis:** A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

5. **Project description and site plan:** A map (or maps) at the scale of the topographic base map showing changes proposed. This shall include two foot contours indicating the finished slopes of the land, the location and size of proposed buildings, roads, parking areas, utilities, structural facilities for detaining or recharging stormwater and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations in the existing terrain, cover and grade are proposed; proposed changes in natural cover, including lawns

and other landscaping. A written description of the site plan and justification of proposed changes in natural conditions may also be provided. Minor projects which are additions or alterations to existing structures need not comply with this submission requirement.

6. **Water detention facilities data:** For minor projects, details of the proposed plan to control and dispose of surface water must be submitted. For major projects that will include facilities for water detention, the following information, including a map or maps of a suitable scale, shall be provided:

i. Total area to be paved or built upon, estimated land area to be occupied by water detention facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of surface water.

ii. Appropriate measures to control velocity and erosion from outlets or discharge points.

iii. Details of all water detention plans, during and after construction including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge of each spillway.

iv. Maximum discharge and total volume of runoff which would occur from the project area without the improvement for the following storms:

(1) The one and one quarter inch of rainfall occurring within a two-hour storm.

(2) The specified design storm and also the three storms of the same duration but one-half, three-quarters, and one-quarter the rainfall intensity, respectively.

v. Maximum discharge and total volume of runoff which would occur from each of the above-designed storms after complete construction of the proposed improvement and of the proposed detention provisions.

vi. Computations fully substantiating the information in this paragraph including the assumptions and bases thereof.

7. **Dam safety criteria:** A statement from a licensed engineer of the State of New Jersey that he has reviewed or prepared the plans for the detention facility and that the proposed provisions are satisfactory from a dam safety viewpoint and in accordance with any criteria or regulations established by the State.

8. **Other information:** Any other information expressly requested by the Commission which may show the extent to which the project is in accord with the standards of review established in this chapter.

7:45-2.3 Visual review

(a) The rules in this section concerning existing conditions plan do not apply to minor projects.

(b) Rules concerning visual review are as follows.

1. **Existing conditions plan:** A plan showing the location, type and size or dimension of existing trees with a diameter at breast height of 3" or greater, rock masses, and other natural and man-made features, with designations of the features which will be retained in the completed development. (Sites that are heavily wooded should indicate the area covered by trees, typical sizes, and types that predominate.)

2. **Drawings of the proposal:**

i. **New structure(s):** A drawing of the structure(s) specifying color and type of surface materials, and showing all elevations visible from the Canal Park.

ii. **Existing structures:** A photograph of the existing structures and a drawing showing details of proposed alterations, including notation of colors and materials to be used.

iii. **Landscape:** A site plan to scale showing the location, dimensions, and arrangements of all open space and yards, type

of paving materials, methods to be employed for visual screening, and proposed grades.

3. Design statement: A written statement by applicant describing the conformity of the design of the proposed project with the design performance standards appearing in subchapter 3 of this chapter.

7:45-2.4 Noise

A statement indicating the anticipated noise impact of the project on the park, and indicating, by reference to site plan diagrams, architectural plans, or other documents, how the noise produced or likely to be produced by the project will be abated to levels in accordance with N.J.A.C. 7:29-1.1 et seq. (This material is required for nonresidential projects only. Residential projects are exempt from review for noise impact.)

SUBCHAPTER 3. STANDARDS

7:45-3.1 Storm drainage and water quality

(a) The rules in this section do not apply in the following instances:

1. General standards: Zone B minor projects;
2. Standards for storm water retention: Minor projects in both Zones A and B;
3. Alternative standards for certain watersheds: Minor projects in both Zones A and B; and
4. Standards for stream corridors: Minor projects in both Zones A and B.

(b) Rules concerning storm drainage and water quality are as follows:

1. General standards: Plans submitted shall demonstrate careful consideration of the general and specific concerns, values and standards of the Master Plan and shall be based upon environmentally sound site-planning, engineering, and architectural techniques.

2. Standards for storm water retention: Each project subject to these regulations must provide facilities for detention of storm runoff through any feasible combinations of impoundments, rooftop storage, swales, dry wells, or any other reliable engineering approaches.

i. The detention facilities must provide retention of site runoff for any storm up to and including a storm of three inches within six hours, of which one inch occurs during the sixth hour. In making computations under this subparagraph and also under subparagraph ii below, it shall be assumed that this storm occurs after one inch of prior rainfall during the preceding twenty-four hours (which may be assumed to have been evacuated). Runoff greater than that for a storm of this size will be passed over an emergency spillway.

ii. The outlet from the detention facility must require 90% of the runoff from 1¼ inches of rainfall, falling in two hours, to be retained so that not over 90% will be evacuated prior to 36 hours. The following exceptions to this provision will be acceptable:

(1) Retention will not be required in any case to an extent which would reduce the outlet size to a diameter of less than 3".

(2) Dry basins serving residential projects may allow evacuation of 90% in 18 hours.

(3) For Class II watersheds (defined in subparagraph 3i of this subsection) and in cases where runoff is from single family housing and unimproved areas only and where the runoff enters detention basins after moving by sheet flow for at least 30 feet over lawns or leaf-mulch areas, outlets shall be designed so that detention storage when full will be 90% evacuated over 12 hours.

Note: In all cases, multiple levels or other fully automatic outlets shall be designed and installed so that discharge

rates from the development for storms less severe than the design storm will be substantially reduced from what would occur if the development were not constructed. Outlet waters from the design shall be discharged from the development at such locations and velocities as not to cause additional erosion or cause additional channels below the development.

iii. As soon as more rain than specified in subparagraph ii of this paragraph, but less than in subparagraph i has fallen, excess storm water may be released provided that the total rate of releases does not exceed 50% of what would have occurred from the given storm with the site in an undeveloped condition.

iv. Runoff from areas uphill or upstream from the development site may be passed across the development site without detention or storage. If it is more convenient, part or all of such water may be passed through the detention means described above and an equal amount of water that originates on the site may be passed downhill or downstream. If any such upstream water enters detention facility provided as specified under subparagraph i above, the amount of detention provided shall be increased accordingly. For watersheds other than Class II (as defined in subparagraph 3i) this exchange of water is permitted only if the site runoff is not more polluted than the detained runoff from uphill or upstream. The intention is to require retention for the full period specified in subparagraph ii of this paragraph of the actual runoff from the site or its equivalent and not just of an equivalent amount of water (which may be less polluted).

v. For purposes of controlling site runoff in accordance with the above paragraphs, the site area shall be taken to include the total gross area of the development site except for the cases described in items (1), (2), and (3) below.

(1) If part of the site is permanently dedicated to natural vegetative growth, without restriction, improvement, or control of any kind, this area may be excluded, and the runoff shall be handled in accordance with subparagraph iv above.

(2) For residential development, less dense sites will require smaller facilities than densely developed sites of the same size. The following table may be used for computation of detention storage on residential projects, computing runoff under provisions of subparagraphs i, ii and iii of this paragraph for only a part of the total housing area as follows average residential density:

(A) ¼ acre lots or greater density—100% of total area;

(B) ½ acre lots—80% of total area;

(C) 1 acre lot—65% of total area;

(D) 2 acre lots—50% of total area;

(E) For other fractions of acre lots, the corresponding equivalent site areas shall be interpolated.

(F) With regard to the unimproved portions of the site area, the runoff shall be handled in accordance with provisions of subparagraph iv of this paragraph.

(3) For nonresidential projects with impervious surfaces covering less than 30% of the site, a reduction in area used for computations of detention storage may be allowed, as follows:

(A) 30% or more of site impervious—100% of site used;

(B) 10% or less of site impervious—33% of site used.

Note: Intermediate values may be interpolated.

(4) Where the project consists of two phases, (a) new construction which requires provisions of storm drainage under the terms of these regulations, and (b) repair or rehabilitation of structures and surfaces which does not result in increasing the extent of impervious areas or in rendering existing surfaces less pervious, the detention requirements may be computed on the basis of phase (a) exclusively.

vi. If detention basins or other detention facilities are provided through which water passes at times other than following rainfall, the Commission should be counseled concerning design criteria.

vii. Outlets from detention facilities shall be designed to function without manual, electric, or mechanical controls. Outlet waters shall be discharged at such locations and velocities as not to cause additional erosion or cause additional channels below the development.

viii. The retention site runoff as required by this regulation will result in the accumulation in the detention basin of considerable amounts of sediment, including particulate polluting substances, and debris. Provision must be made for periodic removal of accumulated solid materials. Computations for storage capacity shall include estimates for one year's accumulation of solid materials.

ix. Responsibility for operation and maintenance of detention facilities installed, including periodic removal and disposal of accumulated particulate material and debris, unless assumed by a governmental agency, shall remain with the owner of the property and shall be passed to any successor owner. In the case of developments where lots are to be sold, permanent arrangements satisfactory to the Commission shall be made to ensure continued performance of these obligations.

x. If local ordinances or the approved provisions of a water quality management plan require a larger design storm, more detention storage or lower release rates than those specified above, then the stricter requirements shall prevail, the provisions specified herein being considered as minima and not maxima.

xi. In many instances, the provisions of separate detention facilities for a number of single sites may be more expensive and more difficult to maintain than provision of joint facilities for a number of sites. In such cases, the Commission will be willing to consider provision of joint detention facilities which will fulfill the requirements of this regulation. In such cases, a properly-planned staged program of detention facilities may be approved by the Commission in which compliance with some requirements may be postponed at early stages while preliminary phases are being undertaken and construction funds accumulated.

3. Alternative standards for certain watersheds:

i. Class II watersheds: Certain watersheds identified by the Commission as having no history of significantly mingling with the canal water under either normal or storm conditions will be required to provide detention facilities that regulate flooding, but may not address water quality problems. These will be known as Class II watersheds. The location of these watersheds can be obtained from the Commission's office in Trenton.

(1) These facilities will be reviewed in accordance with the above standards with modifications described in subparagraphs 2ii and iv of this subsection.

ii. Alternative standards for any watershed: In any watershed, the combined provisions of subparagraphs 2i, ii, iii and v will be waived if provisions of the following alternative standard are met. The detention facility must accommodate site runoff from any storm up to and including a design storm of 7 inches in 24 hours (a type II rainfall as defined in Soil Conservation Service Publications). Runoff greater than that occurring from the design storm will be passed over an emergency spillway. Detention will be provided such that after development neither the peak rate of flow from the site, nor the total flow during the hour of maximum releases will exceed the corresponding flows which would have been created by similar storms prior to development. For purposes of computing runoff, all lands in the site

shall be assumed, prior to development, to be in good condition (if the lands are pastures, lawns or parks), with good cover (if the lands are woods), or with conservation treatment (if the land is cultivated), regardless of conditions existing at the time of computation. Provisions of subparagraph 2ii apply to the alternative standards, with one exception, as follows. Release rates from the lesser storms are not required to be reduced below what would have occurred from a similar storm prior to the development, except insofar as necessary to provide for the specific retention of runoff from the rainfall of 1¼ inches of rainfall occurring in two hours.

4. Standards for stream corridors: To the extent practicable and consistent with other site planning criteria, and with appropriate beneficial use of the site as a whole, stream corridors should be provided, by including in the corridor floor plain areas, seasonal high water table areas, and adjacent slopes of cover 12% as further detailed below. Means to accomplish this should include clustering of buildings, readjusting lot sizes and positioning of buildings within the lots, where this is advantageous.

i. Stream corridor: Within the stream corridor, as far as practicable, the land's natural cover should be maintained, no alteration of the natural terrain should occur, and no impervious surfaces or structures should be located.

ii. Desirable extent of the stream corridor: Subject to general policy indicated above, it is desirable for the stream corridor to extend a minimum of 150 feet from each bank of permanently flowing streams as they are shown on USGS maps. Where soils with a seasonal high water table of one foot or less, as indicated generally on SCS maps and confirmed by field inspection, extend beyond 150 feet, they are the basis for varying the width of the desirable corridor. Flood hazard areas, contiguous wetlands, and slopes over 12% (where the toe of the slope is within 50 feet of the wet soils) are also desirable to include in the corridor. A 50 foot buffer of natural vegetation as measured from the edge of wet soils, contiguous wetlands, flood plain or slopes over 12% should also be maintained in natural cover to complete the stream corridor. The Commission has maps in its office which show the extent of the desirable stream corridor within the Review Zone.

iii. Limitation of stream corridor: Stream corridors should not be extended to include soils with a seasonal high water table of less than one foot which are extensive, but attributable to factors such as shallow bedrock, not demonstrably within the stream corridor, and where it is considered that development will not adversely affect the quality or quantity of the water that enters the Canal Park.

7:45-3.2 Visual review; general standards

(a) The Commission shall review all projects in Zone A to determine if the project is in accord with the goals for the Canal Park as defined in the park's Master Plan. The Master Plan associates these goals with six different environmental types that comprise the Canal Park. These environmental types are as follows:

1. Natural: Sign of man's impact are non-existent or slight;
2. Rural: Natural conditions dominate but unobtrusive signs of man's impact exist;
3. Suburban: A dominate feeling of open space, but that space is chiefly defined by man-made structures;
4. Urban: Enclosure by dense development;
5. Transportation: Canal Park squeezed between roads, railroads, and river;
6. Special Node: Small areas with unique characteristics.

(b) These regulations are not intended to limit the type of development which can occur within Zone A of the Review Zone. Rather, their function is to assure that development within this zone is not harmful to the environmental types set forth above and their respective goals. The following site planning techniques are intended to serve as guidelines to the person proposing development within the A Zone. No guidelines are given for special nodes since, by definition, they are places which require individual consideration.

7:45-3.3 Design standards

(a) The rules in this section do not apply in the following instances:

1. Building setbacks: Major and minor projects in Zone B;
2. Height and scale of structures: Major and minor projects in Zone B;
3. Color and texture of structures: Major and minor projects in Zone B plus minor projects in Zone A; and
4. Other visual impact concerns: Major and minor projects in Zone B.

(b) Projects will be set back from the park sufficiently far so that the visual environment of the park is not adversely affected. As a guide to planning a project, the following setbacks will ordinarily be adequate.

1. In urban environments there are no minimum setbacks except as may be prescribed by municipal ordinances.
2. In suburban and transportation environments all structures shall be located 200 feet or more from the Canal Park.
3. In natural and rural environments all structures shall be located 250 feet or more from the Canal Park.
4. In any area where existing vegetation does not provide adequate screening, the project shall require landscaping, or a greater setback, or both, to protect the park's visual environment.

(c) Structures should maintain a reasonable height and scale relationship to nearby structures or vegetation. The following general standards will ordinarily be satisfactory:

1. For urban environments, the height of structures may vary according to the height of existing structures that have a visual relationship to the proposed structure.
2. For all other environments, structures should not be visible above existing tree canopy as viewed from the Canal Park. Where such canopy does not exist, or consists of immature vegetation, structures should be limited to a height of 40 feet.

(d) The exterior appearance of a project shall be in keeping with the character of the Canal Park's individual environments. The following should guide the development of a project:

1. Colors used should harmonize with the man-made or natural surroundings of the project and should be typical of colors found in the Canal Park environment.
2. Building materials and texture shall harmonize with the surrounding man-made and natural materials wherever possible.

(e) Other visual impact concerns rules are as follows.

1. Utility service: Electric, telephone, cable television, and other such lines and equipment shall be underground or otherwise not visible from the Canal Park. Exception may be made by the Commission for above-ground terminals, transformers, and similar facilities, and for the extension of service in existing development.
2. Ancillary structures and areas: Exposed storage areas, out-buildings, exposed machinery service areas, parking lots, truck loading areas, utility buildings, and similar ancillary areas

and structures shall either be completely concealed from view from the Canal Park or designed according to the regulations applied to other structures.

3. Signs and advertising features:

i. All commercial signs and outdoor advertising structures in excess of two square feet surface area shall comply with the following standards:

(1) In urban and transportation environments, no freestanding signs shall be erected within 200 feet of the Canal Park boundary;

(2) In natural or rural environment, no sign shall be visible from the Canal Park;

(3) No sign or other advertising device of any size with moving or moveable parts or with flashing, animated, or intermittent illumination shall be visible anywhere within the Canal Park;

(4) No freestanding sign or other advertising or part thereof visible from the park shall be more than 20 feet above ground level.

4. Soils and landscaping: Wherever possible, natural terrains, soils and vegetation should be preserved. New vegetation and soils should be native to the environment in which they are to be placed.

5. Historic site or districts: Projects should be compatible in scale, height, site-planning and color with any officially designated federal, state, or local historic site or district.

Editor's note: A map outlining the drainage review area was filed with these rules but is not reproduced herein. Further information concerning this map may be obtained by contacting the Delaware and Raritan Canal Commission, Post Office Box 1390, Trenton, New Jersey 08625.

(a)

PINELANDS COMMISSION

Pinelands Comprehensive Management Plan

Proposed Amendments and New Rules:

N.J.A.C. 7:50

Recodification

Authorized by: New Jersey Pinelands Commission,
Terrence D. Moore, Executive Director.
Authority: N.J.S.A. 13:18A-6j.
Proposal Number: PRN 1985-391.

A public hearing concerning this proposal will be held on August 6, 1985 at 7:30 P.M. at:
Winslow Township Municipal Building
Route 73
Braddock, NJ 08037

Submit comments by August 21, 1985 to:
John C. Stokes
Assistant Director
Pinelands Commission
P.O. Box 7
New Lisbon, NJ 08064

The agency proposal follows:

Summary

The New Jersey Pinelands Commission proposes to amend the procedures under which certain applications for development, applications for waivers of strict compliance from the standards of the Comprehensive Management Plan, and applications for public development are reviewed. Additional public notice requirements for various applications are also being proposed. The proposed rules are being considered by the Pinelands Commission in response to a Superior Court of New Jersey, Appellate Division, opinion in the matter of the application of John Madin/Lordland Development International for Pinelands Development Approval and Planning Board of Hamilton Township, Atlantic County vs. New Jersey Pinelands Commission, et al. (Docket Numbers A-4343-83T6 and A-4347-83T6, consolidated).

The rules (N.J.A.C. 7:50-4.12 through 4.16) currently require that an applicant who seeks to develop property within any municipality which has not received Commission approval of its municipal master plan and land use ordinances (uncertified municipality) must first receive a Pinelands Development Approval from the Executive Director before any requisite municipal approvals are sought. The current rules (7:50-4.17) also provide interested parties an opportunity to seek Pinelands Commission reconsideration of the Executive Director's decision on such a development application. In these cases, a hearing is held before the Commission takes final action on the Executive Director's decision.

The proposed rules (N.J.A.C. 7:50-4.12 through 4.27) will change the procedures under which both the Pinelands Commission and uncertified municipalities review development applications. Following submission of a completed application to the Pinelands Commission staff, uncertified municipalities will be granted the authority to review development applications before the Pinelands Commission takes action on these development applications. Notice of municipal approvals or disapprovals of the development proposals must be given to the Pinelands Commission and the Executive Director may initiate Commission review of the municipal action if it is determined that the action may be contrary to the environmental or land use standards of the Comprehensive Management Plan. At that time, interested parties including the municipality which granted or denied the development application may request a hearing. The Pinelands Commission itself will decide whether the municipal action should be overturned, affirmed, or modified to meet Comprehensive Management Plan standards. The determination of the Commission will be binding upon the municipality.

An application for public development (that which is proposed by a public agency) is reviewed under current rules (N.J.A.C. 7:50-4.43 through 4.47) by the Pinelands Commission only if its Executive Director determines that the proposal raises a substantial issue regarding the proposed development's adherence to the environmental and land use standards of the Comprehensive Management Plan. No hearings are required and the action of the Executive Director, where a project does not raise an issue with respect to the standards of the Comprehensive Management Plan, and the action of the Commission itself, on applications referred to it by the Executive Director, represent final actions.

The proposed rules (N.J.A.C. 7:50-4.53 through 4.57) will provide that the Commission itself act on all public development applications. Interested parties will also be afforded an opportunity for a hearing prior to the Commission's action on the application. Absent a request for a hearing from an interested party, the Commission may take final action on the application or refer

the matter to a hearing to obtain additional facts before rendering a decision.

Under current rules (N.J.A.C. 7:50-4.51 through 4.57), initial decisions on waivers of strict compliance are issued by the Executive Director and may be finally decided by the Pinelands Commission if an interested party requests reconsideration or if the Commission determines that the matter warrants its direct review. In both cases, the Commission's decision is made only after a hearing is held.

The proposed rules (N.J.A.C. 7:50-4.61 through 4.67) will provide that the Commission issue a final decision on all waivers of strict compliance, even if the Executive Director's recommendation is not contested by an interested party. An opportunity for a hearing prior to the Commission's final action will still be afforded, upon request, to any interested party. Absent a request for a hearing from an interested party, the Commission may approve the Executive Director's recommendation or refer the matter to a hearing to obtain additional facts before making a decision on the waiver.

In addition to the changes summarized above, the proposed rules also establish additional requirements for applicants to notify persons who may have an interest in a pending application. The proposed notification requirements will help to better inform the public of pending applications and better ensure that interested parties have an opportunity to participate in the decision-making process. The notice requirements generally parallel those of the Municipal Land Use Law (N.J.S.A. 40:550-12) and apply to all applications for waivers of strict compliance, applications for interpretations which involve specific parcels of land, applications for major development in uncertified municipalities, and major public development proposals. Major development is defined in N.J.A.C. 7:50-2.11.

Social Impact

The adoption of these proposed regulations will ensure that persons who may have an interest in pending public and private development applications and waiver of strict compliance decisions, as well as site specific interpretation requests, are notified of the applications and have an opportunity to participate in the decision-making process. The proposed regulations will also make the development permitting procedures in uncertified municipalities comparable to those in place for certified municipalities. In so doing, uncertified municipalities will be afforded a greater role in the development permitting process than they now have; however, the Pinelands Commission will still retain the ultimate authority over such decisions to ensure that the environmental and land use standards of the Comprehensive Management Plan are not compromised.

The proposed regulations may also result in a lengthier permit review period than now exists for public development applications. Development applications in uncertified municipalities may receive necessary permit approvals more quickly than is now the case; however, the review period could be lengthened if the municipal permit approvals or denials are reviewed by the Pinelands Commission because of possible conflicts with Comprehensive Management Plan environmental or land use standards.

Economic Impact

Adoption of these proposed regulations will result in additional costs to project applicants and the Pinelands Commission. The costs of providing additional public notices will be borne by project applicants and any increased time required for the processing of development applications may result in higher pre-construction costs.

Pinelands Commission operational costs are also expected to increase as a result of greater public participation in the decision-making process and an increase in the number of administrative hearings held on various applications.

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

7:50-2.11 Definitions

"Certificate of [Conformity] **Compliance**" [See N.J.A.C. 7:50-4.41 through 4.47 (Public Development)] See N.J.A.C. 7:50-4.11 through 4.27 (Development in Areas without Certified Local Plans)

7:50-4.12 Applicability

[(a) The provisions of this Part shall be applicable to all development in the Preservation Area upon adoption of this Plan and shall remain applicable to such land until the master plan and land use ordinances of the municipality with jurisdiction over such land are certified by the Commission pursuant to N.J.A.C. 7:50-3, Part IV, except for those activities specifically excepted in Section N.J.A.C. 7:50-4.1.

(b) After one year following the effective date of this Plan,] The provisions of this Part shall be applicable to all development in any portion of the Pinelands Area located in any jurisdiction where the master plan or land use ordinances have not been certified by the Commission, except for those activities specifically excepted in N.J.A.C. 7:50-4.1.

7:50-4.13 [Pinelands Development Approval] **Compliance with this part** required for development in uncertified areas

Subject to the provisions of N.J.A.C. 7:50-4.12, no person shall carry out any development in any portion of the Pinelands Area located within the jurisdiction of a municipality with an uncertified master plan or land use ordinance without first [obtaining Pinelands Development Approval from the Commission pursuant to the] **complying with all applicable** procedures set out in this Part. **Any decision made pursuant to this Part shall supersede any local decision. All development shall adhere to the terms of any decision made pursuant to this Part. No local decision shall be made which imposes any requirements which in any way contravenes any standard contained in this Plan.**

7:50-4.14 Application for [Pinelands] Development Approval in uncertified Municipalities [areas]

(a) An application for [Pinelands] development [Approval] in uncertified municipalities shall be submitted to the Commission in accordance with the requirements of N.J.A.C. 7:50-4.2(b) (Application requirements).

(b) **In addition to the requirements of N.J.A.C. 7:50-4.2(b), an applicant for major development, as defined in N.J.A.C. 7:50-2.11 of the Plan, shall provide notice of the application for Pinelands Development Approval as follows:**

1. **Notice shall be given to owners of all real property within 200 feet of the subject property as provided for in N.J.S.A. 40:55D-12(b); and**

2. **Notice shall be given by publication in the official newspaper of the municipality in which the parcel is located, if there is one, or in a newspaper of general circulation in the municipality as provided for in N.J.S.A. 40:55D-12(a).**

(c) **Said notice shall state:**

1. **The nature of the application pending before the Pinelands Commission, including a description of the proposed development;**

2. **That action may be taken on the application after 10 days from the date the notice is published and mailed;**

3. **That written comments on the application may be submitted to the Pinelands Commission and that all such comments will be considered in the review of the application;**

4. **That the application is available for inspection at the office of the Pinelands Commission;**

5. **The address and phone number of the Pinelands Commission; and**

6. **That any person who provides comments or requests a copy of the Executive Director's findings and conclusion shall be provided a copy of said findings and conclusion.**

(d) **If the applicant significantly modifies the proposed development from that described in the most recent notice given pursuant to (b) and (c) above, then the applicant shall again provide the notice mandated by said subsections so that the notice accurately describes the proposed development.**

(e) **No application for which the above notice is required, shall be deemed complete until proof that the requisite notice has been given is received.**

(f) **The Executive Director shall not issue a Certificate of Compliance for any application for which the above notice is required until five days after the 10 day comment period set forth herein has expired.**

7:50-4.15 Action by Executive Director on application

Within 90 days following the receipt of a complete application for [Pinelands] development [Approval], the Executive Director shall review the application and all information submitted by the applicant or any other person relating to the application and upon completion of such review[,] **issue a Certificate of Compliance stating whether the application should be approved, approved with conditions or disapproved** [the application]. The application may be approved or approved with conditions only if [the Executive Director finds that] the development as proposed, or subject to any conditions which may be imposed, conforms to each of the minimum standards for development approval established by N.J.A.C. 7:50-4.16. The Executive Director may [attach to an approval] **propose in said Certificate of Compliance** any reasonable condition which he finds is necessary to achieve the objectives of this Plan. [A Pinelands Development Approval required pursuant to this Part shall supersede any local decision.] **The Executive Director shall provide a copy of the Certificate of Compliance to the applicant, the Commission, interested persons, including all persons who have submitted information concerning the application, as well as all persons who have requested a copy of said decision, and any persons, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2) (Persons Entitled To Notice).**

7:50-4.16 Standards for uncertified areas

(a) [Pinelands Development Approval] **No local approval may be granted by an uncertified municipality and no approval may be granted pursuant to this Part [only if the Executive Director finds that] unless the proposed development:**

1. Satisfies all of the criteria and standards established in N.J.A.C. 7:50-5 (Minimum Standards For Land Uses And Intensities) and 6 (Management Programs And Standards) of this Plan, provided, however, that all optional elements of Article 6 shall be mandatory for any jurisdiction which is uncertified; and

2. Is otherwise consistent with the objectives of the Federal Act, the Pinelands Protection Act and this Plan.

7:50-4.17 [Reconsideration rights]

Any interested person who is aggrieved by any determination made by the Executive Director pursuant to this Part may seek reconsideration of such determination as provided by N.J.A.C. 7:50-4.81 of this Plan.]

Certificate of compliance required for determination of completeness and action

No local permitting agency shall determine that any application for development is complete or take any action on any application for development unless the application is accompanied by a Certificate of Compliance issued pursuant to N.J.A.C. 7:50-4.15.

7:50-4.18 Report requirements of local permitting agency with respect to applications for development

(a) **General requirement:** Every local permitting agency shall give notice to the Commission, as hereinafter specified, of the filing of, and changes to, any application for development and of hearings and meetings concerning the filing and disposition of every application for development filed with it. Failure to provide said notices shall void any local decision for which such notices were not provided.

(b) **Notice of application:** Within seven days following a determination of completeness of an application for development, or any change to any application for development which was previously filed, notice of such application shall be given by the local agency, by mail, to the Commission. The notice shall be in such form as the Executive Director shall from time to time specify; but each such notice shall contain at least the following information:

1. The name and address of the applicant;
2. The legal description and street address, if any, of the property which the applicant proposes to develop;
3. A brief description of the proposed development, including uses and intensity of uses proposed;
4. The docket number of the Certificate of Compliance issued by the Executive Director and the date on which it was issued;
5. The date on which the application, or change thereto, was filed and any docket or other identifying number assigned to such application by the local permitting agency;
6. The local permitting agency with which the application or change thereto was filed;
7. The content of any change made to any such application since it was filed with the Commission; and
8. The nature of the local approval or approvals being sought.

(c) **Notice of hearings and meetings:** Notice of any hearing, public meeting or other formal proceeding at which an application for development is to be considered shall be given to the Commission by the local agency by mail or delivery of the same to the principal office of the Commission not less than five days prior to such meeting, hearing or proceeding and shall be in such form as the Executive Director shall from time to time specify. Each notice shall contain at least the following information:

1. The name and address of the applicant;
2. The docket number of the Certificate of Compliance issued by the Executive Director and the date on which it was issued;
3. The date, time and location of the meeting, hearing, or other formal proceeding;
4. The name of the local permitting agency or representative thereof which will be conducting the meeting, hearing, or other formal proceeding;
5. Any written reports or comments received by the local permitting agency on the application for development which have not been previously submitted to the Commission; and
6. The purpose for which the meeting, hearing or other formal proceeding is to be held.

(d) **Notice of preliminary approval:** Notice of any grant of preliminary site plan or subdivision approval or any other preliminary approval of any application for development provided for by

the Municipal Land Use Law or any county or municipal ordinance shall be given to the Commission by the local agency, by certified mail, within five days following such grant or approval. Such notice shall be in such form as the Executive Director shall from time to time specify, but shall contain at least the following information:

1. The name and address of the applicant;
2. The legal description and street address, if any, of the property which the applicant proposes to develop;
3. The docket number of the Certificate of Compliance issued by the Executive Director and the date on which it was issued;
4. The date on which the preliminary approval was granted;
5. Any written reports or comments received by the local permitting agency on the application for development which have not been previously submitted to the Commission;
6. A copy of the resolution or other documentation of the preliminary approval which was granted and a copy of the plans which were approved; and
7. The names and addresses of all persons who actively participated in the local proceedings.

(e) **Notice of final determination:** Notice of any final determination with respect to any application for development shall be given to the Commission by the local agency by certified mail within five days following such determination and shall be in such form as the Executive Director shall from time to time specify; but such notice shall contain at least the following information:

1. The name and address of the applicant;
2. The legal description and street address, if any, of the property which the applicant proposes to develop;
3. The docket number of the Certificate of Compliance issued by the Executive Director and the date on which it was issued; and
4. A copy of the resolution or other documentation of the local permitting agency approving or denying the applicant and, if the application was approved, a copy of any final site or subdivision plan or plat or similar plan which was submitted by the applicant.

7:50-4.19 Commission review following preliminary approval

(a) **Decision to review local approval:** Upon receipt of any notice of local approval given pursuant to N.J.A.C. 7:50-4.18(d), the Executive Director shall review the application for development and all other information in the file, the Certificate of Compliance and the local action and determine whether the local action conforms to the requirements of this Plan. If the Executive Director determines that the proposed development, as approved by the local agency, may not conform to the minimum standards set forth in N.J.A.C. 7:50-4.16, he shall initiate the review procedures set forth in this section. If the Executive Director determines that the proposed development, as approved by the local agency, conforms to the minimum standards set forth in N.J.A.C. 7:50-4.16 the preliminary approval will not be reviewed by the Commission.

(b) **Notice of decision and hearing:** Within 30 days following receipt of any notice of preliminary approval issued pursuant to N.J.A.C. 7:50-4.18(d) (Notice of preliminary approval), the Executive Director shall give notice of his determination by certified mail to the applicant, the local permitting agency which granted such preliminary approval, the Commission, interested persons, including all persons who have submitted information concerning the application, as well as all persons who have requested a copy of said decision, and any persons organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2) (Persons Entitled To Notice). If the Executive Director determines that the preliminary approval should be reviewed by the Commission, the notice shall indicate that the applicant, the local permitting agency or

any interested person may, within 21 days of mailing of such notice, request that a hearing be held before an Administrative Law Judge pursuant to the procedures established by N.J.A.C. 7:50-4.91 (Reconsideration) for the purpose of reviewing such preliminary approval.

(c) Notices to interested persons: If the Executive Director determines that a preliminary approval shall be reviewed by the Commission and a hearing has been requested pursuant to (b) above, he shall notify all persons who actively participated in the proceedings before the local permitting agency and all persons who submitted information on the application to the Commission, that they may participate in any proceedings held pursuant to this Part.

(d) No action by applicant prior to receipt of notice: No person shall carry out any development pursuant to any preliminary approval granted by any local permitting agency until he has received notice provided for in (b) above (Notice Of Decision And Hearing). If such notice indicates that the Commission intends to conduct a review of such preliminary approval pursuant to this section, no development shall be carried out until such review has been completed.

7:50-4.20 Decision on review

(a) If no hearing is requested by the applicant or the local permitting agency pursuant to N.J.A.C. 7:50-4.19(b) (Notice Of Decision And Hearing), the Executive Director shall within 60 days review the application, all other information in the file, the Certificate of Compliance and the local approval and determine whether the preliminary approval is in conformance with the minimum standards of this Plan. The Executive Director may recommend the Commission approve the preliminary approval, approve the preliminary approval with conditions or disapprove the preliminary approval. The Executive Director shall give written notification of his findings and conclusions to the applicant, the Commission, the local approving agency, interested persons, including all persons who have submitted information concerning the application, as well as all persons who have requested a copy of said determination, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2) (Persons Entitled To Notice).

(b) Review by the commission: If a hearing is requested pursuant to N.J.A.C. 7:50-4.19(b) (Notice Of Decision And Hearing), the Commission shall, upon receipt of the findings of fact and recommendations of the Administrative Law Judge, review such findings and recommendation, the application, and the record of the hearing, and approve, approve with conditions, or disapprove the preliminary approval. If no hearing is requested pursuant to N.J.A.C. 7:50-4.19(b), the Commission shall after receipt of the Executive Director's recommendation, review said recommendation, the application, other material in the file, the Certificate of Compliance and the local approval and approve, approve with conditions or disapprove the preliminary approval.

(c) Effect of the determination:

1. If the Commission disapproves any preliminary approval of an application for development, the local permitting agency shall within 30 days revoke such preliminary approval, and, thereafter, deny approval of such application.

2. If the Commission approves a preliminary approval subject to conditions, the local permitting agency shall, within 30 days, modify its preliminary approval to include all conditions imposed by the Commission, and shall grant final approval only if the application for final approval demonstrates that such conditions have been or will be met by the applicant.

7:50-4.21 Notice of changes made subsequent to local preliminary approval

(a) Each local permitting agency shall give notice to the Commission of any design, engineering or other changes made to any application for development by an applicant subsequent to any local preliminary approval reported to the Commission pursuant to N.J.A.C. 7:50-4.18(b) (Notice Of Preliminary Approval), including changes made in response to conditions imposed by the Commission pursuant to N.J.A.C. 7:50-4.20 (Decision On Review), to the Executive Director, within five days of receipt of such changes. Such notice shall be in such form as the Executive Director shall from time to time specify but shall contain at least the following information:

1. The name and address of the applicant;
2. The legal description and street address, if any, of the property which the applicant proposes to develop;
3. The docket number of the Certificate of Compliance issued by the Executive Director and the date on which it was issued;
4. Copies of any amended application, site or subdivision plans, plats and other documents reflecting such changes; and
5. A brief description of the nature of such changes.

(b) Any such changes shall be subject to review by the Commission pursuant to N.J.A.C. 7:50-4.19 (Commission Review Following Preliminary Approval) and 7:50-4.20 (Decision On Review) in the same manner as the original preliminary approval.

7:50-4.22 Commission review following final local approval

(a) Decision to review local approval: Upon receipt of any notice of local approval given pursuant to N.J.A.C. 7:50-4.18(e), the Executive Director shall review the application for development, all other information in the file, the Certificate of Compliance and the local action and determine whether the local action conforms to the requirements of this Plan. If the Executive Director determines that the proposed development, as approved by the local agency, may not conform to the minimum standards set forth in N.J.A.C. 7:50-4.16, he shall initiate the review procedures set forth in this section. If the Executive Director determines that the proposed development, as approved by the local agency, conforms to the minimum standards set forth in N.J.A.C. 7:50-4.16 the final approval will not be reviewed by the Commission.

(b) Notice of decision and hearing: Within 15 days following receipt of any notice of final determination given pursuant to N.J.A.C. 7:50-4.18(e) (Notice Of Final Determination), the Executive Director shall give notice of his determination by certified mail to the applicant, the local permitting agency which granted such approval, the Commission, interested persons, including all persons who have submitted information concerning the application, as well as all persons who have requested a copy of said decision, and any persons organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2) (Persons Entitled To Notice). If applicable, such notice shall set a date, time and place for public hearing as required by N.J.A.C. 7:50-4.23 (Public Hearing).

(c) No person shall carry out any development pursuant to an approval of an application for development which has been granted by any local permitting agency until he has received the notice provided for in (b) above. If such notice provides that the Commission intends to review such approval pursuant to N.J.A.C. 7:50-4.23 (Public Hearing) and 4.24 (Decision On Review), no development shall be carried out until such review has been completed.

7:50-4.23 Public hearing

If the Executive Director determines that the approval should be reviewed by the Commission, he shall, within 45 days following receipt of the notice of final determination given pursuant to N.J.A.C. 7:50-4.18(e), conduct a public hearing to be held pursuant to the procedures set out in N.J.A.C. 7:50-4.3 of this Plan.

The applicant shall have the burden of going forward and the burden of proof at the public hearing. However, an applicant may, at his option, waive all time limits for review imposed by the Pinelands Protection Act or this Plan and request that the hearing be held by an Administrative Law Judge pursuant to the procedures established in N.J.A.C. 7:50-4.91 (Reconsideration). Within 45 days following receipt of the findings of fact, conclusions and recommendations of the Administrative Law Judge, the Commission shall issue a final order.

7:50-4.24 Decision on review

(a) **Determination by Commission:** If a hearing is held pursuant to N.J.A.C. 7:50-4.3 (Commission Hearing Provisions), the Commission shall, within 45 days following the notice given pursuant to N.J.A.C. 7:50-4.22(b) (Notice Of Decision And Hearing), review the application, the file and the record of the hearing and make a determination as to whether the proposed development should be approved, approved with conditions or disapproved. If a hearing is held before an Administrative Law Judge pursuant to N.J.A.C. 7:50-4.91 (Reconsideration), the Commission shall upon receipt of the proposed findings of fact and recommendation of the Administrative Law Judge, review such findings and recommendations, the record of the hearing, the application and approve, approve with conditions or disapprove the proposed development.

(b) **Standards:** The development shall be approved or approved with conditions only if the Commission determines that the development as proposed, or with any conditions which are imposed, conforms with the minimum standards established in N.J.A.C. 7:50-4.16 (Standards For Uncertified Areas).

(c) **Effect on commission's decision:**

1. If the Commission disapproves the final local approval of any such application, the local permitting agency shall within 30 days revoke such approval and, thereafter, deny final approval of such application.

2. If the Commission approves the local permitting agency's approval of any such application subject to conditions, the local permitting agency shall within 30 days modify its approval to include all conditions imposed.

7:50-4.25 Commission review following local denial

(a) **Decision to review local denial:** Upon receipt of any notice of a local denial given pursuant to N.J.A.C. 7:50-4.18(e), the Executive Director shall review the application for development, all other information in the file, the Certificate of Compliance and the local action and determine whether the local action conforms to the requirements of this Plan. If the Executive Director determines that the proposed development conforms to the minimum standards set forth in N.J.A.C. 7:50-4.16 and that the local denial is contrary to the standards of the Plan, he shall initiate the review procedures set forth in this section. If the Executive Director determines that the proposed development does not conform to the minimum standards set forth in N.J.A.C. 7:50-4.16 or that the local denial is based on matters not regulated by the Plan and is not contrary to any such standards, the local denial will not be reviewed by the Commission.

(b) **Notice of decision and hearing:** Within 30 days following receipt of any notice of a denial issued pursuant to N.J.A.C. 7:50-4.18(e) the Executive Director shall give notice of his determination by certified mail to the applicant, the local permitting agency which denied the applicant, the Commission, interested persons, including all persons who have submitted information concerning the application, as well as all persons who have requested a copy of said decision, and any persons, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2)

(Persons Entitled To Notice). If the Executive Director determines that the denial should be reviewed by the Commission, the notice shall indicate that the applicant, the local permitting agency or any interested person may, within 21 days of mailing of such notice, request that a hearing be held before an Administrative Law Judge pursuant to the procedures established by N.J.A.C. 7:50-4.91 (Reconsideration Review) for the purpose of reviewing such preliminary approval.

(c) **Notices to interested persons:** If the Executive Director determines that a denial shall be reviewed by the Commission and a hearing has been requested pursuant to (b) above, he shall notify all persons who actively participated in the proceedings before the local permitting agency and all persons who submitted information on the application to the Commission, that they may participate in any proceedings held pursuant to this Part.

7:50-4.26 Decision On Review

(a) If no hearing is requested by the applicant or the local permitting agency pursuant to N.J.A.C. 7:50-4.25(b) (Notice Of Decision And Hearing), the Executive Director shall within 60 days review the application and all other information in the file and the Certificate of Compliance and the local action and determine whether the denial is in conformance with the minimum standards of this Plan. The Executive Director may recommend the Commission approve the application, approve the application with conditions or disapprove the application or allow the local denial to stand. The Executive Director shall give written notification of his findings and conclusions to the applicant, the Commission, the local approving agency, interested persons, including all persons who have submitted information concerning the application, as well as all persons who have requested a copy of said determination, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2) (Persons Entitled To Notice).

(b) **Review of the Commission:** If a hearing is requested pursuant to N.J.A.C. 7:50-4.25(b) (Notice of decision and hearing), the Commission shall, upon receipt of the findings of fact and recommendations of the Administrative Law Judge, review such findings and recommendation, the application, the file and other record of the hearing, and approve, approve with conditions, or disapprove the application or let the local denial stand. If no hearing is requested pursuant to N.J.A.C. 7:50-4.25(b), the Commission shall after receipt of the Executive Director's recommendation, review said recommendation, the application, the Certificate of Compliance, other material in the file and the local approval and approve, approve with conditions or disapprove the application or allow the local denial to stand.

(c) **Effect of the determination:**

1. If the Commission approves an application which received a local denial the local permitting agency shall revoke the denial, and, thereafter, approve of such application within 30 days.

2. If the Commission approves, subject to conditions an application which received a local denial the local permitting agency shall, within 30 days, revoke its denial and grant approval subject to the conditions imposed by the Commission.

7:50-4.27 Effect of Pinelands Development Approval

A Pinelands Development Approval issued pursuant to the provisions of this part previously in effect shall have the same effect as a Certificate of Compliance issued pursuant to N.J.A.C. 7:50-4.15 (Action by executive director on application) unless the applicant received a valid local approval prior to the adoption of the amendments which incorporated this section into the Plan. If such a valid local approval was granted, the Pinelands Development Approval shall continue to have the same force and effect as if this Part had not been amended.

7:50-4.28 through 7:50-4.30 (Reserved)

[7:50-4.21]7:50-4.31 (no text change)

[7:50-4.22]7:50-4.32 (no text change)

[7:50-4.23]7:50-4.33 (no text change)

[7:50-4.24]7:50-4.34 (no text change)

[7:50-4.25]7:50-4.35 (no text change)

[7:50-4.26]7:50-4.36 (no text change)

[7:50-4.27]7:50-4.37 (no text change)

[7:50-4.28]7:50-4.38 (no text change)

[7:50-4.29]7:50-4.39 (no text change)

[7:50-4.30]7:50-4.40 (no text change)

[7:50-4.31]7:50-4.41 (no text change)

[7:50-4.32]7:50-4.42 (no text change)

[7:50-4.33]7:50-4.43 (no text change)

7:50-4.44 through 7:50-4.50 (Reserved)

[7:50-4.41]7:50-4.51 (no text change)

[7:50-4.42]7:50-4.52 (no text change)

[7:50-4.43]7:50-4.53 Pre-application conference and submission requirements

(a) Request for pre-application conference: Prior to initiating any development within the Pinelands, a public agency shall submit a request for a pre-application conference to the Executive Director pursuant to N.J.A.C. 7:50-4.2(a).

(b) Submission requirement: Following the completion of the pre-application conference, the [interested] public agency shall submit such information which the Executive Director determines is necessary to enable the Commission to review the proposed development for conformity with the standards of this Plan.

(c) In addition to the requirements of (a) and (b) above, a public agency seeking approval for major development, as defined in N.J.A.C. 7:50-2.11 of the Plan, shall provide notice of the application for public development as follows:

1. Notice shall be given to owners of all real property within 200 feet of the subject property as provided for in N.J.S.A. 40:55D-12(b); and

2. Notice shall be given by publication in the official newspaper of the municipality in which the parcel is located, if there be one, or in a newspaper of general circulation in the municipality as provided for in N.J.S.A. 40:55D-12(a); or

(d) In addition to the requirements in (b) above, a public agency seeking approval for major development, as defined in N.J.A.C. 7:50-2.11 of the Plan, for a proposed development not located on a specific parcel, including a proposed development located within a right-of-way or easement, shall provide notice of the application for public development as follows:

1. Notice shall be given by publication in any official newspaper of the Pinelands Commission having general circulation in any municipality in which the proposed development is located; and

2. Notice shall be given by publication in the official newspaper if any, of all municipalities in which the proposed development will be located or if there is no official newspaper in any such municipality then in a newspaper of general circulation in that municipality.

(e) The notice required by (c) and (d) above is as follows:

1. The nature of the application pending before the Pinelands Commission, including a description of the proposed development;

2. That action may be taken on the application after 10 days from the date the notice is published and mailed;

3. That written comments on the application may be submitted to the Pinelands Commission and that all such comments will be considered in the review of the application;

4. That the application is available for inspection at the office of the Pinelands Commission;

5. The address and phone number of the Pinelands Commission; and

6. That any person who provides comments or requests a copy of the Executive Director's findings and conclusion shall be provided a copy of said findings and conclusion and that any interested person who is aggrieved by said determination is entitled to a hearing by requesting a reconsideration of the determination.

(f) If the applicant significantly modifies the proposed development from that described in the most recent notice given pursuant to (b) and (c) above, then the applicant shall again provide the notice mandated by said subsections so that the notice accurately describes the proposed development.

(g) No application for which the above notice is required, shall be deemed complete until proof that the requisite notice has been given is received.

(h) The Executive Director's action on any application for which the above notice is required shall not be taken until five days after the 10 day comment period set forth herein has expired.

[7:50-4.44]7:50-4.54 Review of submission by Executive Director

Within 30 days following receipt of [all information required to be submitted pursuant to N.J.A.C. 7:50-4.43(b)], a **completed application for public development**, the Executive Director shall review the application and all [the] information submitted by the applicant or any other person relating to the application and upon completion of such review make a determination whether the application should be approved, approved with conditions or disapproved [and make a determination as to whether the proposed development raises a substantial issue with respect to the conformance of the proposed development with the minimum standards of this Plan. If the Executive Director determines that no substantial issue is raised, he shall issue a Certificate of Conformity. If the Executive Director determines that a substantial issue is raised, he shall submit a report to the Commission setting forth his findings, conclusions and recommendations with respect to the proposed development]. **The application may be recommended for approval or approval with conditions only if the development as proposed, or subject to any conditions which may be imposed, conforms to each of the minimum standards for development approval established by N.J.A.C. 7:50-4.56. The Executive Director may attach to any determination to recommend approval of an application any reasonable condition which he finds is necessary to achieve the objectives of this Plan. The Executive Director shall give written notification of his findings and conclusions to the applicant, the Commission, interested persons, including all persons who have submitted information concerning the application, as well as all persons who have requested a copy of said decision and any persons, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2) (Persons Entitled To Notice).**

[7:50-4.45]7:50-4.55 [Action by Commission]

[Within 30 days following receipt of the report of the Executive Director pursuant to N.J.A.C. 7:50-4.44, the Commission shall consider the reports of the Executive Director and any additional information which may be submitted by the public agency proposing the development and shall determine whether the proposed development is in conformance with the standards set out in N.J.A.C. 7:50-4.46. The Commission shall issue an order approving, approving with conditions or disapproving the proposed development.]

Reconsideration Rights

(a) Any interested person who is aggrieved by any determination made by the Executive Director pursuant to this Part may within 15 days seek reconsideration of the Executive Director's determination by the full Commission as provided by N.J.A.C. 7:50-4.91 (Reconsideration).

(b) At the next regular Commission meeting after the time for reconsideration under N.J.A.C. 7:50-4.91 has expired and no interested person has requested a hearing, the Commission may approve the determination of the Executive Director or refer the determination of the Executive Director to the Office of Administrative Law. If the Pinelands Commission fails to take any action at said meeting, the determination of the Executive Director shall be referred to the Office of Administrative Law unless an extension of time for the Commission to act is approved pursuant to N.J.A.C. 7:50-4.4 (Waiver Of Time Limits). If the Executive Director's determination is referred to the Office of Administrative Law, the referral shall be treated as a petition for reconsideration in accordance with the provisions of N.J.A.C. 7:50-4.91 (Reconsideration).

[7:50-4.46]7:50-4.56 (no text change)**[7:50-4.47]7:50-4.57 [Effect of Commission order] Limits on public agency actions**

No public agency shall carry out any development which has been disapproved by the Commission pursuant to [N.J.A.C. 7:50-4.45] this Part, nor shall any public agency initiate any proposed development which has been approved with conditions by the Commission pursuant to [N.J.A.C. 7:50-4.45] this Part unless the conditions imposed are incorporated into the proposed development.

[7:50-3.51]7:50-4.61 (no text change)**[7:50-4.52]7:50-4.62 Application**

(a) An application for a waiver shall be submitted to the Commission in accordance with the requirements of N.J.A.C. 7:50-4.2(b). An application for waiver may be filed prior to filing an application for development. If during review of an application for development it appears necessary to obtain a waiver, the applicant may apply for a waiver; such application shall stay the time period for review set forth in Parts II or III of this subchapter as the case may be.

(b) In addition to the requirements in (a) above, an applicant requesting a Waiver of Strict Compliance shall provide notice of the application for a Waiver of Strict Compliance as follows:

1. Notice shall be given to owners of all real property within 200 feet of the subject property as provided for in N.J.S.A. 40:55D-12(b).

2. Notice shall be given by publication in the official newspaper of the municipality in which the parcel is located, if there is one, or in a newspaper of general circulation in the municipality as provided for in N.J.S.A. 40:55D-12(a);

(c) The notice in (b) above shall state:

1. The nature of the application pending before the Pinelands Commission, including a description of the proposed development and a statement of all Waivers sought;

2. That action may be taken on the application after ten days from the date the notice is published and mailed;

3. That written comments on the application may be submitted to the Pinelands Commission and that all such comments will be considered in the review of the application;

4. That the application is available for inspection at the office of the Pinelands Commission;

5. The address and phone number of the Pinelands Commission; and

6. That any person who provides comments or requests a copy of the Executive Director's findings and conclusion shall be provided a copy of said findings and conclusion and that any interested person who is aggrieved by said determination is entitled to a hearing by requesting reconsideration of the determination.

(d) If the applicant significantly modifies either the proposed development or the requested Waivers from that described in the most recent notice given pursuant to (b) and (c) above, then the applicant shall again provide the notice mandated by said subsections so that the notice accurately describes the proposed development and the requested Waiver.

(e) No application for a Waiver of Strict Compliance shall be deemed complete until proof that the requisite notice has been given is received.

(f) The Executive Director's action on any application for which the above notice is required, shall not be taken until five days after the ten day comment period set forth herein has expired.

[7:50-4.53]7:50-4.63 Action By Executive Director On Application

Within 90 days following the receipt of a complete application for waiver, the Executive Director shall review the application and all information submitted by the applicant and any other person relating to the application [the file] and upon completion of such review make a determination whether the application should be [either] approved, approved with conditions or disapproved [the application for a waiver]. The Executive Director shall give written notification of his [decision] findings and conclusion to the applicant, the Commission, interested persons, including all persons who have submitted information concerning the application as well as all persons who have requested a copy of said determination, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2). [The Executive Director's decision shall not become final until:

1. The time for Commission action under N.J.A.C. 7:50-4.54 has expired; and

2. The time for reconsideration under N.J.A.C. 7:50-4.81 has expired.]

[7:50-4.54]7:50-4.64 Action By Commission

[Within 30 days] If at the next regular Commission meeting after notification of the Executive Director's [decision] determination, no request for reconsideration under N.J.A.C. 7:50-4.91 has been received and the time for reconsideration under N.J.A.C. 7:50-4.91 has expired, the Commission may approve the determination of the Executive Director or refer the [decision] determination of the Executive Director to the Office of Administrative Law. If at said Commission meeting, no request for reconsideration under N.J.A.C. 7:50-4.91 has been received but the time for reconsideration has not expired, the Commission may either refer the determination of the Executive Director to

the Office of Administrative Law or approve the Executive Director's determination. However, such an approval of the Executive Director's determination shall only take effect after the time for reconsideration has expired and no request for reconsideration has been received. If the Commission fails to take any action at said meeting, the determination of the Executive Director shall be referred to the Office of Administrative Law unless an extension of time for the Commission to act is approved pursuant to N.J.A.C. 7:50-4.4 (Waiver of time limits). If the Executive Director's [decision] determination is referred to the Office of Administrative Law, the referral shall be treated as a petition for reconsideration in accordance with the provisions of Part VIII of this subchapter.

[7:50-4.55]7:50-4.65 Standards

(a) An application for a waiver shall be approved only if [the Executive Director finds] an extraordinary hardship or compelling public need is determined to have been established under the following standards:

1. The particular physical surroundings, shape or topographical conditions of the specific property involved would result in an extraordinary hardship, as distinguished from a mere inconvenience, if the provisions of this Plan are literally enforced. The necessity of acquiring additional land to meet the minimum lot size requirements of this Plan shall not be considered an extraordinary hardship, unless the applicant can demonstrate that there is no adjacent land which is reasonably available. An applicant shall be deemed to have established the existence of extraordinary hardship only if he demonstrates, based on specific facts, one of the following:

i. ii. (No change.)

iii. For applications filed within two years of the effective date of this Plan, a valid final subdivision approval under the Municipal Land Use Law for the property proposed for development in the Protection Area was in effect on February 7, 1979, provided that all lots proposed for development have an area of at least one acre, unless sewer is available, and the proposed development is in conformance with the minimum standards and guidelines of N.J.A.C. 7:50-6.]

2.-5. (No change.)

6. Any waiver previously approved under the final subdivision standard contained in the now repealed [of] (a) iiii above shall continue to be subject to the condition that the waiver shall expire after two years if substantial construction of improvements is not commenced, or if fewer than 10 percent of the total number of lots in the subdivision are sold or built upon within any succeeding 12 month period.

[7:50-4.56]7:50-4.66 Effect of grant of waiver

Any waiver granted under the provisions of this Part shall only be considered a waiver of the particular standard which the Commission [or the Executive Director] waived. It shall not constitute an approval of the entire development proposal.

[7:50-4.57]7:50-4.67 Reconsideration rights

Any interested person who is aggrieved by any determination made by the Executive Director pursuant to this Part may within 15 days seek reconsideration by the [full] Commission of [such] the Executive Director's determination as provided by N.J.A.C. 7:50-4.91.

7:50-4.68 through 7:50-4.70 (Reserved)

[7:50-4.61]7:50-4.71 (no text change.)

[7:50-4.62]7:50-4.72 Authority (no text change.)

[7:50-4.63]7:50-4.73 Request for interpretation

(a) A request for a letter of clarification or interpretation shall be initiated by requesting a pre-application conference pursuant to N.J.A.C. 7:50-4.2(a). This request shall set forth the clarification or interpretation requested and the facts or the circumstances which are the basis for the request for an interpretation, together with any proposed clarification or interpretation desired by the applicant. The applicant shall include all information determined to be necessary by the Executive Director after the pre-application conference. Within [fifteen] 30 days after receipt of a request for a letter of clarification or interpretation, the Executive Director shall inform the applicant of any additional information which is required in order to make a determination of the requested clarification or interpretation.

(b) An applicant for a letter of clarification or interpretation involving a specific parcel, except where the letter of interpretation involves solely the question of the number of Pinelands Development Credits which are attributed to a specific parcel, shall provide notice of the application as follows:

1. Notice shall be given to owners of all real property within 200 feet of the subject property as provided for in N.J.S.A. 40:55D-12(b); and

2. Notice shall be given by publication in the official newspaper of the municipality in which the parcel is located, if there be one, or in a newspaper of general circulation in the municipality as provided for in N.J.S.A. 40:55D-12(a); or

(c) The notice in (b) above shall state:

1. The nature of the application pending before the Pinelands Commission, including a statement of the requested interpretation or clarification and, if known, a description of the proposed development;

2. That action may be taken on the application after 10 days from the date the notice is published and mailed;

3. That written comments on the application may be submitted to the Pinelands Commission and that all such comments will be considered in the review of the application;

4. That the application is available for inspection at the office of the Pinelands Commission;

5. The address and phone number of the Pinelands Commission; and

6. That any person who provides comments or requests a copy of the Executive Director's findings and conclusion shall be provided a copy of said findings and conclusion and that any interested person who is aggrieved by said determination is entitled to a hearing by requesting a reconsideration of the determination.

(d) If the applicant significantly modifies either the proposed development or the requested letter of interpretation or clarification from that described in the most recent notice given pursuant to (b) above, then the applicant shall again provide the notice mandated by said subsection so that the notice accurately describes the proposed development or requested letter of interpretation or clarification.

(e) No application for which the above notice is required, shall be deemed complete until proof that the requisite notice has been given is received.

(f) The Executive Director's action on any application for which the above notice is required shall not be taken until five days after the ten day comment period set forth herein has expired.

[7:50-4.64]7:50-4.74 Interpretation by Executive Director

(a) Except as provided in N.J.A.C. 7:50-4.65, the Executive Director shall, within forty-five days following the receipt of a completed request for clarification or interpretation, review the application and all information submitted by the applicant or any other person relating to the application and upon completion of such review issue a letter of clarification or interpretation. Prior to the issuance of the letter, an analysis of all pending requests for letters of interpretations will be submitted to the Commission for its review at its regular monthly meeting. A copy of the letter shall be provided to the appropriate township or county clerk, planning board, [and] the environmental commission, if any[,], interested persons, including all persons who have submitted information concerning the application as well as all persons who have requested a copy of said determination and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2). The letter issued by the Executive Director shall specify the grounds, reasons and analysis upon which the clarification or interpretation is based. In the event the Executive Director fails to render a letter of clarification or interpretation within forty-five days or such longer period of time as may be agreed to by the applicant, the request for clarification or interpretation shall be deemed to have been denied. Nothing in this Section shall be construed to prevent any person from re-submitting a request for clarification or interpretation.

[7:50-4.65]7:50-4.75 (no text change)

[7:50-4.66]7:50-4.76 (no text change)

[7:50-4.67]7:50-4.77 (no text change)

[7:50-4.68]7:50-4.78 (no text change)

[7:50-4.69]7:50-4.79 (no text change)

7:50-4.80 (Reserved)

[7:50-4.71]7:50-4.81 (no text change)

[7:50-4.72]7:50-4.82 (no text change)

[7:50-4.73]7:50-4.83 (no text change)

[7:50-4.74]7:50-4.84 (no text change)

[7:50-4.75]7:50-4.85 (no text change)

7:50-4.86 through 7:50-4.90 (Reserved)

[7:50-4.81]7:50-4.91 (no text change)

[7:50-4.82]7:50-4.92 (no text change)

HEALTH

Proposals numbered PRN 1985-372, 388, 389 and 390 are authorized by J. Richard Goldstein, M.D., Commissioner, Department of Health; with the approval of the Health Care Administration Board.

(a)

DIVISION OF HEALTH PLANNING AND RESOURCES DEVELOPMENT

Certificate of Need: Standards and Criteria for the demonstration of Extracorporeal Shock Wave Lithotripsy (ESWL) Services

Proposed New Rule: N.J.A.C. 8:33B

Authority: N.J.S.A. 26:2H-1 et seq.

Proposal Number: PRN 1985-390.

Submit comments by August 14, 1985 to:

John A. Calabria

Coordinator

New Jersey State Department of Health

CN 360, Room 604

Trenton, New Jersey 08625

Summary

The lithotripter is a newly FDA-approved medical device designed to treat upper ureter and kidney stones non-invasively. Medicare has granted approval to the lithotripter for reimbursement purposes. This new device externally introduces shock waves into the body thereby creating sufficient pressure on a stone so that the stone disintegrates eventually crumbling into granular sized particles. The particulate residue of the stone is then eliminated with the urine.

To transmit shock waves into a body without loss of pressure, the shock waves must be generated in a medium having the same acoustical properties as body tissue. Water has been found to be suitable for this purpose.

The principle behind the technology is as follows: a shock wave is generated within the tub of water by an electrical discharge across a spark plug or electrode, located at the first focus of a hemellipsoidal reflector. When the spark plug fires, a cavitation bubble filled with high temperature steam is produced. The shock wave generated in the process is then reflected off the ellipsoidal mirror to a second focal point, the kidney stone. When focused, the shock wave will deliver a pressure of approximately 1 kilobar and ultimately result in dissolution of the stone.

The treatment requires the patient being anesthetized with either a general or epidural anesthesia. The treatment typically consists of 1,000 to 1,500 shock waves focused on the stone. The shocks are usually given in series of 100. The treatment including preparation time requires approximately 1 hour.

Extracorporeal shock wave lithotripsy (ESWL) treatment offers both promising benefits to patients and to the health system. Because it can destroy stones without surgery, it eliminates risk associated with surgery, reduces the length of time a patient must be hospitalized, and reduces the costs associated with kidney stone removal. It has been estimated that this new treatment modality can reduce hospital-related patient charges by \$2,000 per patient. The average length of stay associated with conventional surgical removal of kidney stones is between seven and 14 days. The recuperative period following discharge is usually three to four weeks. The average length of stay associated with ESWL is four days. Most patients are then able to fully resume their lifestyle within a week of discharge.

While the introduction of the lithotripter will have profound implications for kidney stone patients, it raises a number of planning issues which must be given serious consideration. The device is costly in itself and additional renovation and/or construction costs to house the device can bring the total cost to over two million dollars.

In addition to cost, other factors need to be addressed. The lithotripter has application for a very limited and specific population. Approximately one third of all urinary calculi patients

will have stones located in the kidney or upper section of the ureter. Of those patients, 25 percent will require surgical removal of the stones. ESWL is recommended as the treatment of choice for 80-90 percent of those patients who otherwise would have required conventional surgical removal of the stones. Further, the growing acceptance of other new stone treatment modalities such as percutaneous lithotripsy and newly developed drugs that selectively inhibit stone formation will also impact use rates and must be weighed against the new system costs associated with the implementation of this technology in the State.

Social Impact

The incidence rate of all urinary calculi per year is between one and two cases per 1000 individuals in the population. Nationally, 232,600 to 465,200 patients per year suffer from this disease. Of these patients, one third of all patients with stones will appear with the calculus in the kidney or upper section of the ureter. One quarter of these patients would ordinarily be candidates for surgery. However the introduction of extracorporeal shock wave lithotripsy (ESWL) can replace surgery as the treatment of choice for as many as 80-90 percent of these patients.

In addition to the morbidity and risk associated with surgical removal of kidney stones, another stone can form in the kidney or renal pelvis thereby necessitating a second surgical procedure. The average kidney stone recurrence rate following surgery has been estimated to be 40 to 50 percent. In males, it is as high as 70 percent. Patients who undergo a second surgical procedure to remove a stone from the kidney have as much as a 33 percent chance of losing kidney function.

In a study which spanned three years during which 896 patients received ESWL treatments, 13 percent of those patients required a second or third treatment to become stone free.

ESWL has the advantage of eliminating surgical procedures for kidney stone removal and reducing costs and time usually associated with those surgical procedures and its related post-operative recovery period. Average national hospital stays for kidney stone operations are typically between one and two weeks. Hospital stays for lithotripter treatment are typically four days or less.

The recovery period associated with the lithotripter procedure is considerably shorter and significantly less painful than the recovery period associated with conventional surgical treatment of kidney stones. Individuals who suffer from kidney stones and must undergo surgery usually require a month's recuperative period. Individuals who undergo a lithotripter procedure are able to resume their normal lifestyle within a week of receiving this treatment.

The Department recognizes the profound impact this technology will have upon the health care delivery system and therefore is looking to have this service provided to residents of New Jersey in an expeditious manner.

Economic Impact

It has been estimated that approximately, 100,000 kidney stone operations are performed annually in this country. The lithotripter treatment can potentially replace 90 percent of those kidney stone operations at an average savings of approximately \$2,000 per treatment. This can result in national annual savings of over half a billion dollars. This cost savings is, in part, the result of ESWL having a shorter associated length of stay and being a less labor-intensive treatment modality. In addition, this non-invasive procedure allows for a faster recovery, and thereby reduces the number of workdays lost.

Lithotripsy can potentially replace surgical intervention in as many as 80-90 percent of those persons for whom surgical removal of kidney stones would have been the required treatment. This should result in the freeing up of surgical capacity within acute care facilities thereby realizing greater efficiencies for the facilities.

While the lithotripter could have profound implications for those suffering from renal and ureteral calculi, it must be remembered that ESWL is a treatment which is targeted at a very small and specific population. There has been much discussion regarding the possibility of disintegrating other stones, namely gall stones, via shock waves, however, Dornier, the sole manufacturer of the lithotripter, has stated that the device, as it exists today, will never be used for any other type of stone except kidney stones and even among that population the treatment has limitations. The height and weight of the patient as well as the size of the stone are factors which need to be considered when determining eligibility for ESWL treatment.

The lithotripter device is estimated to cost approximately \$1.8 million. Appropriate site selection and facility renovation can cost a facility an additional \$200,000 or more depending on the capabilities desired. The productive life of the lithotripter is estimated to be approximately five years.

The lithotripter has been in use for five years in West Germany and the German experience has shown that the technology can serve a population base of approximately 3,000,000 persons. Assuming the transferability of the German experience, this means that two units appropriately placed in the State, can offer the capacity to serve the population during the demonstration period.

Full text of the proposed new rule follows:

CHAPTER 33B EXTRACORPOREAL SHOCK WAVE LITHOTRIPSEY SUBCHAPTER 1. LITHOTRIPTER SERVICES

8:33B-1.1 Introduction

(a) Extracorporeal shock wave lithotripsy (ESWL) is a newly developed, Medicare approved therapeutic modality designed to treat upper ureter and kidney stones non-invasively. Shock waves are externally introduced into the body thereby creating sufficient pressure on a stone so that the stone disintegrates eventually crumbling into granular sized particles. The particulate residue of the stone is then eliminated with the urine.

(b) Extracorporeal shock wave lithotripsy treatment offers both promising benefits to patients and to the health system. Because it can destroy stones without surgery, it eliminates risk associated with surgery, reduces the length of time a patient must be hospitalized, and reduces the costs associated with kidney stone removal. The average length of stay associated with conventional surgical removal of kidney stones is between seven and 14 days. The recuperative period following discharge is usually three to four weeks. The average length of stay associated with ESWL is four days. Most patients are then able to fully resume their lifestyle within a week of discharge.

(c) The Department of Health recognizes that the introduction of the lithotripter will have profound implications for kidney stone patients. However it also raises a number of planning issues which must be given serious consideration. Namely, the lithotripter device is costly in itself and additional renovation and/or construction costs to house the unit can bring the total cost to over \$2 million. In addition to cost, another issue which needs to be addressed is the lithotripter's application for a very limited and specific population. ESWL can potentially replace

surgical intervention in 80-90 percent of those patients for whom surgical removal of kidney stones would have been the only treatment of choice. The device however is limited in application solely to this population. The Department is also concerned about the impact of the growing acceptance of other new stone treatment modalities such as percutaneous lithotripsy and newly developed drugs that selectively inhibit stone formation.

(d) The demonstration period will provide the Department with the opportunity to evaluate and analyze findings as they relate to planning concerns.

8:33B-1.2 Definitions

The following words and terms, when used in the subchapter, shall have the following meanings:

"Department" means the New Jersey Department of Health.

"Extracorporeal shock wave lithotripsy (ESWL)" means the technique by which kidney stones are disintegrated through the use of shock waves sent through water.

"Lithotripter" means a medical device which removes kidney stones without surgical intervention.

8:33B-1.3 Demonstrations

(a) The Commissioner of Health will establish a lithotripter demonstration period during which two applications will be approved Statewide.

(b) The Statewide demonstration period will begin with the date of initial operation of the first approved unit and will continue for a period of two years. However the demonstration period can be shortened by the Commissioner of Health upon the recommendation of the Statewide Health Coordinating Council. The applicant will be required to identify in its application the anticipated date of initial operation.

(c) Once the demonstration approvals, two units Statewide, are issued, the Department of Health shall not process any other applications for lithotripters until the conclusion of the demonstration period, not to exceed two years, beginning with the date of operation of the first lithotripter demonstration.

(d) The Commissioner of Health in issuing approvals for lithotripter demonstrations shall solicit the recommendations of the Statewide Health Coordinating Council (SHCC) and each of the State's five Health Systems Agencies (HSAs).

(e) During the demonstration the Department will limit applications for lithotripters to hospitals filing separately or consortia which include either hospital members exclusively or hospital members filing jointly with other interested parties.

(f) Preference in the placement of the lithotripter demonstration units shall be given to teaching hospitals filing Certificate of Need applications either separately or jointly with other interested parties.

8:33B-1.4 Utilization

(a) Utilization standards are based on the number of patients who may receive ESWL treatment.

(b) Volume of patients diagnosed with and hospitalized for urinary calculi located in either the kidney or upper ureter is an indicator of potential ESWL candidates. Applicants must therefore document sizable volumes of patients diagnosed and surgically treated by the applicant for removal of calculi located in the upper ureter the kidney during the past three years.

(c) In order to maintain quality and deliver this service in a cost-effective manner, the applicant must document the availability of a minimum volume of ESWL patients. The minimum acceptable number of ESWL patients per device per year is 500. For purposes of reviewing applications in the demonstration

batch, priority shall be given to applicants who can demonstrate volumes above the minimum acceptable number.

8:33B-1.4 Personnel requirements

(a) Each applicant for a certificate of need for a lithotripter must provide the Department with written documentation that the following minimal staff complement will be available on a full time basis to the ESWL unit.

1. 1.0 urologist/surgeon;
2. 1.0 registered nurse;
3. 1.0 anesthesiologist;
4. 1.0 technician.

(b) In addition, sufficient supportive personnel consistent with the efficient delivery of quality ESWL services should be assigned to the ESWL unit (for example, aides, secretaries, clerk).

8:33B-1.6 Program considerations

(a) Applicants must have the following available at a minimum, either on site or through formal, written agreements:

1. Active radiology and urology programs;
2. Teaching and research backup;
3. An established referral urological practice; and
4. An appropriate specialty back-up.

8:33B-1.7 Data requirements

(a) The following information shall be reported by the applicant on a bi-annual basis to the Department of Health's Health Planning Services Program:

1. Characteristics of patients: age, sex, residence, insurance coverage, specific diagnosis, source of referral;
2. Treatment protocols and selection criteria;
3. Type of anesthesia used, for example, general, epidural or spinal; length of treatment (including preparation time), length of hospitalization, length of recuperative period;
4. Staff requirement (by type of personnel) for the ESWL treatment;
5. Expenses and revenues relating to lithotripsy treatments will be separately identified on cost reporting forms which must be submitted to the Department on an annual basis;
6. Adverse patient reactions and contra-indicators.

8:33B-1.8 Accessibility

(a) Applicants must document that ESWL services shall be made available to all patients regardless of the patients' race, religion, sex, age or ability to pay.

8:33B-1.19 Regional distribution-cooperative multi-institution applications

(a) Recognizing that the lithotripter will have application for a limited and select population, the device lends itself to regional distribution with the following requirements:

1. Applicants must develop cooperative agreements with other institutions;
2. Shared or multi-institution applicants must provide formal written agreements providing for inter-hospital referral and transfer agreements. The purpose for these arrangements is to insure adequate followup after the lithotripsy treatment.

8:33B-1.10 Financial criteria

The applicant must provide full written documentation of the purchase and operational costs of the unit. This analysis must include direct as well as indirect costs, construction/renovation costs, and cost impact analysis upon radiology and urology departments. In addition, the application must include a projection of costs and revenues to at least two years beyond the breakeven point.

8:33B-1.11 Physical requirements

The applicant must provide physical plans showing adequate space to house the unit, accommodate patient needs (pre- and post-treatment), and support staff needs. The plans must be reviewed and approved by the New Jersey Department.

(a)**DIVISION OF HEALTH FACILITIES
EVALUATION**

For proposals numbered PRN 1985-388 and 389, submit comments by August 14, 1985 to:

Wanda J. Marra, Coordinator
Standards Program
Division of Health Facilities Evaluation
Department of Health
CN 367
Trenton, NJ 08625

**Standards for Licensure of Residential Health
Care Facilities Fire Protection; 21 or More
Beds****Proposed Amendment: N.J.A.C. 8:43-3.22**

Authority: N.J.S.A. 26:2H-1 et seq., specifically
26:2H-5.

Proposal Number: PRN 1985-389.

The agency proposal follows:

Summary

N.J.A.C. 8:43 contains standards for licensure of residential health care facilities. Subchapter 3 of N.J.A.C. 8:43 sets forth the rules regarding fire protection in residential health care facilities. In 1981, N.J.A.C. 8:43-3.22, specifications for electrical automatic fire alarm and detection systems, was amended (N.J.A.C. 8:43-3.22(q) was added) to require that all facilities licensed for 50 or more beds except those of fire-resistive construction or one-story, one-hour rated noncombustible construction shall have an operational automatic comprehensive sprinkler system equipped with an alarm system. Facilities were to comply with this requirement by January 31, 1983 (see: 13 N.J.R. 495(c), 13 N.J.R. 756(d)). The effective date of this amendment was November 2, 1981, and the operative date was January 1, 1982.

N.J.A.C. 8:43-3.22(q) was further amended effective October 3, 1983, to require that residential health care facilities licensed for 20 or more beds, rather than 50 or more beds, shall comply with N.J.A.C. 8:43-3.22(q). Facilities licensed for 20 to 49 beds were to comply with this requirement by January 1, 1985 (see: 15 N.J.R. 991(a), 15 N.J.R. 1657(a)).

The Department of Health is now proposing to amend N.J.A.C. 8:43-3.22(q) to require that residential health care facilities licensed for 21 or more beds, rather than 20 or more beds, comply with this rule. This proposed change will make the Department of Health rule conform with a similar rule of the Department of Community Affairs (N.J.A.C. 5:27-5.8). This conformity is essential since the Department of Community Affairs makes available low interest loans to facilities of 21 or more beds that are required to comply with N.J.A.C. 8:43-3.22(q). However, the low interest loans are not available to

facilities of 20 or fewer beds. The proposed amendment is consistent with the intent of N.J.A.C. 8:43-3.22(q) and will eliminate the confusion that now exists due to the variation in the rules of the Department of Health and the Department of Community Affairs.

Social Impact

The purpose of this proposed amendment is to bring about consistency between the Department of Health's rule and the Department of Community Affairs' rule regarding the installation of sprinkler systems. This consistency will promote the coordination and cooperation of two departments of state government, thereby eliminating the current confusion. Residential health care facilities will have more consistent requirements and more consistent interpretation of regulations which will have a positive effect on the residents.

Without the change proposed in this amendment, residential health care facilities licensed for 20 beds might be forced to close since they would not be eligible for low interest loans to finance the expensive installation of a sprinkler system. Adoption of the proposed amendment will affirm the intent of N.J.A.C. 8:43-3.22(q).

Economic Impact

Since the Department of Community Affairs will not grant a low interest loan to residential health care facilities of 20 beds, such facilities would suffer a financial hardship if mandated to install a sprinkler system and might be forced to close. The proposed amendment to N.J.A.C. 8:43-3.22(q), if adopted, would prevent such an eventuality.

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

8:43-3.22 Specifications for electrical automatic fire alarm and detection systems; Office of State Fire Marshall

(a)-(p) (No change.)

(q) All facilities licensed for [20] **21** or more beds except those of fire-resistive construction or one-story, one-hour rated noncombustible construction shall have an operational automatic comprehensive sprinkler system equipped with an alarm system. Facilities licensed for 50 or more beds shall comply with this requirement by January 31, 1983. Facilities licensed for [20] **21** to 49 beds shall comply with this requirement by January 1, 1985.

(b)**Standards for Licensure of Residential Health
Care Facilities Personal Needs Allowance****Proposed Amendment: N.J.A.C. 8:43-4.13**

Authority: N.J.S.A. 26:2H-1 et seq., specifically
26:2H-5.

Proposal Number: PRN

The agency proposal follows:

Summary

N.J.A.C. 8:43 contains the standards for licensure of residential health care facilities. In 1981 a new rule was added to this chapter regarding a personal needs allowance for residents of residential health care facilities who receive Supplemental Security Income (SSI) or General Public Assistance. The personal

needs allowance of \$40.00 per month was established by the New Jersey State Department of Human Services pursuant to N.J.S.A. 44:7-87(h) (see: 12 N.J.R. 536(e) regarding the emergency adoption of N.J.A.C. 10:123-3 by the Department of Human Services effective August 27, 1980). The new rule, N.J.A.C. 8:43-4.13, established by the Department of Health became effective on August 6, 1981, and specified that the "personal needs allowance shall not be less than \$40.00 unless otherwise provided by the New Jersey State Department of Human Services." N.J.A.C. 8:43-4.13 further states that the licensee of the residential health care facility may not retain any portion of the personal needs allowance for his or her own use and shall maintain written records of all personal funds entrusted to him or her by residents. In addition, the resident is required to "sign to acknowledge receipt of funds, goods or services purchased with such funds at the time of disbursement." (See: 13 N.J.R. 268(b), 13 N.J.R. 495(b)). It was necessary for the Department of Health to adopt N.J.A.C. 8:43-4.13 to provide a regulatory mechanism to enforce the provision of the personal needs allowance to residents as specified by the Department of Human Services since the Department of Health has regulatory authority over health care facilities pursuant to Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto.

Effective June 6, 1983 (see: 15 N.J.R. 309(a), 15 N.J.R. 923(a)), N.J.A.C. 8:43-4.13 was amended to increase the personal needs allowance to \$46.00 per month to be consistent with the increase specified by the Department of Human Services (see: 14 N.J.R. 699(a), 14 N.J.R. 981(b)) which became effective on September 7, 1982. N.J.A.C. 8:43-4.13 was amended again, effective August 6, 1984 (see: 16 N.J.R. 808(a), 16 N.J.R. 2126(a)), and the personal needs allowance was increased to \$50.00 per month to reflect the increase adopted by the Department of Human Services (see: 15 N.J.R. 1735(a), 15 N.J.R. 2172 (b)) effective December 19, 1983.

Effective March 18, 1985, the Department of Human Services adopted an amendment to N.J.A.C. 10:123-3.2 which increased the personal needs allowance to \$52.00 per month (see: 17 N.J.R. 39 (b), 17 N.J.R. 707 (a)). The Department of Health must now amend N.J.A.C. 8:43-4.13 to reflect the increase in the personal needs allowance. The Department of Health's past experience in proposing and adopting N.J.A.C. 8:43-4.13 and the subsequent amendments has indicated a significant time lapse between adoption of N.J.A.C. 10:123-3 and amendments thereto by the Department of Human Services and adoption of N.J.A.C. 8:43-4.13 and amendments thereto by the Department of Health. This time lapse occurs because of the considerable length of time necessary to complete the procedures for the promulgation of amendments. Since this delay could have serious consequences for residents of residential health care facilities, the Department of Health is proposing an amendment to N.J.A.C. 8:43-4.13 that will eliminate the necessity of amending that rule each time the Department of Human Services adopts a change in the amount of the personal needs allowance.

The proposed amendment to N.J.A.C. 8:43-4.13 specifies that the owner or operator or his or her representative shall reserve for each resident who receives Supplemental Security Income (SSI) or General Public Assistance a monthly personal needs allowance of at least the amount specified by the Division of Youth and Family Services of the New Jersey State Department of Human Services pursuant to N.J.S.A. 44:7-87(h). The resident shall not be required to provide the owner, operator, employee, or their representative(s) with any portion of the personal needs allowance. No owner, operator, employee, or

their representative(s) shall coerce, intimidate, or exploit residents into providing them with any portion of their personal needs allowance.

Social Impact

The proposed amendment will eliminate the delay between an adopted change in the amount of the personal needs allowance by the Department of Human Services and the subsequent adoption of the change by the Department of Health. If the proposed amendment is adopted, the Department of Health will no longer be required to take action to amend N.J.A.C. 8:43-4.13 each time the personal needs allowance is changed by the Department of Human Services. The change adopted by the Department of Human Services will immediately become effective as a licensure requirement since the specific dollar amount of the personal needs allowance is no longer specified in the Department of Health's rule but the amount of the monthly personal needs allowance is included by reference to the amount determined by the Division of Youth and Family services of the New Jersey State Department of Human Services pursuant to N.J.S.A. 44:7-87 (h).

This more efficient procedure will benefit the residents of residential health care facilities since any changes in the amount of the personal needs allowance will become effective immediately in accordance with the effective date assigned by the Department of Human Services. There will be no delay caused by the lengthy process of proposing and adopting an amendment to the current rule N.J.A.C. 8:43-4.13 and, therefore, there should be no delay in the implementation of a change in the amount of the personal needs allowance. The residents should receive their personal needs allowance in a timely manner, thus enabling them to purchase needed personal items and allowing them to keep pace with increases in the cost of living.

The proposed amendment retains the very important revision that the personal needs allowance belongs to the resident. The resident is not required to give any portion or the entirety of his or her personal needs allowance to the owner, operator, employee, or their representative(s) who are, in turn, prohibited from coercing, intimidating, and/or exploiting residents to obtain any portion or the entirety of the personal needs allowance. The proposed amendment will continue to protect the residents and their personal needs allowance as does the current rule N.J.A.C. 8:43-4.13.

Economic Impact

The personal needs allowance represents an equitable distribution of the Supplemental Security Income between the residents and the owners or operators of residential health care facilities. An increase in the personal needs allowance provides additional resources to the residents for personal expenditures to compensate for the current rate of inflation. Without the personal needs allowance, recipients of Supplemental Security Income (SSI) or General Public Assistance might be without resources to purchase personal items. There will be no economic impact on the owners or operators of residential health care facilities because the increase in the personal needs allowance is proportionate to the total Supplemental Security Income increase. There will be a positive economic impact on the Department of Health since N.J.A.C. 8:43-4.13 will not have to be amended each time the Department of Human Resources changes the amount of the personal needs allowance, thus eliminating an unnecessary expenditure of time by employees and, therefore, reducing cost.

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

8:43-4.13 Personal needs allowance

[(a) No licensee shall retain for his or her own, or require payment to him or her of, any portion of the personal needs allowance required to be reserved for any resident pursuant to N.J.S.A. 44:7-87(h). Such personal need allowance shall not be less than \$50.00 per month unless otherwise provided by the New Jersey State Department of Human Services.]

(a) The owner or operator or his or her representative shall reserve for each resident who receives Supplemental Security Income (SSI) or General Public Assistance a monthly personal needs allowance of at least the amount specified by the Division of Youth and Family Services of the New Jersey State Department of Human Services pursuant to N.J.S.A. 44:7-87(h). The resident shall not be required to provide the owner, operator, employee, or their representative(s) with any portion of the personal needs allowance. No owner, operator, employee, or their representative(s) shall coerce, intimidate, or exploit residents into providing them with any portion of the personal needs allowance.

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

(a)

DRUG UTILIZATION REVIEW COUNCIL

Interchangeable Drug Products

Proposed Amendments: N.J.A.C. 8:71

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

Proposal Number: PRN 1985-372.

A public hearing concerning this proposal will be held on August 8, 1985, at 10:00 A.M. at:

Hall Conference Room
Eighth Floor, Health-Agriculture Building
John Fitch Plaza
CN 364
Trenton, NJ 08625

Submit comments by August 14, 1985 to:

Thomas T. Culkin, PharmD, MPH
Executive Director, Drug Utilization Review Council
New Jersey State Department of Health
CN 364
Trenton, NJ 08625

The agency proposal follows:

Summary

The List of Interchangeable Drug Products is a generic formulary, or list of acceptable generic drugs which pharmacists must use in place of brand-name prescription medicines, passing on the resultant saving to consumers.

For example, the proposed propoxyphene tablets could then be used as a less expensive substitute for Darvocet N-100, a branded prescription medicine. Similarly, the proposed lorazepam tablets could be substituted for the more expensive branded product, Ativan, and diazepam could be substituted for Valium.

The Drug Utilization Review Council is mandated by law to ascertain whether these proposed medications can be expected to perform as well as the branded products for which they are to be substituted. Without such assurance of "therapeutic

equivalency", any savings would accrue at a risk to the consumer's health. After receiving full information on these proposed generic products, including the negative comments of the manufacturers of the branded products, the advice of the Council's own technical experts, and data from the generics' manufacturers, the Council will decide whether any of these proposed generics will work just as well as the branded prescription medicines.

Every proposed manufacturer must attest that they meet all Federal and State standards, as well as having been inspected and found in compliance with the U.S. Food and Drug Administration's regulations.

Of the 44 proposed medicines, 25 (indicated by daggers †) are not currently listed in the List of Interchangeable Drug Products. The remaining 19 proposed products would only add additional manufacturers to the List.

Social Impact

The social impact of these proposed changes would primarily affect pharmacists, who would need to either place in their stock, or be prepared to order, those products ultimately found acceptable.

Those additional manufacturers proposed for medications already listed in the formulary simply expand the pharmacist's choice of options.

Physicians and patients are not adversely affected by the additions to the list because the statute (N.J.S.A. 24:6E-6 et seq.) allows either the physician or patient to disallow substitution, thus refusing the generic substitute and paying full price for the branded product.

Economic Impact

The proposed amendment will expand the opportunity for consumers to save money on prescriptions by accepting generic substitutes in place of branded prescriptions. The full extent of the saving to consumers cannot be quantitated because pharmacies vary in their prices.

Some of the economies occasioned by this proposal accrue to the State of New Jersey through Medicaid, Pharmaceutical Assistance to the Aged and Disabled Program, and prescription plan for employees. These savings also cannot be totalled accurately.

Full text of the proposal follows:

†Antipyrine/Benzocaine Otic Soln	Clay-Park
Atropine Sulfate Opth Soln 1%	Pharmafair
†Atropine Sulfate Opth Oint 1%	Pharmafair
†Brompheniramine Maleate 2 mg with	
Phenylpropanolamine HCL 12.5 mg and	
Codeine Phosphate 10 mg (all per 5 ml)	NPC
Chlorpropamide tabs 100, 250 mg	Sidmak
†Deserpidine/Methylothiazide tabs 0.5/5 mg	Zenith
†Diazepam tabs 2, 5, 10 mg	Zenith
	Zenith, Danbury
Dipyridamole tabs 25, 50, 75 mg	
†Disopyramide Phosphate caps 100, 150 mg	Mylan, Zenith
Doxycycline Hyclate capsules 50, 100 mg	Halsey
Dixycycline Hyclate tabs 100 mg	Lemmon
†Ethaverine HCL tabs 100 mg	Sidmak
†Fluphenazine HCL tabs 5 mg	Zenith
†Guanethidine Monosulfate tabs 10, 25 mg	Bolar
Hydralazine/HCTZ caps 25/25, 50/50, 100/50	
Hydroxyzine HCL tabs 10, 25, 50 mg	Par Pharm. Basics

Ibuprofen tabs 300, 400, 600 mg	Par
Ibuprofen tabs 300, 600 mg	Zenith
Ibuprofen tabs 400, 600 mg	Mylan
†Isometheptene mucate 65 mg, Dichloralphenazone 100 mg, and Acetaminophen 325 mg caps	Central Quantum
†Lorazepam tabs 0.5, 1, 2 mg	Zenith
Meprobamate 200 mg with Aspirin 325 mg tabs	Zenith
†Methyldopa 250 mg/HCTZ 15 mg, and 250 mg/25 mg tabs	Mylan
†Methyldopa tabs 250, 500 mg	Zenith
†Metoclopramide tabs 10 mg	Pharm. Basics, Quantum
Metronidazole tabs 250 mg	Halsey
Multivitamin/Fluoride 1 mg chew tabs	Sidmak
†Papaverine HCL tabs 300 mg	Sidmak
Phenazopyridine HCL tabs 100, 200 mg	Quantum
†Phentermine HCL caps 30 mg	Duramed
†Phenytoin Sodium (extended) caps 100 mg	Bolar
†Phenylephrine HCL Ophth Soln 2.5%	Pharmafair
†Phenylephrine HCL 10% Ophth Soln (viscous)	Pharmafair
Pilocarpine HCL Ophth Soln 0.5%, 3%, 6%	Pharmafair
†Propoxyphene Napsylate 100 mg with Acetaminophen 650 mg tabs	Zenith, Lemmon, Mylan
†Propranolol HCL tabs 80 mg	Duramed
†Propranolol HCL tabs 10, 20, 40, 60, 80, 90 mg	Zenith
†Propranolol HCL tabs 40 mg	Mylan
Sulfacetamide Sodium Ophth Soln 15%, 30%	Pharmafair
Thioridazine HCL tabs 10, 15, 25, 50 mg	Danbury, Cord
Tolazamide tabs 100, 250, 500 mg	Duramed, Par
Tolazamide tabs 250, 500 mg	Pharm. Basics
†Triprolidine HCL 1.25 mg with pseudoephedrine HCL 30 mg and Codeine Phosphate 10 mg (all per 5 ml)	NPC
†Vitamin B complex/minerals (Berocca Plus formula)	Pioneer

(a)

**Tuition Aid Grant Program
Renewal of Grants Awarded Prior to
March 1, 1978
Public Tuition Benefits Program
Verification of Enrollment and Academic
Performance
Garden State Graduate Fellowship Program
Amount of the Award**

**Proposed Repeal: N.J.A.C. 9:7-3.3
Proposed Amendments: N.J.A.C. 9:7-5.9 and
6.8**

Authority: N.J.S.A. 18A:71-48, 18A:71-77 and P.L. 1984, c.94.
Proposal Number: PRN 1985-384

The agency proposal follows:

Summary

The repeal of N.J.A.C. 9:7-3.3 is being proposed because it no longer has application to the Tuition Aid Grant Program since the period of eligibility for students awarded prior to the date specified has expired. The proposed amendment to N.J.A.C. 9:7-5.9 would bring the Public Tuition Benefits Program into conformity with the language and requirements for evaluating minimum standards of academic performance and progress as with other programs administered by the Student Assistance Board. The proposed change to N.J.A.C. 9:7-6.8 would also allow for conformity with previously adopted regulation language by permitting the Board to annually establish the maximum fellowship award.

Social Impact

The repeal of N.J.A.C. 9:7-3.3 is due to the expiration of the grandfathering clause for previous grant recipients prior to March 1, 1978 at which time newly enacted legislation established the existing Tuition Aid Grant Program. The proposed amendments to N.J.A.C. 9:7-5.9 and 6.8 provide students with a better understanding of what is required for academic progress and allow the Board to increase awards to reflect rising educational costs, both of which are consistent with all other programs administered by the Student Assistance Board.

Economic Impact

There is no economic impact for the repeal of N.J.A.C. 9:7-3.3. The proposed amendments to N.J.A.C. 9:7-5.9 and 6.8 provide for continued equity in the distribution of all grants and scholarships administered by the Board and permit the Student Assistance Board to assess increased costs of attendance on an annual basis.

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

9:7-3.3 [Renewal of grants awarded prior to March 1, 1978] **(Reserved)**

[Students receiving tuition assistance grants at New Jersey public or independent institutions prior to March 1, 1978, must annually file the New Jersey Financial Aid Form to renew their

HIGHER EDUCATION

STUDENT ASSISTANCE BOARD

Proposals numbered PRN 1985-384 and 385 are authorized by the Student Assistance Board, Joseph Streit, Chairman.

Submit comments by August 14, 1985 to:
Grey J. Dimenna, Esq.
Administrative Practice Officer
Department of Higher Education
225 West State Street
CN 542
Trenton, NJ 08625

grant as in N.J.A.C. 9:7-2.8. Continued eligibility will be determined according to criteria in effect on September 1, 1977, unless they would receive increased aid under P.L. 1977, Chapter 344.]

9:7-5.9 Verification of enrollment and academic performance

Before payment may be made to an eligible student, the institution must have satisfactory evidence that the student is eligible for tuition benefits, and has registered for an academic term in an undergraduate degree program, and that the student is meeting the minimum standards for academic performance and academic progress at the institution[.] **in accordance with N.J.A.C. 9:7-2.10.**

9:7-6.8 Amount of the award

Graduate Fellowships may be awarded up to an annual maximum [of \$4,000.] **established annually by the Student Assistance Board.**

(a)

Vietnam Veterans Tuition Aid Program

Proposed New Rules: N.J.A.C. 9:7-8

Authority: P.L. 1985, c.114.

Proposal Number: PRN 1985-385.

The agency proposal follows:

Summary

The proposed new rules establish criteria for the newly enacted Vietnam Veterans Tuition Aid Program, P.L. 1985, c.114. These new rules also provide information to students and institutions with respect to eligibility requirements, deadline dates and methods of disbursement.

Social Impact

The proposed new rules provide information to students and postsecondary institutions with regard to eligibility requirements and methods of operation for the Vietnam Veterans Tuition Aid Program.

Economic Impact

The proposed new rules define the value of award benefits and eligibility criteria for students under the newly enacted Vietnam Veterans Tuition Aid Program as well as specifying deadline dates to insure student disbursements. Funds to provide student benefits were contained in the authorizing legislation.

Full text of the proposed new rules follows.

SUBCHAPTER 8. VIETNAM VETERANS TUITION AID PROGRAM

9:7-8.1 Eligible Vietnam veteran

(a) For purposes of the Vietnam Veterans Tuition Aid Program, an eligible Vietnam veteran shall have:

1. Served in the Armed Forces of the United States in Southeast Asia in the Vietnam conflict and received a Vietnam Service Ribbon; and
2. Been honorably discharged or generally discharged under honorable conditions; and
3. Been domiciled in New Jersey at the time of the effective date of N.J.S.A. 18A:71-76.1 et seq. for a period of not less than two consecutive years, exclusive of any time spent on active duty.

9:7-8.2 Eligible institution

Tuition benefits are available to eligible Vietnam veterans enrolled in a public institution of higher education in this State as enumerated in N.J.S.A. 18A:62-1 or at an independent college or university located in this State licensed by the Board of Higher Education or approved for the training of veterans by the Department of Higher Education.

9:7-8.3 Undergraduate enrollment

(a) The eligible Vietnam veteran must be enrolled or plan to enroll in an approved undergraduate degree program on at least a one-half time basis, that is, six credits per term, to be eligible to receive tuition benefits.

(b) The program is only applicable to the student's initial undergraduate degree program. A student who has earned the highest undergraduate degree offered by an institution shall not be eligible for benefits under this program at that institution. Students already possessing a baccalaureate degree are not eligible.

9:7-8.4 Award amount

(a) Eligible Vietnam veterans attending a public institution of higher education at least half time shall be entitled to tuition assistance in an amount not to exceed the tuition which they are charged.

(b) Eligible Vietnam veterans attending an independent college or university at least half time shall be eligible for tuition assistance in an amount not to exceed the tuition which they are charged, however, the award shall not exceed the maximum tuition charged a resident undergraduate student at Rutgers, the State University.

(c) For purposes of this program, students who attend less than full time will be eligible to receive awards during summer terms as long as their total award during the period from September 1 to the following August 31 of any academic year does not exceed the award amount to a full-time undergraduate student at the same institution participating in this program during the regular academic year.

9:7-8.5 Other financial aid programs

(a) No tuition award shall be granted unless the Vietnam veteran has applied for all other available State and Federal scholarship and grant assistance.

(b) The amount of tuition assistance through this program when combined with other scholarship and grant assistance may not exceed the student's educational budget.

9:7-8.6 Duration

Eligibility for this program shall be limited to a period of five years from the effective date of this program, April 9, 1985. A Vietnam veteran shall be eligible for a tuition award for four academic years, unless enrolled in an undergraduate program regularly requiring five academic years for completion, in which case the student shall be entitled to a tuition award for a fifth year.

9:7-8.7 Application procedure

(a) The eligible Vietnam veteran should obtain an application for this program from the Department of Higher Education or the financial aid or veterans affairs office at the institution the student attends.

(b) The eligible Vietnam veteran must complete all sections of the application, sign it, attach a copy of DD Form 214 (Report of Separation or Discharge) and submit it to the authorized college official for review and approval.

(c) Students must apply for all other available State and Federal programs of student financial aid by filing the New Jersey Financial Aid Form.

(d) The authorized college official will:

1. Review the application for completeness;
2. Indicate enrollment status and tuition charges for each applicant;
3. Maintain documentation that the amount of tuition assistance plus other scholarship and grant assistance does not exceed the eligible veteran's educational costs;
4. Maintain in the student's file proof that the residency requirement is met;
5. Maintain proof that the academic standard has been met;
6. Maintain proof that the veteran has applied for State and Federal financial assistance;
7. Affix the authorized college official's signature on each application.

(e) Applications shall be mailed to:
New Jersey Department of Higher Education
Vietnam Veterans Tuition Aid Program
CN 540
Trenton, New Jersey 08625

9:7-8.8 Renewal

In order to continue to receive tuition benefits under this program, the eligible Vietnam veteran must maintain good academic standing. Good academic standing shall be defined in accordance with the standards established and enforced by the institution and approved by the Department of Higher Education, State Approving Agency, pursuant to Title 38, United States Code, Section 1775. To enable the continuation of tuition benefits an annual renewal form will be available to each recipient prior to the start of the next academic year.

9:7-8.9 Payments

Upon verification of eligibility by the Department of Higher Education, Office of Student Assistance, payments will be made by the Department of Treasury on behalf of eligible veterans to institutions in equal installments over the regular academic year. The number of installments will correspond to the number of school terms. Listings containing the names of eligible students to be credited will accompany the payments to institutions. In some cases, the Student Assistance Board may elect to provide payments directly to individual students.

9:7-8.10 Institutional responsibilities

(a) Institutions shall be responsible for the following:

1. Maintain a separate account for all funds received from the State of New Jersey for the veterans tuition aid program;
2. Deposit all checks received promptly;
3. Disburse funds received either directly to the veteran or as a credit toward any outstanding balance that may exist;
4. Provide access to the Chancellor of Higher Education, upon request, to any audit report or books and records of the institution pertaining to this program.

9:7-8.11 Deadlines

Deadlines under this program will be set pursuant to other programs administered by the Student Assistance Board except during the 1985-86 academic year when the fall and spring term deadline will be March 1, 1986. All summer payments must be submitted to the Department of Higher Education in accordance with annual administrative directives and guidelines.

HUMAN SERVICES

Proposals numbered PRN 1985-382 and 383 are authorized by George J. Albanese, Commissioner, Department of Human Services.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Long Term Care Services Manual CARE Guidelines: Adjustment to Base Period Data

Proposed Amendment: N.J.A.C. 10:63-3.17

Authority: N.J.S.A. 30:4D-6a(4)(a), b(14), 7, 7a, 7b.
Proposal Number: PRN 1985-383

Submit comments by August 14, 1985 to:

Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance and Health
Services
CN 712
Trenton, NJ 08625

The agency proposal follows:

Summary

This proposal is an amendment to the CARE (Cost Accounting and Rate Evaluation) Guidelines which describe the methodology used by the New Jersey Medicaid (Title XIX) Program in establishing the basis for reimbursement for Long Term Care Facilities (LTCFs).

The proposal amends N.J.A.C. 10:63-3.17, entitled "Adjustments to base period data." The text being inserted indicates that where legal and management changes have been approved and the approved costs are not expended in the prospective rate period, the unspent amount will be recovered from the LTCF. This amendment does not represent a new policy, but is a codification of existing policy.

Social Impact

The rule's impact is primarily economic, not social, because it pertains to reimbursement to LTCFs that participate in the New Jersey Medicaid Program. However, continued reimbursement to participating LTCFs will help insure that services will be available to Medicaid patients.

Economic Impact

The rule has minimal economic impact on the Division. If legal and management changes have been approved and the approved costs are spent, then these costs will be included in the LTCF's per diem rate. The Division will recover the unspent amount if the LTCF does not spend the approved amount.

The economic impact on LTCFs will vary, depending on whether they have requested legal and management changes, and whether they spent the costs that were approved. Those costs that were approved but not spent will be recovered from the LTCF.

Medicaid patients are required to contribute towards the cost of long term care from their available income. However, this proposal has no impact on Medicaid patients, because the amount of available income is not affected by the LTCF's per diem rate.

Full text of the proposal follows (additions indicated in bold-face thus):

10:63-3.17 Adjustments to base period data

(a) As described in previous sections of these guidelines, with the exception of capital items, rates will be based substantially upon reasonable actual base period costs. This section provides for adjustments to reasonable base period costs in establishing prospective rates.

1.-3. (No change.)

4. Where legal and management changes have been approved and the approved costs are not expended in the prospective rate period, the unspent amount will be recovered from the LTCF.

Re number 4. as 5. (No change in text.)

(a)

DIVISION OF PUBLIC WELFARE

Home Energy Assistance Handbook

Proposed Readoption: N.J.A.C. 10:89

Proposed Readoption with Amendment:

N.J.A.C. 10:89 Foreword, 2.2, 3.4, 4.1, 5.2 and 5.6

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

Reconciliation Act of 1981 (P.L. 97-35).

Proposal Number: PRN 1985-382.

Submit comments by August 14, 1985 to:

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

Pursuant to Executive Order No. 66 (1978), N.J.A.C. 10:89 expires on November 10, 1985. The readoption of the rule becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of readoption. The concurrent amendments to the existing rule become effective upon publication in the Register of a notice of adoption.

The agency proposal follows:

Summary

The Department of Human Services proposes to readopt N.J.A.C. 10:89 (Home Energy Assistance Handbook). That Handbook establishes the State's policy for administering the Home Energy Assistance (HEA) program and sets forth the regulations relative to the provision of energy assistance to eligible individuals.

The HEA program is a Federal block grant program authorized by Title XXVI of the Omnibus Budget Reconciliation Act of 1981. The purpose of the program, originally implemented under the Low Income Energy Assistance Act of 1980, is to assist low-income households meet the rising cost of home energy.

The Department's Division of Public Welfare (DPW) has been designated the single State agency to administer and monitor the HEA program. The county welfare agencies (CWAs) act as the local administrative agencies and are responsible for accepting and processing program applications and verification of program eligibility factors. Upon review and evaluation of N.J.A.C. 10:89 prior to noticing for readoption, DPW has determined the rules to be adequate, reasonable and responsive to the purpose for which they were promulgated in order to continue to provide assistance to eligible low-income households to offset rising costs of home energy that are excessive in relation to household income.

In order to be eligible for Home Energy Assistance, all household members must be residents of New Jersey. The household must pay for its own heating and/or medically necessary cooling costs directly to a fuel supplier, pay its landlord according to usage, or pay a rental charge which includes such costs. In addition, the household's total monthly income must be less than or equal to the allowable gross monthly income limits for the applicable household size which are listed below.

Table with 2 columns: Household Size, Income Limit. Rows include household sizes 1 through 10 and 'Each additional member'.

Certain households are not eligible to receive HEA benefits. They include households residing in publicly operated housing, unless the household can demonstrate that it has direct responsibility for heating/cooling costs; households for which non-household members pay for the cost of heating/cooling fuel; residents of any licensed medical facility or publicly operated community residence; and households consisting entirely of students who are tax dependents of another household.

There are four types of HEA program benefits: automatic payments, special energy assistance, emergency energy assistance and medically necessary cooling assistance. In Fiscal Year (FY) 1981, benefits to households which heated with fuel oil, electricity or natural gas were granted in the form of vouchers payable to the fuel supplier on behalf of the household. Since FY 82, all payments have been made directly to the eligible household.

Automatic payments are issued directly to eligible households receiving Aid to Families with Dependent Children (AFDC) and non-public assistance (NPA) food stamps (FS). The DPW reviews information already on file for these AFDC and NPA/FS households, determines HEA eligibility and benefit amount and forwards two installment payments to each household during the winter months. A notice included with the payments explains the purpose of the benefit.

Households which do not receive an automatic payment may file an application for special energy assistance. Applications for HEA are accepted by the 21 CWAs from November 1 through April 30. Income eligible households which are responsible for

primary fuel costs associated with residential heat receive a one-time benefit based on the household's size, income, fuel type and heating region. Sussex and Warren counties experience a significantly greater number of heating degree days than the other 19 counties. As a result, heating costs for households residing in those counties are higher. In FY 1982 the HEA benefit payment schedule was revised to include separate payment levels for Sussex and Warren County residents (Blue Region) and residents of the other 19 counties (Red Region). Blue Region benefits are approximately 15 percent higher than Red Region benefits. Since FY 1983, households whose heat is provided by a public utility as well as those whose fuel supplier is an authorized vendor have received their HEA benefits as two-party checks drawn in the name of the applicant and the energy supplier.

Emergency energy assistance is available to households eligible for automatic payments or special energy assistance. An emergency exists when a household is without heat or in danger of being without heat and lacks sufficient financial resources to purchase fuel. The amount of the emergency energy assistance benefit must be the lowest amount charged for the service performed by the household's energy supplier or for the emergency purchase of fuel, but may not exceed \$200.00 for the purchase of fuel oil; \$150.00 for the purchase of electricity or natural gas; \$100.00 for the purchase of bottled gas, kerosene, wood or coal; or \$50.00 for the restoration of utility service.

Eligible households for which there is medical evidence that the health of at least one household member will be seriously endangered unless the living quarters are cooled may receive a one-time benefit of \$100.00. Health endangerment must be verified by a licensed medical practitioner. This benefit is available in addition to any other program benefits received by the household.

The maximum total HEA benefits any eligible household may receive was raised from \$750.00 to \$900.00 in FY 1983 in line with available Federal funding and rising average fuel costs. The Department has continued to operate with this \$900.00 ceiling while revising income eligibility guidelines, which have been increased annually in line with new poverty guidelines and are set at 125 percent of the Federal poverty level. Benefits to users of natural gas as a home heating fuel were increased and included in a new payment schedule for FY 85. Benefits to renters who are eligible for HEA were also increased for FY 85.

Included as part of this proposed reauthorization are several amendments which update and clarify policy with regard to the following. The amendment at N.J.A.C. 10:89-3.4(c) deletes language which limits the emergency purchase of fuel oil to up to 150 gallons. The amount of emergency assistance benefits which the CWA may authorize for the emergency purchase of fuel oil may not exceed \$200.00. At N.J.A.C. 10:89-5.2(c), a revision to the notice requirements simply deletes a reference to the obsolete Form EP-3, since all notices relating to eligibility or denial are now identified on Form EP-2, "Notice of Home Energy Assistance Action." A few minor technical revisions have also been incorporated into the proposed reauthorization.

Social Impact

Approximately 203,000 households were assisted during the FY 1984 HEA program, and projections for FY 85 were set at 215,000 households. This low income population will receive the most direct benefit since they are the households which will receive a supplement to assist them in meeting their heating costs. The proposed reauthorization should ensure that this low income population will receive aid promptly and efficiently.

Economic Impact

There will be no direct economic impact upon New Jersey taxpayers since the entire cost of assistance and administration of the HEA program is federally funded. There will be an indirect benefit to the public as a whole since there will be an influx of Federal dollars into the State's economy. (The program's allocation for Federal Fiscal Year (FFY) 1986 is expected to be \$97 million which is an increase above the \$83 million received by New Jersey in FFY 1985.)

In FY 1984, \$57.6 million in special HEA benefits was disbursed to 203,040 households statewide. The average benefit per household was \$290.00. For FY 1985, due to the increase in benefits to households which heat with natural gas and households whose heating costs are included in the monthly rent, the average HEA benefit per household is approximately \$315.00.

Approximately 14,700 households received emergency energy assistance payments in FY 1984. The total expenditure statewide for emergency assistance was \$2.3 million.

Full text of the proposed reauthorization appears in the New Jersey Administrative Code at N.J.A.C. 10:89.

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

FOREWORD

The Low Income Home Energy Assistance Act of 1981 (Title XXVI of Omnibus Budget Reconciliation Act of 1981) authorizes grants to states to provide assistance to eligible low income households to offset rising costs of home energy that are excessive in relation to household income. The term "home energy" means a source of heating or cooling in residential dwellings.

Under the Act, responsibility for Federal administration of the program is assigned to the U.S. Department of Health and Human Services. The N.J. Department of Human Services, Division of Public Welfare (DPW), has been designated the single state agency to administer the energy program.

The county welfare agencies (CWAs), acting as the local administrative agencies, are responsible for accepting and processing program applications and the verification of program eligibility factors.

This Home Energy Assistance Handbook sets forth the regulations and procedures relative to the provision of energy assistance to, or on behalf of, eligible individuals.

The regulations and procedures in this chapter are conditioned upon the principles of public assistance as contained in [N.J.A.C. 10:81-1.1 through 1.10] **N.J.A.C. 10:81** (Public Assistance Manual). Regulations regarding complaints, safeguarding information, nondiscrimination, and fraudulent receipt of assistance, as delineated in N.J.A.C. 10:81 [(Public Assistance Manual)], are likewise applicable to the administration of this program.

This Handbook is a public document and it is available in accordance with the conditions and procedures set forth in N.J.A.C. 10:81-1.13 [(Public Assistance Manual)].

Any questions regarding the application of the regulations contained within this manual shall be referred to the Home Energy Assistance Unit of DPW.

DPW is working with representatives of the American Indian population of New Jersey to determine the number of eligible households in this group and to ensure that they are adequately serviced.

10:89-2.2 Eligibility requirements
(a)-(c) (No change.)

(d) The value of resources [are] is not considered in the determination of eligibility for benefits under this program.

10:89-3.4 Emergency energy assistance

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

(c) Emergency purchase of fuel:

1. The CWA is authorized to issue a one-time emergency payment for the purchase of [up to 150 gallons of] fuel oil or [its equivalent in] other fuel used for residential heating.

2.-3. (No change.)

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

10:89-4.1 Opportunity and decision to apply

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

(c) Households desiring HEA assistance must complete a separate Form EP-1, Home Energy Assistance Application. The application must be completed and signed at sites designated by the CWA of the country in which the household resides. The application shall be signed by the household member responsible for payment of heating or cooling costs or by his or her authorized representative and by the CWA worker and supervisor.

1.-2. (No change.)

3. The CWA shall document the date of application recording on the application the date it was received by the CWA. The period for determination of program eligibility or ineligibility and notification of the household of the determination is calculated from the date [of] the application is filed.

4.-5. (No change.)

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

10:89-5.2 Notice requirements

(a) (No change.)

(b) The Division of Public Welfare or the CWA, as appropriate, will generate notices (Notice of Home Energy Assistance Action, Form EP-2) informing the household of any action taken on its application. The CWA is responsible for promptly mailing Form EP-2 to the household.

1. This notice of eligibility or denial (Form EP-2) is sent to applicants for the Home Energy Assistance Program.

2. (No change.)

3. For households which are denied, Form EP-2 will advise the [households] **household** of the reason for denial.

(c) Households receiving automatic payments shall receive a notice, (Notice of Home Energy Assistance Action, Form EP-2) included with the energy payment. The notice will advise the household of the amount of assistance to which they are entitled.

[1. This notice of eligibility or ineligibility for automatic payment (Form EP-3) is sent to AFDC and SSI recipients. If eligible, the notice will advise the client of the entitlement amount. If ineligible for automatic payment, the notice will specify the reason for ineligibility and will advise the client of his/her right to apply for benefits if he/she wishes.]

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

10:89-5.6 Outreach requirements

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

(d) [CWA's] CWAs may initiate other outreach activities as they deem appropriate.

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

LAW AND PUBLIC SAFETY

(a)

DIVISION OF CONSUMER AFFAIRS

BOARD OF VETERINARY MEDICAL EXAMINERS

Licensure Requirements

General Rules of Practice

Proposed New Rules: N.J.A.C. 13:44-1.3, 1.4, 2.4, 2.14 and 2.15

Proposed Amendment: N.J.A.C. 13:44-1.2 and 2.9

Proposed Repeal: N.J.A.C. 13:44-6

Authorized By: David Eisenberg, D.V.M., President,
Board of Veterinary Medical Examiners

Authority: N.J.S.A. 45:16-9.9

Interested persons may submit in writing, data, views or arguments relevant to the proposed amendment on or before August 14, 1985. These submissions, and any inquiries about submissions and responses, should be addressed to:

Maurice W. McQuade

Executive Secretary

Board of Veterinary Medical Examiners

1100 Raymond Boulevard, Room 513

Newark, New Jersey 07102

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

This proposal is known as PRN 1985-393.

Summary

The Board is proposing to amend its regulation on licensure by examination to include the Clinical Competency Test as a required examination, and to adopt new regulations concerning waiver of examination for qualified out-of-state veterinarians, requirements for emergency service facilities, and the obligation of licensees to notify the Board of address change.

N.J.A.C. 13:44-1.2 is to be amended to add the Clinical Competency Test (CCT) as a requirement for licensure. This test which since 1982 has been administered twice yearly by the Professional Examination Service (P.E.S) is now used by a majority of states, and has been found by the Board to validly test the clinical skills which a qualified applicant should have. It is prepared by P.E.S. in cooperation with the National Board Examination Committee of the American Veterinary Medical Association. The passing grade requirement for the National Board Examination (NBE) and the CCT has been changed from 70 to 70.0 to reflect the fact that scores of 69.5 to 69.9 are not rounded off to 70 in determining whether an applicant has achieved a passing grade. In addition, the length of time for which NBE and CCT scores may be used has been extended

from three to five years. This figure was adopted to dovetail the licensure by examination regulation with the licensure by waiver of examination regulation which requires five years experience. By permitting scores to be used for five years, otherwise qualified candidates with more than three but less than five years of experience will not be required to take the NBE and CCT examinations again to be licensed.

N.J.S.A. 13:44-1.3 is a new rule. Pursuant to N.J.S.A. 45:16-7.2, enacted in March, 1983, the Board of Veterinary Medical Examiners may waive all but the law portion of its examination for applicants for licensure who are licensed and have been actively practicing veterinary medicine in another state, territory or in the District of Columbia. This provision enables the Board to license highly qualified out-of-state veterinarians who have been in active practice but who, because of the time lapse between the completion of their veterinary education and their application for licensure may find it difficult to pass the Board's examination. Thus a competent specialist in equine practice may simply lack the time to review the facts about the care and treatment of cats and dogs or of exotic birds or reptiles that may be the subject of questions in a Board practical examination.

The Board has found, however, in the 18 months since this statutory provision has been in effect that many applicants, although licensed in good standing in other jurisdictions, lack the quality of experience that would justify permitting them to be licensed without passing the Board examination, and that many have tried and failed to pass the New Jersey examination, and are simply seeking to circumvent the examination requirement. The Board is therefore proposing that only those veterinarians who have been licensed elsewhere for at least five years, and have five years of recent experience in active clinical practice should be admitted without examination, and that no such applicant shall have failed the New Jersey practical examination within the last five years. In addition, the Board is establishing an application procedure whereby the credentials of a prospective licensee may be reviewed in order to insure only properly qualified individuals are given licenses.

N.J.A.C. 13:44-1.4 is a new rule concerning licensure of graduates from non-approved veterinary programs. Section 45:16-1.11 of the Veterinary Practice Act provides that an individual who has qualified under the provisions of the American Veterinary Medical Association's Educational Commission for Foreign Veterinary Graduates (ECFVG) is a "qualified veterinary graduate" for the purposes of licensure. N.J.A.C. 13:44-1.4 establishes an administrative procedure whereby the Board may insure that graduates of non-approved schools fulfill ECFVG requirements and the basic Board requirements for licensure. The regulation also requires in conformance with N.J.S.A. 45:16-9.7 that participants in the ECFVG program training in New Jersey obtain a training certificate and establishes an administrative procedure for issuing such certificates.

The proposed amendment to N.J.A.C. 13:44-2.9 is intended to better elucidate the Board's procedures in regard to the issuance and regulation of temporary permits. The Board has found that the current regulation has caused some confusion among permit applicants and holders, particularly in regard to the termination of such permits and the number of permits available. The rule also establishes minimum experience requirements and application requirements for temporary permits number 2.

Rather than state in mandatory terms the circumstances when the Board "shall" grant temporary permits number 1, the regulation is amended to provide the requirements needed to apply for such permits. This change is intended to give the Board more discretion in reviewing permit applications to insure that even on a temporary basis only qualified individuals are

permitted to practice in New Jersey. The proposed amendment eliminates as overly restrictive the provision which states that a candidate may not work under a temporary permit number 1 for more than two years.

N.J.A.C. 13:44-2.4 is a new rule expressly stating that no person shall engage the services of a non-licensed veterinarian for the purpose of being trained or to assist in the practice of veterinary medicine unless the non-licensed veterinarian has a temporary permit or training certificate. While this rule has long been implicit in various other Board regulations, the Board believes an express statement of the rule provides better notice to its licensees regarding the employment of non-licensed veterinarians.

N.J.A.C. 13:44-2.14 is a new rule concerning emergency service facilities. The Board is proposing that emergency veterinary facilities must have a licensee and a qualified assistant actually on the premises when it is open for service, and that advertisements for such facility must inform the public about the days and hours that it is open and fully staffed. Veterinarians who work for such facilities on a regular basis, but who also work elsewhere during normal daytime hours must register their employment with the facility by obtaining a duplicate registration with the Board. The facility is to be required to keep a log of regular employees, whether licensees or assistants, and the hours worked and also to record the time that occasional employees, whether licensees or assistants, have worked at the facility.

New rule N.J.A.C. 13:44-2.15 requires all licensees to keep the Board informed of an address at which they can be reached, whether a home or practice address and to report changes in such address within 30 days of such change.

The Board proposes repeal of Subchapter 6: ADMINISTRATIVE HEARINGS which was enacted prior to the adoption of the rules of Uniform Administrative Procedure, N.J.S.A. 1:1-1.1 et seq., which, pursuant to N.J.S.A. 52:14F-5 govern the conduct of all contested cases in the Executive Branch of State Government whether by the Office of Administrative Law or by the agencies themselves. In light of the Uniform Administrative Procedure rules, the Board believes Subchapter 6 to be unnecessary and potentially confusing and proposes its repeal.

Social Impact

The addition of the Clinical Competency Test to the Board's examination requirements will give the Board another valid measure of the clinical skills of applicants for licensure, thus assisting Board members in their duty to protect the public from incompetent practitioners of veterinary medicine. The new requirements for those seeking licensure without examination will impact on out-of-state veterinarians seeking to relocate to New Jersey in that they must have been licensed elsewhere for at least five years in order to have the examination requirement waived, but the Board has found that these new requirements are necessary to protect the public. Such applicants may, of course, still seek licensure by examination.

The rules concerning emergency service facilities will ensure that a client seeking after-hours or weekend or holiday veterinary care at an emergency facility will be informed of the exact hours the facility is operating and will be assured that during those hours the facility is fully staffed. Emergency facilities which are not already doing so will have the burden of including the required information in their advertisements and of having a licensee and assistant on duty at all times the facility is open. All such facilities will have the duty to keep a record of the names and hours the staff has worked, but this added burden is minimal.

The notification of address and address changes will impose a minimal burden on licensees, but will enable the Board personnel to function more efficiently in that they will always have a current address to which inquiries to licensees may be sent. Similarly, the new rule and amendments regarding non-approved veterinary graduates, temporary permits number 1 and employment of non-licensed veterinarians will impose a minimal burden on licensees and prospective licensees. These rules are largely intended to aid such individuals in their understanding of existing Board rules and procedures. The rules regarding temporary permits number 2 will limit those out-of-state veterinarians who may come into New Jersey to practice on a temporary basis. This limitation will benefit the consumer by helping to insure that New Jersey practices are covered by only qualified veterinarians.

Economic Impact

The addition of the Clinical Competency Test to the requirements for licensure by examination will impose the economic burden of paying for this examination on applicants. Any resultant economic impact on consumers should be minimal. The new requirements for licensure by waiver of examination will impose an added economic burden on those out-of-state veterinarians who wish to relocate to New Jersey and have not been licensed elsewhere for at least five years, in that they may have to pay the requisite examination fees if their past NBE and CCT scores are unacceptable. Again, any resultant economic impact on consumers should be minimal. The new requirements for emergency service facilities will impose higher costs on these facilities which may impact on the fees charged to consumers. However, consumers are expected to benefit in that when emergency treatment is needed for a pet, the consumer will not have to waste valuable telephone time in locating a facility that is open and fully staffed when such treatment is required. The notification of address requirements will place only a minimal burden on licensees but will save considerable clerical time for the Board in trying to contact licensees who have moved without notifying the Board.

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

13:44-1.2 Examinations

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

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

(a) Candidates for licensure by examination shall complete the following:

- 1. The National Board Examination;**
- 2. The Clinical Competency Test; and**
- 3. The New Jersey Practical Examination.**

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

[c](b) As a prerequisite to taking the New Jersey practical examination, an applicant shall have attained a grade of 70.0 on the National Board Examination, calculated according to New Jersey criteria, within [three]five years preceding application for the New Jersey Practical Examination and shall not have scored less than 70.0 on more than one section of each test.

(c) National Board Examination and Clinical Competency Test scores shall be sent to the Board by Interstate Reporting Service.

(d) [Applications for the New Jersey Practical examination, accompanied by the required fees and credentials, shall be filed with the Board's executive secretary at least two months prior to the examination.] **In addition to the above, a candidate shall file an application for a review of credentials and shall submit:**

- 1. Two passport size photographs; and**
- 2. An official transcript of veterinary school credits which is to be forwarded directly to the Board by the college or university attended. The transcript must contain signature of college officials and be properly stamped. If the transcript is in a language other than English a verified English translation of the record must also be sent.**

(e) Applications for the New Jersey Practical examination, accompanied by the required fees and credentials, shall be filed with the Board's executive secretary at least two months prior to the examination.

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

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

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

13:44-1.3 Licensure by waiver of examination

(a) The Board may waive all but the law portion of the New Jersey practical examination for an applicant who presents satisfactory proof that he or she:

- 1. Has held for a minimum of five years immediately preceding application a valid unsuspended and inrevoked license to practice veterinary medicine issued after examination by another state, territory or the District of Columbia which has education and examination requirements substantially equivalent to those required for licensure in New Jersey;**
- 2. Has five full years of active clinical experience of a character approved by the Board;**
- 3. Has obtained the required experience in one or more jurisdictions in which active licensure is held within the seven year period immediately preceding the date application is made;**
- 4. Has passed the National Board Examination and Clinical Competency Test, except however, the National Board Examination requirement shall not apply to anyone who was licensed in another jurisdiction prior to June 1970, the date the National Board Examination first was administered in the State of New**

Jersey, and the Clinical Competency Test requirement shall not apply to anyone who was licensed in another jurisdiction prior to 1982, the date that test was first required by the Board.

(b) A graduate of a college or university not accredited by the A.V.M.A. shall complete the ECFVG clinical experience program or other similar program recognized by the Board.

(c) In addition, the applicant shall file an application for a review of credentials and submit:

1. Two passport size photographs;

2. An official transcript of veterinary school credits which is to be forwarded directly to the Board by the college or university attended. The transcript must contain signatures of college officials and be properly stamped. If the transcript is in a language other than English a verified English translation of the record must also be sent.

3. Submit National Board Examination and Clinical Competency Test scores through Interstate Reporting Service. The scores must meet New Jersey standards upon conversion.

4. Three notarized certifications of experience regarding the applicant from veterinarians actively licensed and practicing in the same jurisdiction(s) for which the experience is being certified. Each certification shall be on professional letterhead stationery; state the exact dates of the period being certified; indicate the type of experience acquired, that is, bovine, exotic, equine or small animal; certify to the applicant's moral character; provide a critical evaluation of the applicant's ability to practice along with a professional recommendation for licensure. Certification shall be sent to the Board by the certifying veterinarian.

5. Submit a certification from every state in which the applicant is licensed verifying that applicant holds a valid, unsuspended and unrevoked license to practice, and other pertinent information the Board may require.

(d) An equine practitioner shall have the Racing Commission of each state in which the applicant has practiced during the five year experience period, file a statement of good standing with the Board. The practitioner shall also notify the Board if his or her privilege to practice veterinary medicine was ever suspended or revoked by any authority.

(e) A candidate who has failed the New Jersey State Practical Examination must wait five years from the date of the test before applying for a license by waiver of examination.

13:44-1.4 Graduates of non-approved veterinary programs

(a) As a prerequisite to admission to any examination administered by the Board or issuance of a temporary permit, a graduate of a veterinary college or university not approved by the Board shall:

1. Complete the one year clinical experience training program administered by the Education Commission for Foreign Graduates (ECFVG) of the American Veterinary Medical Association or other accrediting or qualifying body recognized by the Board;

2. Meet all other requirements for admission to examination;

3. File an application for review of credentials;

4. Have the ECFVG office submit to the Board test results of examinations required of the applicant under the training program and a certification the applicant completed the program.

(b) The National Board Examination and Clinical Competency Test taken for the ECFVG Program may be used to fulfill the prerequisite for the State Practical Examination or the State Veterinary Jurisprudence Examination. However, for this purpose the results of the tests shall meet New Jersey standards upon conversion and shall have been obtained within the five year period immediately preceding application.

(c) Prior to commencing ECFVG training in New Jersey a candidate must obtain a training certificate from the Board.

(d) Upon receipt of an application and required fee, the Board shall issue a training certificate. The certificate shall be issued in the name of the applicant and a supervising licensed veterinarian at the training facility; the name and location of the facility shall appear on the certificate and indicate the date of expiration. The certificate shall be conspicuously displayed at the facility in an area open to the public.

(e) The registration shall permit training only at the location specified in the certificate.

(f) Photocopies of ECFVG quarterly reports shall be sent to the Board while the candidate is training in the State of New Jersey.

13:44-2.4 Non-licensed veterinarians

No person shall engage the services of a non-licensed veterinarian for the purpose of being trained or to assist with the practice of veterinary medicine dentistry or surgery unless, the non-licensed veterinarian first obtains a temporary permit or training certificate issued by the Board.

13:44-2.9 Temporary Permits

(a) (No change.)

[(b) The Board shall issue a temporary permit no. 1 to any person who is qualified to sit for the New Jersey licensing examination and who indicates an intention to sit for the next such examination for which he or she is eligible and pays the required fee. Such a permit shall automatically terminate at the time the candidate receives his or her grades from the next scheduled practical examination or upon the failure of the candidate to appear at the next scheduled examination for which he or she was eligible. A candidate may not work under a temporary permit for more than two years.

(c) A temporary permit no. 1 may be renewed three consecutive times, provided that no person may work under a temporary permit no. 1 for more than two years. Each such renewed permit shall automatically terminate at the time the candidate receives his or her grades from the next scheduled practical examination or upon the failure of the candidate to appear at the next scheduled practical examination.

(d) Where a lawfully qualified veterinarian of another state has failed the National Board Examination or the New Jersey practical examination, such failure may be grounds for denying issuance of or terminating a temporary permit no. 2 for such person.]

(b) A candidate who has filed an application for a review of credentials, and is waiting to write the next scheduled National Board Examination, Clinical Competency Test, the New Jersey Practical Examination, or Veterinary Jurisprudence Examination, may apply to the Board for a temporary permit number 1 to be employed as an assistant under the responsible supervision of a qualified New Jersey licensed veterinarian, except that a person with National Board Examination and/or Clinical Competency Test scores which do not meet New Jersey standards upon conversion shall not be eligible to make application.

(c) Before a temporary permit number 1 is granted to an applicant waiting to take the next scheduled National Board Examination and/or the Clinical Competency Test, the candidate shall have the licensing agency of the jurisdiction in which the test(s) is being administered certify to the New Jersey Board the applicant has filed for examination. A temporary permit number 1 shall be issued in the name of the licensed veterinarian upon receipt of a properly executed application and fee and required document. The certificate shall expire when the candidate's examination results are released and shall not be extended. The holder of a

temporary permit number 1 who fails to appear for a scheduled examination, without good cause, shall be disqualified from obtaining any additional permits.

(d) A candidate who fails an examination shall immediately cease and desist from the practice of veterinary medicine, dentistry and surgery until an application for another temporary permit is approved.

(e) The Board shall not issue more than four temporary permits to any applicant.

(f) A temporary permit shall not be transferable.

(g) The Board may issue a temporary permit number 2 for a period of up to 90 days when the New Jersey licensee shall be absent from his or her practice.

(h) To be eligible for a temporary permit number 2, an applicant shall:

1. Have five years of licensed active clinical experience to have been acquired within the seven year period immediately preceding the application;

2. Complete an application for a review of credentials and pay the required filing fee;

3. Submit three notarized certifications of experience regarding the applicant from veterinarians actively licensed and practicing in the same jurisdiction(s) for which the experience is being certified. Each certification shall be on professional letterhead stationery; state the exact dates of the period being certified; indicate the type of experience acquired, that is, bovine, exotic, equine or small animal; certify to the applicant's moral character; provide a critical evaluation of the applicant's ability to practice along with a professional recommendation for licensure. Certification shall be sent to the Board by the certifying veterinarian.

4. Submit a certification from every state in which the applicant is licensed verifying that applicant holds a valid, unsuspended and revoked license to practice, and other pertinent information the Board may require.

5. An equine practitioner shall have the Racing Commission of each state in which the applicant has practiced during the five year experience period, file a statement of good standing with the Board. The practitioner shall also notify the Board if his or her privilege to practice veterinary medicine was ever suspended or revoked by any authority.

(i) Where a lawfully qualified veterinarian of another state has failed the New Jersey State Board examination, such failure may be grounds for denying of issuance of a temporary permit to such applicant to take charge temporarily of the practice of a lawfully qualified veterinarian of this State during his or her absence from such practice.

13:44-2.14 Emergency service facilities

(a) Any veterinary facility denominated as an emergency service facility and advertising that it provides emergency service shall have at least one licensed veterinarian and one supporting staff member on the premises during the hours the facility is open for service.

(b) Advertisements for emergency service facilities shall include a statement of the days of the week and the hours the facility is open and that a New Jersey licensed veterinarian and supporting staff member are on the premises during these times.

(c) A certificate of registration or duplicate certificate for the location must be obtained by all licensed employees of an emergency service facility, except that a veterinarian who assists at the facility on an occasional emergency relief basis shall not be required to obtain a registration.

(d) Emergency service facilities shall keep a daily log recording the names of licensees and supporting staff regularly or occasionally employed by the facility, with the dates and the hours each has worked for the facility.

(e) This rule shall not apply to a veterinary facility not denominated as an emergency care facility which advertises an after hours telephone number to be called when the facility is closed.

13:44-2.15 Notification of address changes

Every practitioner of veterinary medicine licensed in this State shall submit to the Board in writing notification of change in his or her residential address within 30 days of such change, or shall be responsible for keeping the Board informed of that address at which he or she may be reached. Any change in practice address shall be reported within 10 days of the change. If the licensee does not maintain a practice address in New Jersey he or she shall notify the Board of an address at which he or she can be reached, and shall notify the Board of any change in such address within 10 days.

SUBCHAPTER 6. [ADMINISTRATIVE HEARINGS] (RESERVED)

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 13:44-6.

(a)

DIVISION OF STATE POLICE

User Fees for Criminal History Record Background Checks for Non-Criminal Matters

Proposed New Rule: N.J.A.C. 13:59

Authorized By: Clinton L. Pagano, Superintendent,
Division of State Police

Authority: N.J.S.A. 53:1-20.5, 53:1-20.6 and 53:1-20.7
(L. 1985, c.69)

Proposal Number: PRN 1985-392.

Submit comments by August 14, 1985 to:

Colonel Clinton L. Pagano
Superintendent
New Jersey State Police
Attn. Supervisor, Records and Identification
Section
P.O. Box 7068
West Trenton, New Jersey 08625

The agency proposal follows:

Summary

In October 1982, due to fiscal restraints and a reduction in personnel, it became necessary to curtail the processing of non-criminal justice licensing and employment checks ("Applicant" fingerprint card SBI-19 and Request for Criminal History Record Information form SBI-212) for state, county and local governmental agencies.

The proposed rule is intended to effectuate the provisions of Laws 1985, Chapter 69, signed into law by the Governor on March 7, 1985, to become effective May 6, 1985, as N.J.S.A. 53:1-20.5, 20.6 and 20.7.

checks are made through the Criminal History Record files of the State Bureau of Identification, Division of State Police. These background checks are requested by authorized governmental or quasi-governmental state, county or local agencies. This service has been performed in the past at no fee to the requesting agencies.

Social Impact

The social impact of these regulations is best reflected in the Governor's Reconsideration and Recommendation Statement to Senate Bill #788 (L. 1985, c.69). In particular he stated:

"This bill is drastically needed as it will enable the State Police to restore an important service to the public. There appear to be a myriad of governmental agencies and private concerns requiring information to effectively administrate their various licensing and employment functions. This fee system will underwrite the cost to the Division of State Police allowing them to implement and maintain the services."

These regulations will result in a more efficient and expeditious return of all Criminal History Record background checks submitted from authorized agencies for a licensing and/or employment purpose. In part, it will enable these agencies to be aware of the Criminal History Records of their applicants.

Economic Impact

The income generated by the payment of a prescribed fee will enable the Division of State Police, State Bureau of Identification, to facilitate the processing of checks and be compensated for a required service which in the past was conducted for no fee.

The anticipated revenue that will be forthcoming from the User Fee will be utilized by the Division of State Police, State Bureau of Identification to rehire personnel terminated in October 1982, and will allow the State Bureau of Identification to resume processing of authorized licensing and/or employment checks.

The Division of State Police will now be compensated for a service which in the past was conducted for no fee. The requesting agency, unless they so desire, will not be responsible to absorb the cost for the processing of a Criminal History Record background check. The financial burden will be borne by the person applying for the license and/or employment check.

Full text of the proposed new rule follows.

CHAPTER 59

CRIMINAL HISTORY RECORD BACKGROUND CHECKS FOR NON-CRIMINAL MATTERS

SUBCHAPTER 1. USER FEES

13:59-1.1 Definitions

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

"Authorized agency" means any governmental or quasi-governmental, state, county or local agency which is authorized by a state statute, rule, or regulation or local ordinance to have access to the Criminal History Record Information File for non-criminal licensing and/or employment purposes.

"Fee" means that price established by law for processing all record requests for a licensing and/or employment purpose for authorized agencies.

"Licensing and/or employment purpose" means any matter in which applicant fingerprints or name search requests are submitted as required by state or county statute, rule, regulation

or local ordinance to the State Bureau of Identification for processing from all authorized agencies.

"Processing Criminal History Record background checks" means the process whereby the State Bureau of Identification compares a set of classifiable fingerprints or conducts a name search request to determine if a New Jersey criminal history record exists for the person identified by the request.

"State Bureau of Identification, (S.B.I.)" means the State Bureau of Identification as created by L.1930, c.65 as a bureau within the Division of State Police.

13:59-1.2 Fees

(a) A fee of \$12.00 shall be imposed and used exclusively for the purpose of processing fingerprint identification checks.

(b) A fee of \$8.00 shall be imposed and used exclusively for the purpose of processing criminal history name search identification checks.

(c) These fees shall be in addition to any other fee required by law.

13:59-1.3 Separation of fees

All licensing and/or employment purpose requests from authorized agencies will be subject to the prescribed fees as set forth at N.J.A.C. 13:59-1.2 and will be limited to that purpose only.

13:59-1.4 Prescribed forms

(a) Requests for Criminal History Record Information by authorized agents shall be on forms as prescribed by this section.

(b) The prescribed forms must be used to obtain Criminal History Record Information on any request which meets the dissemination criteria for the stated licensing and/or employment purposes from authorized agencies.

(c) For fingerprint identification purposes an "Applicant" fingerprint card (SBI-19) must be used. The exception to this rule will be for a firearms application which requires a "Firearms Application" card (SBI-19A).

1. Fingerprint card (SBI-19 or SBI-19A): The fee as prescribed in this subchapter, in the form of a cashiers check, certified check or money order payable to the "Division of State Police - SBI", must be stapled on the lower left corner of the "Applicant" fingerprint card (SBI-19) or "Firearms Application" fingerprint card (SBI-19A) and submitted to the State Bureau of Identification.

(d) For name search identification purposes a "Request for Criminal History Record Information" form (SBI-212) must be used.

1. "Request for Criminal History Record Information" form (SBI-212): This form will be filled out in its entirety and must contain all the required information necessary to complete the check. The fee as prescribed in this subchapter, in the form of a cashiers check, certified check or money order payable to the "Division of State Police - SBI", must be stapled to the front of each SBI-212 form and submitted to the State Bureau of Identification.

13:59-1.5 Acceptable form of payment

A cashiers check, certified check or money order made payable to the "Division of State Police - SBI" will be accepted.

13:59-1.6 Superintendent's waiver provision

Nothing in this section shall prohibit the Superintendent of State Police from providing this processing service without the collection of fees from the applicant or in other circumstances which in his sole discretion he deems appropriate if the applicants would not receive a wage or salary for the time and services they provide to an organization or who are considered

volunteers. In those circumstances where the Superintendent of State Police determines to provide this processing service without the collection of fees to the individual applicants, the superintendent may assess the fee for providing this service on behalf of the applicants to any department of State, county or municipal government which is responsible for operating or overseeing that volunteer program.

13:59-1.7 Rejection and resubmission procedures

(a) Any fingerprint card or Request for Criminal History Record Information form which is rejected will be returned with the submitted fee to the authorized agency. The procedure as set forth at N.J.A.C. 13:59-1.4 will be utilized for resubmissions with the following exceptions.

1. Fingerprint cards that cannot be classified will be rejected and returned to the authorized agencies, but the fee which accompanied the fingerprint card will be retained by the SBI. Upon resubmission, staple the rejected fingerprint card to the newly taken fingerprint card and submit both cards along with the original rejection form to the SBI. This procedure will ensure that no additional charge will be assessed for a resubmitted fingerprint card.

13:59-1.8 Limitation of access to Criminal History Record Information (CHRI)

Access to Criminal History Record Information (CHRI) for non-criminal licensing and/or employment purposes is restricted to authorized agencies as defined in this subchapter.

ENERGY

DIVISION OF OPERATIONS

Proposals numbered PRN1985-375 and 376 are authorized by Leonard S. Coleman, Jr., Commissioner, Department of Energy.

Submit comments by August 14, 1985 to:
 Edward J. Linky, Chief
 Office of Regulatory Affairs
 Department of Energy
 101 Commerce Street
 Newark, New Jersey 07102

(a)

THE COMMISSIONER

Submission and Handling of Information which may be Entitled to Confidential Treatment.

Proposed New Rule: N.J.A.C. 14A:7

Authority: N.J.S.A. 52:27-11(q) and 18(d)
 Proposal Number: PRN 1985-376

The agency proposal follows:

Summary

The New Jersey Department of Energy is required to be "the central repository within the State Government for the collection of energy information," and to "collect and analyze data relating to present and future demands and resources for all forms of energy." N.J.S.A. 52:27F-11(a) and (b). The department receives significant amounts of information pursuant to its authority to require the periodic reporting by energy industries of energy information which includes, but is not limited to the following: electrical generating capacity in the State; petroleum refining capacity; storage capacity for gases; and such other information as the commissioner may determine necessary for carrying out the purposes of the Act. (N.J.S.A. 52:27F-18(a).)

The purpose of the proposed new regulations is to establish procedures governing the submission and handling of information required to be submitted to the department which may be entitled to confidential treatment because such information constitutes a "trade secret" and is thus exempt from N.J.S.A. 47:1A-1 et seq. (Right to Know Law). The procedure outlined in the proposed regulations provides a presumption of confidentiality when the provider of information claims that it is confidential. The proposed regulations require notice and a summary proceeding prior to a final department determination on the issues of whether the information provided to the department is entitled to confidential treatment and whether information entitled to confidential treatment may be released to other governmental agencies.

Social Impact

The proposed new regulations will assist the department to fulfill its legislative mandate to require the periodic reporting by energy industries of energy information. N.J.S.A. 52:27F-18(a). It is anticipated that the proposed new regulations will have a positive social impact because energy industries which are required to submit information to the department will be able to provide it with confidence that the submission of such information will not have a negative economic impact on the company. Procedures are provided which allow the company to respond to requests that such information be made available to the public under relevant State or Federal law.

Economic Impact

The availability of procedures to protect the disclosure of information entitled to confidential treatment will have positive economic impacts in two respects. First, there will be a reduction in the potential economic burden on the provider of information by protecting information which would be likely to cause substantial harm on the provider's competitive position. Second, the Department will benefit to the extent that it will receive information necessary for the development of strategies to insure the efficient production, distribution, use and conservation of energy.

Environmental Impact

The environmental impacts are anticipated to be positive to the extent that energy industries will provide requested information to assist the Department develop programs which will preserve and enhance the quality of the environment.

Legal Basis

The Department of Energy proposes to adopt these regulations pursuant to its authority to "adopt, amend or repeal, pursuant to the 'Administrative Procedure Act' (C. 52:14B-1 et seq.) such rules and regulations necessary and proper to carry out the purposes of this act." N.J.S.A. 52:27F-11(q). N.J.S.A. 52:27F-18(d) provides that "Trade secrets collected under this

section shall be exempt from the requirements of P.L.1963, c. 73 (C. 47:1A-1 et seq.).” The department has the authority to promulgate regulations for the conduct of summary proceedings on the issue of whether certain energy information should not be disclosed to the public. N.J.S.A. 52:27F-18(d).

Full text of the proposed new rule follows:

CHAPTER 7
SUBMISSION AND HANDLING OF
INFORMATION WHICH MAY BE ENTITLED
TO CONFIDENTIAL TREATMENT

SUBCHAPTER 1. TRADE SECRETS

14A:7-1.1 Scope

The rules in this chapter shall govern the submission and handling of information which may be entitled to confidential treatment because such information constitutes a trade secret.

14A:7-1.2 Definitions

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

“Authorized agent” means any person who is duly authorized by the department to perform work in connection with the conduct of the department’s business.

“Commissioner” means Commissioner of the New Jersey Department of Energy.

“Confidentiality claim” means a claim that information is entitled to confidential treatment because such information constitutes a trade secret.

“Department” means the New Jersey Department of Energy.

“Trade secret” means the whole or any portion or phase of any scientific, technical, or otherwise proprietary information, design, process, procedure, formula, or improvement which is used in one’s business and is secret and of value; and a trade secret shall be presumed to be secret when the owner takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.

“Energy industry” means any person, company, corporation, business, institution, establishment, or other organization of any nature engaged in the exploration, extraction, transportation, transmission, refining, processing, generation, distribution, sale or storage of energy.

14A:7-1.3 Confidential information

(a) Any energy industry requested by the department to submit information pursuant to N.J.S.A. 52:27F-18 may assert a confidentiality claim covering part or all of the information by following the procedures set forth in subsections (b) through (g) below.

(b) Any energy industry submitting information pursuant to N.J.S.A. 52:27F-18 to the department and asserting a confidentiality claim covering such information shall submit two documents to the department. The first document shall contain all the information requested by the department, including any information which the energy industry claims to be entitled to confidential treatment. The second document shall be identical to the first report except that it shall contain no information which the energy industry claims to be entitled to confidential treatment. If all submitted information is claimed to be confidential, no second document is required.

(c) The top of each page of the first document containing the information which the energy industry claims to be entitled to

confidential treatment shall display the heading “CONFIDENTIAL” in bold type.

(d) All parts of the text of the first document which the energy industry claims to be entitled to confidential treatment shall be underscored. Parts already determined by the department to be entitled to confidential treatment shall be so labeled.

(e) The first document containing the information which the energy industry claims to be entitled to confidential treatment shall be enclosed in an envelope. The outside of the envelope shall display the word “CONFIDENTIAL” in bold type on both sides.

(f) If all the information has been already determined by the department to be entitled to confidential treatment, only one document is required to be submitted and the top of each page shall display the heading “CONFIDENTIALITY DETERMINED.”

(g) The energy industry submitting the documents shall send them to the department official who requested the information by certified mail return receipt requested, by personal delivery, or by other means which allows verification of the fact of receipt and the date of receipt.

14A:7-1.4 Confidentiality determinations

(a) Information claimed to be entitled to confidential treatment will be treated as confidential until the department receives a request under N.J.S.A. 47:1A-1 et seq., to inspect or copy such information.

(b) After receiving such request, the department shall make a confidentiality determination. The department shall so notify the energy industry that submitted the information by certified mail return receipt requested. The notice shall state that a request for the information has been made and that the energy industry that submitted the information may, within thirty days of notification, submit a request to the department for a summary proceeding. The request should include evidence to support a claim that the information is entitled to confidential treatment. The evidence may include, but is not limited to affidavits, records, other documents, and a statement, which shall be as detailed as possible without disclosing any information which the energy industry claims to be entitled to confidential treatment, indicating:

1. The measures taken by the energy industry to guard against undesired disclosure of the information to others;
2. The extent to which the information has been disclosed to others, and the precautions taken in connection therewith; and
3. Whether the energy industry asserts that disclosure of the information would be likely to result in substantial, harmful effects on the energy industry’s competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

(c) The department shall review the evidence. If after such review, the department determines that the information is not entitled to confidential treatment, the department shall so notify the energy industry that submitted the information by certified mail return receipt requested. Such determination shall be made after consideration of the applicable criteria in N.J.A.C. 14:7-1.5. The notice shall state the basis for the determination, that a party may request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq. and the Uniform Administrative Rules of Procedure, N.J.A.C. 1:1-1 et seq. and 1:21-1 et seq., within 10 days of the determination and that, if the request for confidentiality was not granted and a hearing is not requested, the department will

make the information available to the public on the tenth working day after the date of the energy industry's receipt of the written notice.

(d) If the department determines that the information is entitled to confidential treatment, the information shall not be deemed to be public records and shall be exempt from the requirements of N.J.S.A. 47:1A-1 et seq., pursuant to N.J.S.A. 52:27F-18(d). The department shall so inform the affected person who made the request for release of the information under N.J.S.A. 47:1A-1 et. seq. The notice shall state the basis for the determination and that it constitutes final agency action.

14A:7-1.5 Criteria for confidential determinations

(a) Determinations made under N.J.A.C. 14A:7-1.4(d) shall hold that information is entitled to confidential treatment if:

1. The energy industry has asserted a confidentiality claim;
2. The energy industry has satisfactorily shown that it has taken and will continue to take reasonable measures to protect the confidentiality of the information;
3. The information is not, and has not been, reasonably obtainable without the energy industry's consent by persons, other than governmental bodies, using legitimate means other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding;
4. No statute specifically requires disclosure of the information;
5. The energy industry has satisfactorily shown that disclosure of the information would be likely to cause substantial harm to the energy industry's competitive position;
6. Disclosure of the information is likely to impair the department's ability to obtain similar information in the future.

14A:7-1.6 Access to confidential information

Unless specifically provided for by Federal or State law, no person shall have access to information which has been determined to be entitled to confidential treatment, other than: department personnel with the express written permission of the Commissioner or his or her designate, Federal agencies, State agencies, or other governmental entities, subject to the provisions of N.J.A.C. 14A:7-1.7 or authorized agents of the department, subject to the provisions of N.J.A.C. 14:7-1.8.

14A:7-1.7 Disclosure of confidential information to Federal agencies, other State agencies, and municipal agencies.

(a) The department may disclose information entitled to confidential treatment to federal agencies, other State agencies, and municipal agencies if:

1. The department receives a written request for disclosure of the information from a duly authorized officer or employee of the other agency. The request must set forth the official purpose for which the information is needed;
2. The department notifies the other agency of its determination that the information is entitled to confidential treatment;
3. The other agency has first furnished to the department a written opinion from that agency's chief legal officer or counsel stating that under applicable law the agency has the authority to compel the energy industry that submitted the information to the department to disclose such information to the other agency; and
4. The other agency agrees to take reasonable precautions to maintain the confidentiality of such information.

(b) After determining that it will release the confidential information, the department shall so notify the energy industry that submitted the information by certified mail return receipt

requested. The notice shall state the basis of the determination. If within 14 days of notification of proposed disclosure, the provider of such information requests in writing that the department reconsider its decision to release the information, the department shall conduct a summary proceeding. The request should include evidence to support a claim that the department's determination was incorrect. The evidence may include, but is not limited to, affidavits, records, and other documents.

(c) If a timely request for reconsideration has been made by the provider of such information, the department shall review the evidence and its prior determination. If after such review, the department determines that it will release the confidential information, the department shall so notify the energy industry that submitted the information by certified mail return receipt requested. The notice shall state the basis for the determination, that it constitutes final agency action concerning the release of the confidential information, and that the department will make the information available to the requesting governmental agency on the tenth working day after the date of the energy industry's receipt of the written notice. If the department determines that it will not release the confidential information, the department shall so inform the requesting governmental agency. The notice shall so state the basis for the determination and that it constitutes final agency action.

14A:7-1.8 Disclosure of confidential information to authorized agents

(a) The department may disclose information which has been determined to be entitled to confidential treatment to an authorized agent of the department if the department determines that such disclosure is necessary in order for the authorized agent to perform the work in connection with the conduct of the department's business.

(b) No information shall be disclosed under (a) above, unless there is a written agreement entered into between the department and the authorized agent which provides that the authorized agent and the authorized agent's employees shall use the information only for the purpose of performing the work in connection with the conduct of the department's business, shall refrain from disclosing the information to anyone other than the department, and shall return to the department all copies of the information (and any abstracts or extracts therefrom) upon request by the department or whenever the information is no longer required by the authorized agent for the performance of the work.

(a)

DIVISION OF OPERATIONS

Energy Conservation in State Buildings

Proposed Amendments: N.J.A.C. 14A:13-1.2, 1.8, 1.9, 1.10, 1.11, 1.13 and 1.14

Authorized By: Leonard S. Coleman, Jr.,
Commissioner, Department of Energy.

Authority: N.J.S.A. 52:27F-11(q) and (n) and P.L.
1980, c.68

Proposal Number: PRN 1985-375

The agency proposal follows:

Summary

The Energy Audits and Energy Conserving Renovations of State Buildings regulations have been in operation since 1981. The purpose of the regulations is to provide for energy audits and energy conserving renovations of State buildings in order to achieve a net reduction in energy consumption.

The purpose of the proposed amendments is to comply with the Opinion of the Attorney General, November 7, 1984, which recommended the clarification of these regulations regarding potential conflicts of interest of designers, and the qualification required of architects and engineers for energy saving renovation projects. The proposed amendment allows Rutgers-the State University, the University of Medicine and Dentistry of New Jersey, the New Jersey Institute of Technology, or the New Jersey Department of Defense the flexibility to use their own procurement procedures, provided that they use the auditors and designers on the New Jersey Department of Energy's approved list. The proposed amendment also provides that when an architect and/or engineer is responsible for the audit and/or design work, that architect and/or engineer, or any firm with which he or she was associated at the time of the audit and/or design work cannot bid on the construction of the project. If the responsible architect and/or engineer disassociates from that firm after the audit and/or design work has been bid, he or she cannot participate in any construction bid for that project. Qualifications for designers have been defined. Using agencies are required to encumber the funds only once. Finally, citation, punctuation and grammatical corrections have been made.

Social Impact

The proposed amendments will have a positive social impact because they will ensure the integrity of the bidding process by eliminating the appearance of impropriety. The amendments separate the audit and design work from the construction work and define the qualifications for auditors and designers. The State will benefit through more objective energy conservation analyses of State buildings.

Economic Impact

It is anticipated the proposed amendments will have a positive economic impact. By ensuring open competition in the bidding process, the people of New Jersey will be able to obtain the most effective conservation renovations in State buildings for each dollar spent and the cost for energy consumption will be reduced.

Environmental Impact

The proposed amendments will assist in the implementation of the Energy Conservation Bond Act of 1980 which provides for audits and energy conserving renovations. These projects will reduce energy consumption in State buildings, which will limit the need to build or operate fossil fueled power plants and thus benefit air quality in New Jersey.

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

14A:13-1.2 Definitions

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

"Educational facilities" means buildings, structures, and facilities under the supervision and control of the Department of Education or the Department of Higher Education, including, but not limited to, Rutgers, the State University, The [College] University of Medicine and Dentistry of New Jersey, the New

Jersey Institute of Technology, the State colleges, the Marie H. Katzenbach School for the Deaf, the Milburn Avenue School for the Hearing Handicapped, the State Library, and the State Museum.

"Supervision and control" means the holding of any fee[,] simple estate, or any leasehold estate for a duration of more than 10 years.

"Using agency" means the recipient of the Energy Conservation Bond funds.

14A:13-1.7 Project ranking: Energy audits

(a) Requests for funding of energy audits [will] **shall** be ranked and/or approved for funding at the discretion of NJDOE and subject to review by the State Treasurer and the commission in accordance with the following criteria:

1. That they do not duplicate [existing] **existing** audits or engineering studies considered acceptable by NJDOE.
2. That the estimated cost of the audit or analysis is [consistent] **consistent** with the possible savings that may be identified.
- 3.-6. (no change).

14A:13-1.8 Project authorization: Energy audits

(a) Upon encumbrance of funds, the NJDOE shall submit to the DBC a list of the energy audits to be performed. **However, Rutgers-the State University, the New Jersey Institute of Technology (NJIT), the New Jersey Department of Defense (NJDOE), or the University of Medicine and Dentistry of New Jersey (UMDNJ) shall use their own procurement procedures, provided that they use the auditors on NJDOE's approved list and that the contents of the audit are consistent with N.J.A.C. 14A:13-1.13.**

(b) The DBC [will] **shall** coordinate with the NJDOE to define the programs and obtain details and specific information on each project prior to advertisement and selection of the consultant. One major objective will be to group projects by institution, location and technical similarities in order to keep the number of consultants to a minimum and expedite the energy audits.

(c) The DBC [will] **shall** select and retain an engineer or architect/engineer firm which meets the auditor qualifications set forth in N.J.A.C. [14A:13-1.13] **14A:13-1.14** [to] **and shall** perform the energy audits in accordance with the DBC's Architect/Engineer Selection Procedures, N.J.A.C. 17:19-10.

(d) The NJDOE and the Using Agency for which the energy audit will be performed may each designate a voting member to the DBC Architect/Engineer Selection Board in accordance with N.J.A.C. [17:19-10.10] **17:19-10.9**

(e) The consultant [will] **shall** submit the audit to the DBC. **When the using agency is Rutgers, NJIT, NJDOE, or UMDNJ, the consultant shall submit the audit to the using agency.** Prior to final acceptance of the audit, the DBC, **or when applicable Rutgers, NJIT, NJDOE, or UMDNJ, shall** [will] forward the audit to NJDOE [.] **for revision or acceptance.** The NJDOE shall have 15 working days **after receipt of the audit** to notify the DBC, **or when applicable Rutgers, NJIT, NJDOE, or UMDNJ, of acceptance** or any deficiencies in the audit with regard to conformance with general auditing procedure, completion of specific tasks in the work assignment and compliance with the audit requirements contained in N.J.A.C. 14A:13-1.13. **If there are any deficiencies, the DBC, or when applicable Rutgers, NJIT, NJDOE, or UMDNJ, shall return the work product to the contractor marked unacceptable.**

(f) Upon acceptance of the completed audit, the NJDOE [will] **shall** transmit the audit to the using agency.

14A:13-1.9 Project ranking: Energy conserving renovations

(a) Requests for funding of energy conserving renovations [will] **shall** be evaluated and ranked using the following procedure.

1. Project funding requests [will] **shall** be reviewed for compliance with N.J.A.C. 14A:13-1.6, and may be returned to the submitting agency for revision if not found complete or in compliance.

2. Individual requests [will] **shall** be evaluated by NJDOE, the State Treasurer and the commission for consistency with overall renovation needs of the building or facility and for consistency with the commission's long-range capital plan. Requests may be returned to the submitting agency if not in conformity with the overall program.

3. Individual requests [will] **shall** be screened to identify proposed installations which appear to require unusual or extensive maintenance. Supporting data may be required before acceptance.

4. Individual requests [will] **shall** be screened to eliminate proposals which expose the State to unproven or experimental systems.

(b) Acceptable proposals conforming to the requirements of (a) above [will] **shall** be ranked by payback.

(c) Based on the total funding available for the fiscal year as determined by the annual plan, the NJDOE [will] **shall** establish the maximum payback for projects which shall be funded in that fiscal year. However, the Commissioner, at his /her, discretion, may include lower ranked projects of special need, merit or significance.

(d) Maximum payback established for any year shall not exceed 10 years.

(e) Consideration shall be given to the submitting department's preference list where selection must be made between projects of approximately equal payback.

14A:13-1.10 Project authorization: Energy conserving renovations

(a) Upon selection and approval of energy conserving renovations for funding, the NJDOE shall notify the using agency in writing and provide the funds for the renovation.

(b) The using agency shall encumber the funds [in two parts:] **for the following;**

1. Estimated cost of planning, programming, design and preparation of plans and specifications; and

2. Cost of acquisition, installation and construction of the energy conserving renovation.

(c) Upon encumbrance of funds, the using agency[, except Rutgers, the State University, the New Jersey Institute of Technology (NJIT) and the New Jersey Department of Defense] shall submit to the DBC a list of renovations to be performed. **However, Rutgers, NJIT [and the Department of Defense] NJDOD, or UMDNJ shall use their own procurement procedures, provided that they use the designers on NJDOE's approved list. In the event Rutgers, NJIT [and the Department of Defense] NJDOD, or UMDNJ do not use the DBC[,] for procurement, they shall be subject to (l), [and] (m) and (n) below and N.J.A.C. 14A:13-1.11.**

(d) The DBC [will] **shall** select and retain an engineer or architect/engineer firm for the design of energy conserving renovations in accordance with the DBC's Architect/Engineer Selection Procedures, N.J.A.C. 17:19-10.

(e) The NJDOE and the Using Agency for which the renovation will be performed may each designate a voting member to the DBC Architect/Engineer Selection Board in accordance with N.J.A.C. [17:19-10] **17:19-10.9.**

(f) The NJDOE and the Using Agency shall have 15 days [to review and comment on] **from receipt of the plans and specifications prepared by the consultant[.] to review and comment.**

(g) Those projects with an aggregate cost less than \$10,000 **and procured through DBC** shall be exempt from the requirements of this section and shall be carried out in accordance with the DBC's rules.

(h) Renovation projects [will] **shall** be advertised and bid by the DBC in accordance with its established procedures. All contractors bidding on renovation projects shall be qualified in accordance with applicable law and DBC regulations.

(i) In the event the lowest responsible bid or sum of low bids exceeds the construction cost estimate by more than five percent, the bid(s) shall be subject to rejection by the Director of the DBC. The DBC shall also consider the effect of the bids on projected payback, and other related factors.

1. The DBC shall coordinate with the appropriate Using Agency to determine if the project should be reduced in scope and rebid to meet available funds or should be abandoned.

2. If the DBC determines that the project shall be changed in scope, the NJDOE [will] **shall** determine whether the project still conforms with the objectives of the original project sufficiently to be funded.

(j) Supervision, quality control, inspection, change orders, contract administration and all related construction management activities shall be the responsibility of the Director of the DBC in his capacity as Contracting Officer.

(k) Any claims by the design consultants or by the contractors [will] **shall** be processed and handled by the Director of the DBC under the provisions of the Contractual Liability Act, N.J.S.A. 59:13-1 et seq., in accordance with established procedures.

(l) When the Using Agency is Rutgers, NJIT [or the Department of Defense], NJDOD, or UMDNJ, the NJDOE shall have 15 working days [to review and comment on] **from receipt of the plans and specifications prepared by the consultant[.] to review and comment.**

(m) When the Using Agency is Rutgers, NJIT [or the Department of Defense], NJDOD or UMDNJ, and the Using Agency determines that the scope of the project should be changed, the Using Agency shall notify the NJDOE, **in writing of the proposed change in scope and describe in detail the proposed change.** The NJDOE shall have 15 working days **from receipt of said notice** to determine whether the project sufficiently conforms with the objectives of the original project to be funded.

(n) **If an architect and/or engineer is responsible for the audit and/or design work, that architect and/or engineer, or any firm with which he or she was associated at the time of the audit and/or design work cannot bid on the construction of the project. If the responsible architect and/or engineer disassociates from that firm after the audit and/or design work has been bid, he or she cannot participate in any construction bid for that project.**

14A:13-1.11 Project review and control

(a) Renovation projects authorized for funding (or for which funding has been obligated) [will] **shall** be monitored in accordance with the following procedure:

1. As part of the review for technical comment, NJDOE [will] **shall** confirm that the plans and specifications conform with the objectives of the original project submittal and the NJDOE's Conservation Regulations, N.J.A.C. 14A:3 and verify that the costs to be incurred are, as far as practicable, solely for application to the purpose of renovation. In the event that they are deficient in either of these respects, the NJDOE [will]

shall notify the using agency and the DBC in writing that the funds should not be released for construction.

2. The NJDOE may require the installation of metering equipment during the design period, or as a part of the renovation where such installation is economically and technically feasible in order that the NJDOE may fulfill its statutory responsibility to annually report an estimate of the savings resulting from the renovation.

3. Prior to final acceptance of the project the NJDOE and the using agency shall be notified by the DBC [in order that they may participate in] in writing within a reasonable time prior to [punchout,] closeout and final acceptance of the project[.] in order that NJDOE may participate therein. Both the NJDOE and the Using Agency [will] shall have 15 days from receipt of the notice from DBC to sign the final acceptance certificate (DBC Form 20) or to provide reasons for objection. When the using agency is Rutgers, NJIT, [or Department of Defense,] NJDOD or UMDNJ prior to final acceptance of the project, the Using Agency shall notify the NJDOE [in order that NJDOE may participate in] in writing within a reasonable time prior to [punchout] closeout and final acceptance of the project[.] in order that NJDOE may participate therein.

4. Following installation, the using agency shall annually from date of closing provide the NJDOE with measurements or estimates of the savings resulting from the energy conserving renovations.

14A:13-1.13 Energy audits: Contents

(a) The energy audits shall be submitted to the DBC, or when applicable to Rutgers, NJIT, NJDOD, or UMDNJ, in a final report in a format prescribed by NJDOE. The energy audit shall include the following.

1.-6. (no change).

14A:13-1.14 Auditor and designer qualifications

(a) In order to be qualified to perform energy audits and design projects pursuant to this subchapter an individual must meet the following requirements:

1. Be a New Jersey licensed professional engineer or architect, or a member [or] of an architect-engineer team, the principal team members of which are licensed in New Jersey;
2. Be free from any financial interests which may conflict with the proper performance of his/her duties; and
3. In the case of an auditor, the auditor must [H] have completed a prior analysis which is substantially the same as the study required under the Institutional Building Grants Program as specified in 10 C.F.R. Part 455.42 (44FR 22940), or have completed an NJDOE approved Technical Assistance Analyst Training Course.

OTHER AGENCIES

(a)

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Private Activity Bonds Reallocation and Carryforward

Proposed New Rule: N.J.A.C. 19:30-7

Authorized By: James J. Hughes, Jr., Executive Director, New Jersey Economic Development Authority.
Authority: N.J.S.A. 34:1B-1 et seq., specifically 34:1B-5(1) and Executive Order No. 85 (1984).
Proposal Number: PRN 1985-369.

Submit comments by August 14, 1985 to:

Gary Nadler, Manager of Administration
New Jersey Economic Development Authority
Capital Place One
200 South Warren Street
CN 990
Trenton, N.J. 08625

The agency proposal follows:

Summary

The Federal Deficit Reduction Act of 1984 (the "Act") places a ceiling on the amount of private activity bonds that may be issued by each State and establishes a formula for allocating a State ceiling among various issuing authorities within a State. Under the Act, 50 percent of the ceiling amount was allocated to State issuers and 50 percent to local issuers. In New Jersey, single State authority, the New Jersey Economic Development Authority, (NJEDA), has been created specifically to issue private activity bonds for economic development on a State-wide basis. The Federal formula would have severely restricted the State program and would probably have resulted in a loss of the State's ability to issue all the bonds eligible under the Federal law. In addition, coordinating issuance among all State and local issuers and meeting Federal reporting requirements would have been difficult and costly.

The Act provides that the Governor of any State may proclaim a different formula for allocating a State's ceiling amount among the various issuing authorities. Pursuant to that authorization, the Governor has issued Executive Order No. 85 (1984) whereby 100 percent of the State's ceiling amount for each calendar year has been allocated to NJEDA. As a result, the issuance of private activity bonds is coordinated by a single State authority which also assures that the maximum amount of bonds is issued under the Federal ceiling so that worthwhile economic development and municipal water, resource recovery and other projects can be financed within the restrictions of Federal law.

By Executive Order No. 85 (1984), the Governor has also authorized NJEDA to reallocate portions of the State ceiling amount to other issuing authorities in accordance with the procedure set forth therein. This procedure permits other issuers particularly counties for resource recovery facilities and local issuers for economic development to finance important local programs while coordinating all issuance through a single authority. NJEDA has also been thereby directed to promulgate such rules and regulations as may be necessary to carry out the provisions of Executive Order No. 85, including provisions relating to the carryforward of any unused portion of the State annual ceiling as provided for in the Act.

The proposed regulations mirror the requirements imposed by Executive Order No. 85 for reallocation applications. Applicants are required to provide the NJEDA with specific information about the project or purpose for which a reallocation is being requested. In consideration of the criteria established by Executive Order No. 85 with respect to reallocations to other issuers, the NJEDA's proposed regulations would also require an applicant issuer to submit a letter in support of its request.

detailing, among other things, the reasons why the purpose or project for which the reallocation is sought is consistent with the economic development objectives of the State, as established by the NJEDA.

In addition to providing a basis for the NJEDA's determination regarding a reallocation request, the application requirements set forth in the proposed regulations are designed to facilitate the NJEDA's maintenance of records concerning the State's issuance of private activity bonds and to assist in the NJEDA's calculation of any unused portion of the private activity bond limit which might be carried forward pursuant to the Act for use in the following three years. The carryforward requirements under Federal law require that the unused limit be allocated to specifically identified projects and that this be done by the end of the current year. NJEDA can calculate the unused amount and coordinate the identification of "carry forward" projects.

Social Impact

The allocation of 100 percent of the State's private activity bond ceiling to NJEDA, along with the provisions for reallocation and carry forward, is expected to insure that the benefits of private activity bonds—namely, assisting business expansion and creating jobs—will continue to enhance the social environment of those affected—business owners and present and future employees—to the fullest extent.

Economic Impact

As noted by the Governor in Executive Order No. 85 (1984), the issuance of private activity bonds by the NJEDA has been an important economic tool for the State of New Jersey. Private activity bonds have been used to stimulate investment, particularly by small and medium-size business. The proceeds of such bonds are used by NJEDA to make loans to businesses to expand the employment base of the State. The NJEDA program creates jobs through economic development as well as increasing the tax base of municipalities. In 1984, the NJEDA issued \$1,108,000,000 in private activity bonds, while the entire State ceiling amount for the issuance of such bonds in calendar year 1984 was \$1,115,700,000. The State ceiling amount for calendar year 1985 is \$1,120,200,000 but will thereafter be reduced. Prior to the enactment of the Deficit Reduction Act there was no limit on the amount of private activity bonds that could be issued. Any eligible project which provided a public benefit could be financed through the issuance of tax-exempt private activity bonds. With the imposition of a ceiling on the amount of bonds which may be issued, a procedure must be established to insure that the projects with the greatest public benefit are financed within the restrictions of Federal law. The regulations provide a procedure whereby other State and local bond issuers can identify projects which should be financed with private activity bonds and can apply for an allocation of part of the total amount available under Federal law. The regulations are intended to meet Federal requirements for the issuance of private activity bonds. Specifically the regulations enable the State, through the NJEDA, to file reports required by Federal law for all private activity bonds issued in the State. The regulations also insure that, by requiring issuers to obtain an allocation from NJEDA, the State ceiling amount is not exceeded. A bond issued in excess of the ceiling amount loses its tax-exempt status. This means a loss of income to the bondholder and increased costs to the project financed with those bonds.

Full text of the proposed new rule follows.

SUBCHAPTER 7. PRIVATE ACTIVITY BONDS REALLOCATION AND CARRYFORWARD

19:30-7.1 Definitions.

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

"Act" means the Federal Deficit Reduction Act of 1984 and specifically Section 103(n) of the Internal Revenue Code, as same may be amended and supplemented.

"Authority" means the New Jersey Economic Development Authority.

"Carryforward project" means projects within the meaning of proposed U.S. Treasury Regulations, Section 1.103(n)(4)(T), as same may be adopted, amended and supplemented.

"Issuer" means any public entity, other than the Authority, authorized under the laws of the State of New Jersey to issue private activity bonds.

"Private activity bonds" means bonds within the meaning of Section 103(n) of the Internal Revenue Code, as same may be amended and supplemented.

"Project" means a project within the meaning of the New Jersey Economic Development Authority Act, specifically, N.J.S.A. 34:1B-2(h).

"Reallocation" means a reallocation by the Authority to another issuer of a portion of the State ceiling amount for the issuance of private activity bonds pursuant to Executive Order No. 85 (1984).

"State ceiling amount" means the limit on the amount of private activity bonds which may be issued by the State pursuant to the Act.

19:30-7.2 Restrictions on issuance of private activity bonds.

No issuer shall issue private activity bonds for any project unless said issuer has first received in writing a reallocation from the Authority in an amount equivalent to the amount of the bonds to be issued for that project.

19:30-7.3 Application for reallocation.

(a) Any issuer may apply to the Authority for a reallocation of a portion of the State ceiling amount. The application for such reallocation shall contain the following information:

1. The name and address of the issuer;
2. The name, location and a description of the project, including its address (by its street or, if none, by a general description designed to indicate its specific location) and the general type of facility;
3. The name, address and Taxpayer Identification Number (TIN) of the initial owner, operator or manager of the project;
4. The date of adoption by the issuer of a bond resolution or earlier "similar official action" towards the issuance of bonds for the project or purpose. A copy of the resolution or written evidence of such similar official action shall be attached to the application;
5. The portion of the State ceiling amount that the issuer requests be reallocated for the project or purpose, and that the amount of all outstanding private activity bonds issued by the issuer within the two years preceding the date of application by the issuer for a reallocation;
6. The anticipated date on which private activity bonds are to be issued by the issuer and whether the issuer will elect to designate the project as a carryforward project; and
7. Such other information as may be requested by the Authority.

(b) For purposes of this section, in case of an application pertaining to a project for which the initial owner, operator or

manager is to be selected pursuant to a competitive bidding process, the reallocation application may include up to three prospective addresses for the project, and the name, address, and TIN of more than one prospective initial owner, operator or manager, if all persons included as prospective owners, operators, or managers have met all applicable conditions, if any, to submit proposals to own, operate or manage the project.

(c) At the time of filing an application, the issuer shall also submit a letter to the Authority which sets forth the reasons why the purposes for which the reallocation is requested are consistent with the economic development objectives of the State, as established by the Authority, and the requested reallocation should have priority over other anticipated reallocations or issuances by the Authority. In this regard, the issuer shall describe the number of jobs to be created as a result of the project, the location of the project and the public importance or necessity of the project.

19:30-7.4 Determination by the authority; time limitations for issuance of bonds.

(a) Within 40 days of receipt of an application for a reallocation, the Authority shall notify the issuer of the portion of the State ceiling amount reallocated to the issuer, which notification shall contain a certification of no consideration for the reallocation in accordance with the Act. All actions taken by the Authority regarding such applications shall be subject to approval by the Governor pursuant to N.J.S.A. 34:1B-4(i).

(b) Such reallocation shall cease to be effective if the private activity bonds reallocated to the issuer are not issued (by delivery and payment) within 45 days of the date of notice of reallocation unless an application for an extension of the reallocation is filed with the Authority no less than five days prior to the expiration of the initial 45 day period and is approved by the Executive Director of the Authority; provided, however, that in the event the reallocation expires, the issuer may resubmit its application for a reallocation.

(c) Notwithstanding (a) and (b) above:

1. If the Authority reallocates a portion of the State ceiling amount to an issuer after November 15 of any calendar year, the private activity bonds issued with respect to such reallocation must be issued by the issuer within 30 days of the date of notice of reallocation;

2. If the reallocation is made after December 1 of any calendar year, the private activity bonds issued with respect to such reallocation must be issued by the issuer within 15 days of the date of notice of reallocation; and

3. If the reallocation requested by an issuer in any calendar year is for a carryforward project, such request shall be acted upon by the Authority in accordance with (d) below.

(d) If the private activity bonds which are to be issued pursuant to a reallocation request will not be issued before the close of the calendar year in which the application for reallocation is made, the issuer must so notify the Authority. In that event, it shall be the responsibility of the issuer to comply with the requirements for election and carryforward of projects, as set forth in Part 1 of Title 26 of the Code of Federal Regulations, Section 1.103(n). The issuer shall be solely responsible for the preparation and filing of a Carryforward Election of Unused Private Activity Bond Limitations in accordance with that Section (Internal Revenue Service Form 8328 or any similar form required subsequently). A copy of the election which the issuer has or will file with the Internal Revenue Service with respect to any project for which a reallocation has been made by the Authority during any calendar year shall be provided to the Authority on or before December 20 of that year; provided,

however, that if the reallocation is made after December 20, a copy of the election which the issuer has or will file with the Internal Revenue Service shall be provided to the Authority no later than the date required by the Internal Revenue Service for filing such election.

(e) On the date of issuance of private activity bonds pursuant to a reallocation by the Authority, the issuer shall give notice thereof to the Authority's Office of Legal Services by telephone, which notice shall be confirmed by certified mail to the Executive Director of the Authority. A copy of Internal Revenue Service Form 8038 shall also be mailed to the Authority at that time.

19:30-7.5 Effects of non-compliance.

The failure of any issuer to abide by the provisions of this subchapter may, at the discretion of the Authority, result in the forfeiture of future reallocations to the issuer.

(a)

Accounting and Internal Controls Procedure for Counting and Recording Contents of Drop Boxes

Proposed Amendment: N.J.A.C. 19:45-1.33

Authorized By: Theron G. Schmidt, Executive
Secretary, Casino Control Commission
Authority: N.J.S.A. 5:12-63(c) and 5:12-69.
Proposal Number: PRN 1985-371.

Submit comments by August 14, 1985 to:
Michael Santaniello
Deputy Director, Special Projects
Division of Financial Evaluation & Control
Casino Control Commission
3131 Princeton Pike
Bldg. No. 5, CN-208
Trenton, NJ 08625

The agency proposal follows:

Summary

The proposed amendment would modify the required procedures in the soft count room process to allow for the introduction of more sophisticated technology that has recently become available for currency handling, sorting and counting.

Social Impact

From the social perspective, the amendment would have minimal impact on the casino environment. Aside from the potential of shortening the time it would take to perform the soft count and, thereby, shortening the interactions occurring between count team members, the efficiency of this process would also be increased. The internal stimuli existing in the soft count room would probably remain unchanged except for the introduction of more sophisticated equipment for the conduct of this process.

Economic Impact

From an economic standpoint, several results are possible. Each would be attributable to the introduction of more sophisticated equipment that this amendment would allow. Initially, for any casino availing itself of the new option, equipment cost would be incurred for the purchase and maintenance of this new technology. It is anticipated, however, that these costs would be

offset by the savings that can potentially occur from increased efficiency and accuracy. The use of this equipment may also result in a reallocation of manpower from the current number of employees needed to conduct the currency counting process to other functions that must be performed in a casino hotel complex. From a regulatory point of view, there would be costs associated with the review and approval of this new equipment but it is anticipated that these costs would be minimal and that present staffing would be sufficient to perform this function. Obviously, if the new technology proves to be more accurate than that now being used, there are associated savings from the amendment that would result from a revenue and tax standpoint due to the increased accuracy, control and security provided by these new devices. The amount of any savings, however, would be purely speculative at this point in time.

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

19:45-1.33 Procedure for counting and recording contents of drop boxes

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

(h) Procedures and requirements for conducting the count shall be the following:

1. (No change.)

2. The contents of each drop box shall be emptied **on the count table** and **either manually** counted separately on the count table[,] **or counted on an approved currency counting machine located in a conspicuous location on, near or adjacent to the count table**, which procedures shall at all times be conducted in full view of the closed circuit television cameras located in the count room;

3. (No change.)

4. The contents of each drop box shall be segregated by a count team member into separate stacks on the count table by denominations of coin and currency and by type of form, record, or document **except that the Commission may permit the utilization of a machine to automatically sort currency by denomination;**

5. Each denomination of coin and currency shall be counted separately by one count team member who shall place individual bills and coins of the same denomination on the count table in full view of a closed circuit television camera [and such count shall be observed, and accuracy confirmed orally or in writing, by at least one other count team member] **after which the coin and currency shall be counted by a second count team member who is unaware of the result of the original count and who, after completing this count, shall confirm the accuracy of his total, either orally or in writing, with that reached by the first count team member, except that the Commission may permit a casino licensee to perform an aggregate count by denomination of all currency collected in substitution of the second count by drop box if the Commission is satisfied that the original count is being performed automatically by a machine that counts and automatically records the amount of currency and that the accuracy of the machine has been suitably tested and proven.**

6.-10. (No change.)

(i) (No change.)

(j) (No change.)

RULE ADOPTIONS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules of Practice Discovery; Methods Available; Relief; Enforcement; Privilege; Depositions Limited

Adopted Amendment: N.J.A.C. 1:1-11.2 and 11.3

Proposed: May 6, 1985 at 17 N.J.R. 1008(a).
Adopted: June 17, 1985 by Ronald I. Parker, Acting Director, Office of Administrative Law.
Filed: June 21, 1985 as R.1985 d.368, **without change**.

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

Effective Date: July 15, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): May 15, 1990.

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

Full text of the adoption follows:

1:1-11.2 Methods available on notice; relief from discovery; enforcement of discovery notices; privilege

(a) (No change.)

(b) Any party or person affected by a notice for discovery pursuant to (a) above may apply on motion for relief from such request, or for an order enforcing such request. In considering a discovery motion the judge shall weigh the specific need for the information; its relevance and materiality; the extent to which the information is within the control of the party; undue hardship; and matters of expense, privilege, trade secret and oppressiveness.

1:1-11.3 Depositions limited; time limits

(a) Depositions upon oral examination or written questions are available only on motion for good cause shown served upon all parties in the manner prescribed by N.J.A.C. 1:1-7.1(a). In deciding any such motion, the judge shall consider the policy governing discovery (N.J.A.C. 1:1-11.1) and shall weigh the specific need for the deposition; the extent to which the information sought cannot be obtained in other ways; the requested location and time for the deposition; undue hardship; and matters of expense, privilege, trade secret or oppressiveness.

(b) (No change.)

(b)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules of Practice Rules of Special Applicability Trade Secret Claims

Adopted New Rule: N.J.A.C. 1:21.

Proposed: May 6, 1985 at 17 N.J.R. 1009(a).
Adopted: June 20, 1985 by Ronald I. Parker, Acting Director, Office of Administrative Law.
Filed: June 21, 1985 as R.1985 d.367, **without change**.

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

Effective Date: July 15, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): July 15, 1990.

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

Full text of the adoption follows.

CHAPTER 21 TRADE SECRET CLAIMS

SUBCHAPTER 1. APPLICABILITY

1:21-1.1 Applicability

In addition to the Uniform Administrative Procedure Rules (UAPR), the rules of special applicability in this chapter shall apply to any hearing concerning the validity of a trade secret claim under the New Jersey Worker and Community Right to Know Act, N.J.S.A. 34:5A-1 et seq. and N.J.A.C. 7:1G-1 et seq. and N.J.A.C. 8:59-3 et seq. To the extent that these rules of special applicability are inconsistent with the UAPR, these rules shall apply.

SUBCHAPTER 2. (RESERVED)

SUBCHAPTER 3. CONDUCT OF TRADE SECRET CASE

1:21-3.1 Sound recordings; safeguarding the case file and sound recordings; preparation of transcripts

(a) Court reporters will not be provided for trade secret hearings. A verbatim record will be maintained by sound recording.

(b) When not in use, all audio tapes and case files together with all evidence and other related case materials, including any transcripts, shall be locked in an OAL filing cabinet in a locked room, whether or not particular tapes, case files, evidence or related materials include secret testimony or argument. Access to the file cabinet shall be limited to judges and their secretaries. Access to the locked room shall be restricted to a person or persons designated by the Director in writing. A record of access to the file cabinet shall be maintained by the designated persons.

(c) No duplicates or copies of any portion of an audio tape containing secret information shall be permitted.

(d) Upon the request of a person who is authorized by the judge to receive a transcript, the judge's secretary shall prepare a transcript of that portion of the hearing dealing with the secret information. A transcribing firm may be authorized to prepare a

transcript of that portion of the hearing not dealing with the secret information.

1:21-3.2 Sealing the record

(a) On the last day of the evidentiary hearing, the parties shall be given the opportunity to address the record sealing requirements of the case. The record shall be sealed by order attached to the initial decision in every trade secret case.

(b) In rendering a sealing order, the judge shall consider the extent of restriction necessary to safeguard the trade secret and shall determine in each such order:

1. That the OAL shall not maintain a duplicate case file after the initial decision has been provided to the parties and agency head; and

2. That all documents transmitted to the OAL together with all evidence received at hearing and all audio tapes or transcripts, if any, shall be returned to the transmitting agency with the initial decision; and

3. That all requests for transcripts prior to the initial decision shall be directed to the judge and that all requests for transcripts after the initial decision shall be directed to the transmitting agency; and

4. Whether any portions of the audio tapes of the proceeding may not be transcribed or whether other means of safeguarding the trade secret can be utilized when preparing a transcript; and

5. The names of persons who are authorized to request a transcript; and

6. Whether the entire initial decision, transcript, audio tapes, evidence and other related case materials or any part thereof must be marked "CONFIDENTIAL" and distributed by hand or certified mail in a plain envelope addressed only to a person authorized to receive the secret information; and

7. Whether the initial decision or any part thereof may be made available to the public in any agency's library.

1:21-3.3 Exceptions to the public hearing policy

When necessary to prevent the trade secret from being disclosed without authorization, the judge may make an exception to the public hearing requirements of N.J.A.C. 1:1-3.1 and he or she may close the hearing, or any part thereof, and exclude witnesses, or, if necessary, parties from portions of the hearing.

SUBCHAPTER 4. (RESERVED)

SUBCHAPTER 5. TRANSMISSION OF CASES TO THE OFFICE OF ADMINISTRATIVE LAW

1:21-5.1 Transmission of cases; the trade secret documentation or information

Whether the case is transmitted to the Office of Administrative Law, under N.J.A.C. 1:1-5.2, by the Department of Environmental Protection or the Department of Health, any information or documentation which reveals the trade secret shall not be transmitted with the case file.

1:21-5.2 Custody of the trade secret information or documentation; no copying

(a) Any information or documentation which reveals the trade secret shall remain throughout the hearing in the physical custody of DEP or DOH representatives.

(b) When needed, upon the judge's direction, the trade secret information or documentation shall be brought to the hearing by the responsible department representatives.

(c) The trade secret information or documentation shall not be placed in the Office of Administrative Law case file and may not be xeroxed by any OAL personnel.

(d) The trade secret information shall not be communicated over telecommunication networks, including but not limited to, telephones, computers connected by modems, or electronic mail systems.

(e) The judge may, when necessary for the performance of his or her functions, disclose the trade secret information to his or her secretary.

SUBCHAPTER 6. (RESERVED)

SUBCHAPTER 7. (RESERVED)

SUBCHAPTER 8. (RESERVED)

SUBCHAPTER 9. MOTIONS

1:21-9.1 Written motions

Written motions shall be made directly to the judge without the necessity of filing with the Clerk.

SUBCHAPTER 10. (RESERVED)

SUBCHAPTER 11. DISCOVERY

1:21-11.1 Discovery in trade secret cases

(a) When necessary to prevent the trade secret from being disclosed without authorization, the judge may order:

1. That the requested discovery not be had;

2. That the discovery may be had only on specified terms and conditions, including a designation of the time or place;

3. That the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;

4. That certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;

5. That discovery be conducted with no one present except persons designated by the judge;

6. That a deposition after being sealed be opened only by order of the judge;

7. That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the judge; or

8. Any other device which reasonably balances the discovery goal of minimizing surprise at hearings with the need to protect the trade secret from an unauthorized disclosure.

SUBCHAPTER 12. (RESERVED)

SUBCHAPTER 13. (RESERVED)

SUBCHAPTER 14. (RESERVED)

SUBCHAPTER 15. (RESERVED)

SUBCHAPTER 16. INITIAL DECISIONS AND RETURNING THE CASE TO THE TRANSMITTING AGENCY

1:21-16.1 Delivery of initial decisions, transcripts, audio tapes, evidence and other related case materials.

(a) Unless the judge otherwise directs in the record sealing order (see N.J.S.A. 1:21-3.2), the parties to the case and the transmitting agency or their designated representatives will be telephoned and asked to pick up the initial decision at the judge's chambers at the OAL. The indicated date of receipt by the agency head, as required by N.J.S.A. 52:14B-10(c), shall be the second workday after the OAL telephones the transmitting agency.

(b) Unless the judge otherwise directs in the record sealing order, the transmitting agency will be telephoned and asked to pick up at the OAL the transcript, if any, audio tapes, evidence

and other related case materials on the same date it is requested to pick up the initial decision.

(c) After returning the case to the transmitting agency, the OAL may maintain in the Clerk's file only the transmittal form, the notices of filing and hearing and the order sealing the record.

AGRICULTURE

(a)

DIVISION OF RURAL RESOURCES

State Soil Conservation Committee General Provisions

Readoption: N.J.A.C. 2:90-1

Proposed: May 20, 1985 at 17 N.J.R. 1160(a).
Adopted: June 24, 1985, Arthur R. Brown, Jr.,
Chairman, State Soil Conservation Committee.
Filed: June 24, 1985 as R.1985, d.370, **without change**.

Authority: N.J.S.A. 4:24-3 and 4:24-42.

Effective Date: June 24, 1985.
Expiration Date pursuant to Executive Order No.
66(1978): June 24, 1990.

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. 2:90-1.

COMMUNITY AFFAIRS

(b)

DIVISION OF HOUSING AND DEVELOPMENT

Annual Permits

Adopted Amendments: N.J.A.C. 5:23-1.4, 2.14, 4.18 and 4.20.

Proposed: May 6, 1985 at 17 N.J.R. 1029(a).
Adopted: June 12, 1985 by John P. Renna,
Commissioner, Department of Community Affairs.
Filed: June 14, 1985 as R.1985 d.351, without change.

Authority: N.J.S.A. 52:27D-124.

Effective Date: July 15, 1985.
Expiration Date pursuant to Executive Order No.
66(1978): April 1, 1988.

Summary of Public Comments and Agency Responses:

A comment was received from one State agency protesting that it would be unreasonably costly to them to have to obtain annual permits for their facilities. In reply, the Department made it clear that no owner of a facility is **required** to obtain an annual permit. Rather, it is an option available to those who do work requiring a permit on a continuing basis and for whom getting a permit each time work is done is burdensome.

Full text of the adoption follows.

5:23-1.4 Definitions

"Building" through "Equipment" (No change.)

"Facility" for the purpose of applying for an annual permit means exclusive of a hotel/casino, a building or group of buildings under common ownership or control and whose maintenance work is performed under the direct supervision of a maintenance supervisor.

"Health Care Facility" through "Subcode" (No change.)

5:23-2.14 Construction permits when required

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

(c) An annual construction permit may be issued by the construction official to educational, industrial, institutional, mercantile, business and government facilities based upon submission of the following:

1. Identification of the facility and the buildings covered by the application for the annual permit.
2. Identification of the location within the facility where the annual permit records will be maintained.
3. A listing of the names, titles and trade specialties of the facilities full-time maintenance staff.
4. The name of the person responsible for the maintenance logs, job assignments and quality control.
5. A statement, from the management of the facility attesting that the maintenance staff performing work under the annual permit are under the direct supervision of a qualified individual, as set forth under N.J.A.C. 5:23-2.14(e)1, or are individually qualified in their respective trades. Evidence of qualification shall be journeyman status, civil service status, trade experience, trade school certification, college degree, State licensure pursuant to law or other appropriate evidence of competence.

6. A statement from the management explaining their policies and procedures for providing training on construction codes on a regular basis for their entire maintenance staff.

7. A statement from the management explaining the procedures of the applicant to ensure proper quality control of the work performed under the annual permit.

8. Receipt of the required annual permit fee and training registration fee.

(d) The Construction Official, upon review of the application may issue or deny an annual construction permit in whole or in part. The construction permit (Form F-170) shall state that the permit is an annual permit and indicate the technical subcodes in which the facility is approved to do work under the annual permit. A copy of the annual permit shall be forwarded by the Construction Official to the Department of Community Affairs Training Section along with the appropriate training registration fee.

(e) Conditions of the annual permit:

1. The "annual permit" may be issued for building/fire protection, electrical, or plumbing work or any combination of those classifications of work, providing that the individual responsible for work done under the annual permit possesses knowledge, as evidenced in accordance with N.J.A.C. 5:23-

2.14(c)5, in the technical work classification or classifications for which the annual permit is sought.

2. (No change.)

3. The facility shall maintain a construction log of all work performed. The construction log shall contain the date, a brief description and estimated or actual cost of the project. This log shall be subject to a quarterly inspection by the construction official or his authorized representative. Any business record showing when and where work was done and the extent of such work shall be deemed to be a construction log: Applications for the renewal of the "annual permit" shall be filed with the Construction Official at least 60 days prior to the expiration of the current annual permit. The facility application shall make current the information previously submitted to the Construction Official. The application for renewal shall be accompanied by the established fee.

4. The annual permit covers all construction or maintenance work done by the facilities full-time maintenance staff, but shall not include work performed by outside contract even if the contractor is hired by the facility and working under direct supervision of the facilities maintenance staff. Work performed by outside contract shall be subject to applicable UCC regulations and State Licensure Law.

5. A permanent work log of all work done under the "annual permit" must be maintained at the facilities maintenance office. The log must contain the date, a brief description of the work and the name of the person supervising the work. The log shall be retained for three years.

6. Architectural or engineering drawings, if necessary for work done under the annual permit, shall be prepared by a registered architect or licensed engineer as defined by the statutory requirements of the professional registration laws of this State and shall be kept permanently on file and be made available to the Construction Official and appropriate subcode official, for review upon request.

7. The appropriate subcode official, at least two (2) times a year, shall perform inspections of the facility for which an annual permit has been issued. The maximum time between inspections shall be a six month period.

8. Work, other than of a minor nature—similar to that listed in N.J.A.C. 5:23-2.17A, that is normally inspected prior to closing shall be inspected by the appropriately licensed subcode official upon proper notice. This notice shall be given at least 24 hours prior to the time inspection is desired. Such inspections shall be conducted within three (3) business days of the time for which it was requested. The fee for such inspections will be the permit fee per subcode that has been established as a minimum fee for such subcode by the enforcing agency having jurisdiction, as set forth at N.J.A.C. 5:23-4.18 and 4.20.

9. Any work that is done under the supervision of the facilities maintenance staff and under a regular construction permit shall be entered into the annual permit log. The construction permit number shall be listed as a part of the entry.

10. Any training material made available to the facility by this Department will be used as directed.

i. The facility will conduct a minimum of five (5) instructional hours per year per subcode area in which the annual permit has been issued. Management of the facility will insure that the training is attended by all supervisors, engineers, foremen and workers involved in construction or maintenance work done under the annual permit.

ii. A training log will be maintained by the management of the facility. This log will indicate the types of training conducted, the dates, names and signatures of the staff who attended the

training and certification by management to the Construction Official that the information is correct.

11. Any changes to the annual construction permit application shall be forwarded to the Construction Official within 30 days of the change.

12. The following work is not permitted under an annual permit:

- i. Any work done on a facility that would result in a change of use of a building or part of a building;
- ii. New buildings and additions regardless of size;
- iii. Alterations completed between inspection periods in excess of 5,000 square feet per building;
- iv. Any work done on a facility that would result in an increase to the area of a building;
- v. The installation or alteration of a sprinkler system;
- vi. Any work that affects the required means of egress;
- vii. Any work that affects life safety systems, such as, but not limited to:
 - (1) Emergency lighting systems;
 - (2) Smoke and heat detection systems;
 - (3) Stand-by generator systems;
 - (4) Emergency smoke evacuation systems.

5:23-4.18 Standards for municipal fees

(a) General:

1.-3. (No change.)

(Delete current text of 4. and replace it with the following.)

4. The fee to be charged for an annual construction permit shall be charged annually. This fee shall be a flat fee based upon the number of maintenance workers employed by the facility and who are primarily engaged in work that is governed by a subcode. Managers, engineers and clericals shall not be considered maintenance workers for the purposes of establishing the annual construction permit fee. Annual permits may be issued for building/fire protection, electrical and plumbing.

5. A training registration fee of \$100 per subcode shall be submitted by the applicant to the municipal construction official who shall forward the fee to the Department of Community Affairs, Training Section along with copies of the construction permit (Form F-170). Checks shall be made payable to "Treasurer, State of New Jersey".

(b)-(l) (No change.)

5:23-4.20 Department fees

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

(c) Departmental (enforcing agency) fees

1.-10. (No change.)

11. The fee to be charged for an annual construction permit shall be charged annually. This fee shall be a flat fee based upon the number of maintenance workers employed by the facility and who are primarily engaged in work that is governed by a subcode. Managers, engineers and clericals shall not be considered maintenance workers for the purpose of establishing the annual construction permit fee. Annual permits may be issued for building/fire protection, electrical and plumbing. Fees shall be as follows:

1-25 workers (including foreman)	\$250/worker
each additional worker over 25	\$100/worker

12. A training registration fee of \$100 per subcode shall be submitted by the applicant to the Department of Community Affairs, Training Section along with a copy of the construction permit (Form F-170). Checks shall be made payable to "Treasurer, State of New Jersey".

(a)

DIVISION OF HOUSING AND DEVELOPMENT

**Uniform Construction Code
Construction Permits Application; Renewal of License**

Adopted Amendments: N.J.A.C. 5:23-2.15 and 5.7.

Proposed: May 6, 1985 at 17 N.J.R. 1031(a).
Adopted: June 12, 1985 by John P. Renna,
Commissioner, Department of Community Affairs.
Filed: June 14, 1985 as R.1985 d.352, without change.

Authority: N.J.S.A. 52:27D-124.

Effective Date: July 15, 1985.
Expiration Date pursuant to Executive Order No. 66
(1978): April 1, 1988.

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

Full text of the Adoption follows.

5:23-2.15 Construction permits—application

(a) (No change.)

(b) In addition, the following information shall be required on any application for a construction permit when such information is available, but not later than the commencement of work.

1. The names and addresses of all contractors engaged or planned for engagement by the owner in the prosecution of the work.

i. A current validated State builder registration card shall be shown by the contractor and the registration number of the contractor shall be recorded on the permit, pursuant to the New Home Warranty and Builder's Registration Act (N.J.S.A. 46:3B-1 et seq.), if the project is a one or two family dwelling, condominium or cooperative, unless it is to be built in whole or in part by an owner, in which case an affidavit shall be filed by the owner on a form prescribed by the Department of Community Affairs, in which he acknowledges that work done by him, or by a subcontractor working under his supervision, is not covered under the New Home Warranty and Builders' Registration Act and states that he will disclose this information to any person purchasing the property from him within 10 years of the date of issuance of a certificate of occupancy.

2.-4. (No change.)

(c)-(e) (No change.)

5:23-5.7 Renewal of license

(a) (No change.)

(b) Every two years any license already issued shall be renewed upon submission of an application, payment of the required fee, and verification by the Office of Code Enforcement Official licensure that the applicant has met such continuing educational requirements as may be established by the Commissioner. The Department shall renew the license previously issued for a term of two years. The renewal date shall be 90 days prior to the expiration dates which shall be July or January 31.

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

(e) Where the holder of a license has allowed the license to lapse by failing to renew the license as provided for in (b) of this section, a new application and license shall be required. If such application is made within two years of the license having lapsed, then application may be made in the same manner as a renewal application. The late renewal application shall be accompanied by the appropriate renewal fee and an additional late fee of \$30.00 per year or fraction thereof. Additionally, the licensee must make up or meet the annual continuing education training requirement for each active and expired year as specified herein. Where a license has lapsed for a period exceeding two years, a new application shall be required in accordance with N.J.A.C. 5:23-5.5, and the applicant must meet all current licensure requirements.

(f) (No change.)

(b)

DIVISION OF HOUSING AND DEVELOPMENT

**Uniform Construction Code
Private Enforcing Agency Reauthorization Fees; Trainees**

Adopted Amendments: N.J.A.C. 5:23-4.21 and 5.4(d)6.

Proposed: May 6, 1985 at 17 N.J.R. 1032(a).
Adopted: June 12, 1985 by John P. Renna,
Commissioner, Department of Community Affairs.
Filed: June 14, 1985 as R.1985 d.353, without change,
but with portion of the proposal not adopted but still pending.

Authority: N.J.S.A. 52:27D-124.

Effective Date: July 15, 1985.
Expiration Date pursuant to Executive Order No.
66(1978): April 1, 1988.

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

Agency Note: Proposed amendments to N.J.A.C. 5:23-5.4(d)3. are not adopted but still pending.

Full text of the adoption follows.

5:23-4.21 Private enforcing agency authorization and reauthorization fees

(a) (No change.)

(b) Reauthorization fee:

1. Any onsite inspection agency submitting an application to the Department under N.J.A.C. 5:23-4.12 for reapproval as an inspection agency shall pay a fee of \$1,000 for each subcode for which authorization is sought plus an amount equal to five percent of the gross revenue earned from State Uniform Construction Code enforcement activities during the previous 12-month period. This fee shall be paid to the Department in 12 equal installments, beginning with the month immediately following the end of the 12 month period from which the fee is

calculated. Payment shall be made prior to the last business day of each month.

2. (No change.)

5:23-5.4 Licenses required

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

(d) Rules concerning trainee personnel are:

1.-2. (No change.)

3. Persons meeting the following experience requirements shall be eligible to be employed as trainees:

i. Fire protection inspector trainee—a minimum of three years in the fire service or as an architect, or engineer.

ii. Building inspector trainee—a minimum of three years experience with building construction as a journeyman, contractor, designer, architect or engineer.

iii. Plumbing inspector trainee—a minimum of three years as a journeyman plumber, designer, architect or engineer.

iv. Electrical inspector trainee—a minimum of three years experience as a journeyman electrician, designer, architect.

4.-5. (No change.)

6. To remain employed by an enforcing agency, a trainee must enroll in, and successfully complete, the appropriate approved course(s) within two years of the effective date of his employment as required in N.J.A.C. 5:23-5.5(b). Trainees who fail to successfully complete the appropriate course(s) within two years of the effective date of their employment will not be permitted to renew their registration until successful completion is achieved.

7.-14. (No change.)

(e) (No change.)

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Rooming and Boarding Houses

Readoption: N.J.A.C. 5:27

Proposed: February 19, 1985, at 17 N.J.R. 341(b).

Adopted: June 12, 1985 by John P. Renna,

Commissioner, Department of Community Affairs.

Filed: June 14, 1985 as R.1985, d.350, **without change**.

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

Effective Date: June 14, 1985.

Expiration Date pursuant to Executive Order No.

66(1978): June 1, 1990.

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. 5:27.

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF WASTE MANAGEMENT

Discharge of Petroleum and Other Hazardous Substances

Adopted New Rules: N.J.A.C. 7:1E

Proposed: April 15, 1985 at 17 N.J.R. 865(a).

Adopted: June 25, 1985 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: June 26, 1985 as R.1985, d.377, **without change**.

Authority: N.J.S.A. 58:10-23.11 et seq. and N.J.S.A. 13:1D-1 et seq.

Effective Date: July 15, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): July 15, 1990.

DEP Docket No.: 016-85-03.

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. 7:1E.

(c)

DIVISION OF WATER RESOURCES

Surface Water Quality Standards and Treatment of Wastewater Discharged into Surface Waters of the State

Notice of Correction: N.J.A.C. 7:9-5.4

Take notice that an error appears in the May 20, 1985 issue of the New Jersey Register at 17 N.J.R. 1286 concerning Statements of policy. The amendments at N.J.A.C. 7:9-5.4(a)1.i. and 5.4(a)1.ii. should have appeared as amendments to N.J.A.C. 7:9-5.4(b)1. N.J.A.C. 7:9-5.4 should have appeared as follows:

7:9-5.4 Statements of policy

(a) The following are general statements of policy:

1. It shall be unlawful for any person to discharge any pollutant into waters of the State, except in conformity with a valid permit issued by the Commissioner or by the Administrator of the United States Environmental Protection Agency.

2.-6. (No change.)

(b) The following are statements of policy concerning disinfection of wastewater:

1. All wastewaters that could contain pathogenic organisms shall receive continuous year round disinfection prior to their discharge into waters of the State.

*i. For those portions of the New York Harbor area where seasonal disinfection was allowed under the wastewater disinfection requirements contained in "Treatment of Wastewater Discharged into Surface Waters of the State" as adopted in March 1981, compliance with the provisions of paragraph 1 above is not required until the provisions of Section 2.05(b) of the Interstate Sanitation Commission's Water Quality Regulations (as amended) become effective on July 1, 1986. In the interim the wastewater disinfection requirements of the 1981 regulations, regarding seasonal disinfection, will remain in effect.

ii. The Department may consider applications to undertake scientific studies for the purposes of evaluating the effectiveness of existing and/or proposed disinfection practices. Such studies, including any participating discharges, must be approved in advance by the Department.*

2.-5. (No change.)

(a)

DIVISION OF WASTE MANAGEMENT

Hazardous Waste Criteria, Identification and Listing Wastestreams

Adopted Amendment: N.J.A.C. 7:26-8.15(e) and 8.15(f)

Proposed: February 19, 1985 at 17 N.J.R. 356(a).
 Adopted: June 24, 1985 by Robert E. Hughey,
 Commissioner, Department of Environmental Protection.
 Filed: June 24, 1985 as R.1985 d.375, **without change.**

Authority: N.J.S.A. 13:1E-1 et seq., specifically 13:13E-6, and N.J.S.A. 7:26-1 et seq.
 Effective Date: July 15, 1985.
 Expiration Date pursuant to Executive Order No. 66 (1978): August 6, 1986.
 DEP Docket No.: 002-85-01

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

Full text of the adoption follows.

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

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

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

(e) The following commercial chemical products or manufacturing chemical intermediates, referred to in (a) through (d) above, are identified as acute hazardous waste (H). These wastes and their corresponding EPA Hazardous Waste Numbers are:

Hazardous Waste No.	Substance
...	

P001	3-(alpha-Acetylbenzyl)-4-hydroxycoumarin and salts, when present at concentrations greater than 0.3 percent
...	
P001	Warfarin, when present at concentrations greater than 0.3 percent
...	
P122	zinc phosphide, when present at concentrations greater than 10 percent (R.T.)
...	

(f) The following commercial products or manufacturing chemical intermediates, referred to in (a), (b), and (d) above, are identified as toxic wastes (T) unless otherwise designated. These wastes and their corresponding EPA Hazardous Waste Numbers are:

Hazardous Waste No.	Substance
...	
U248	3-(alpha-Acetylbenzyl)-4-hydroxycoumarin and salts, when present at concentrations of 0.3 percent or less
...	
U248	Warfarin, when present at concentrations of 0.3% or less
...	
U249	Zinc phosphide, when present at concentrations of 10% or less
...	

HEALTH

(b)

DIVISION OF HEALTH FACILITIES EVALUATION

Standards; All Health Care Facilities Licensure Fees

Adopted Amendment: N.J.A.C. 8:31-26.5

Proposed: March 18, 1985 at 17 N.J.R. 664(a).
 Adopted: June 20, 1985 by Allen N. Koplin, M.D.,
 Acting Commissioner, Department of Health (with approval of Health Care Administration Board).
 Filed: June 24, 1985 as R.1985 d.372, **with a substantive change** not requiring additional public notice or comment (see N.J.A.C. 1:30-3.5) and with 8:31-26.5(a)2 **not adopted** but still **pending.**

Authority: N.J.S.A. 26:2H-1 et. seq., specifically 26:2H-5.

Effective Date: July 15, 1985.
 Expiration Date pursuant to Executive Order No. 66 (1978): August 20, 1989.

Summary of Public Comments and Agency Responses:

The Department received seven letters of comment regarding the proposed amendment: N.J.A.C. 8:31-26.5, Standards; All Health Care Facilities, Licensure Fees. Letters of comment were received from: The Executive Directors of Planned Parenthood of Monmouth County, Inc., New Jersey Family Planning League, Inc., Planned Parenthood of Northwest New Jersey, Health Services of Hudson County, Planned Parenthood of Bergen County, Inc., and the New Jersey Association of Non-Profit Homes for the Aging, and the Superintendent of the Sussex County Homestead and Sussex County Welfare Board.

All comments received were in opposition to the proposed amendment. One letter of comment expressed concerns that the amount of the increase in one budget year was extreme, the fee was excessive, the facility had no means of assimilating the fee increase into their budget, and the fee scale in the proposed amendment was not equitable for all health care facilities. Another facility indicated that increased licensure fees would require diverting funds needed to meet the health care needs of their community. A respondent stated, "I find this huge increase totally unacceptable in these times of fiscal cutbacks. When our budgets are so strained and our services so desperately needed by the poor..."

A commentator misinterpreted the proposed amendment and thought that the proposed increase in licensure fees would be used to increase the Department's surveillance activities for ambulatory care facilities. The same commentator stated "Budgets have been reduced dramatically in the past few years and this unanticipated fee increase would force programs to allocate its limited resources away from patient costs to accommodate this very substantial increase." Another commentator also misinterpreted the proposal and objected "to the proposed increase in licensure fees as no specific plans for increasing the quality of the Department's monitoring activities are set forth in the statement. We believe that specific plans should govern the need for resources, and that the absence of such plans gives the appearance of revenue shifting alone."

One respondent indicated that "If this increase occurs we will be forced to decide whether we wished to be licensed and continue to serve the indigent client or shall we be in existence for only the client who can afford to pay our fees." Another commentator stated "the proposal fails to justify the reason for this huge escalation, what factor(s) forms the basis for this extraordinary fee increase, particularly during a period of tightening resources."

In response to the issues raised by the commentators, the Department reviewed the amendment and resolved to adopt the amendment to N.J.A.C. 8:31-26.5 with a technical and substantive change not requiring additional public notice or comment, in order to ensure the quality of care and services in health care facilities. The Department contends that failure to maintain the present level of surveillance of health care facilities would compromise the health and safety of patients. This increase in licensure fees is a continuation of the Department's implementation of the legislative directive to increase the Department's revenues. The Department affirms that the fee increase is needed in order to maintain a level of surveillance of facilities sufficient to support the effort of the Department to ensure the quality of health care provided to patients in New Jersey rather than to increase the Department's surveillance activities. The Department also maintains that when the fee increase is considered from a cost per patient aspect, one can see that the fee increase is not likely to produce excessive adverse financial consequences.

However, the Health Care Administration Board at its meeting on June 13, 1985, expressed its concern regarding N.J.A.C.

8:31-26.5(a)2 which seeks to increase the licensure fee for Ambulatory Care Facilities, Home Health Agencies, and Medical Day Care Facilities to \$500.00. The members of the Health Care Administration Board were concerned about the capability of small family planning centers to meet the licensure fee requirements due to the current level of funding and the availability of grants to these facilities. The members of the Health Care Administration Board voted to defer the increase of the licensure fee for Ambulatory Care Facilities, Home Health Agencies, and Medical Day Care Facilities and to retain the current licensure fee of \$100.00 pending further evaluation and review of the matter.

A technical and substantive change was made in the adopted amendment in order to clarify the intent of the rule. The phrase "except hospitals" was added to N.J.A.C. 8:31-26.5(b) to make this rule consistent with N.J.A.C. 8:31-26.5(a)1 and 2. N.J.A.C. 8:31-26.5 does not apply to hospital facilities. The fee schedule for hospitals appears in the New Jersey Administrative Code at N.J.A.C. 8:43B-1.8.

The Department acknowledged the receipt of the comment letters and responded by letter to each commentor.

Full text of the adoption follows (addition to the proposal shown in boldface with asterisks *thus*).

8:31-26.5 Licensure fees

(a) The department shall charge a nonrefundable fee for the filing of an application for licensure of a health care facility and for the annual renewal of the license in accordance with the following:

1. All inpatient health care facilities, except hospitals, shall pay a fee based on the number of beds in the facility as follows:

Inpatient Facilities	Fees
Long-term Care	\$500.00 plus \$3.00 per bed
Alcoholism Treatment	\$500.00 plus \$3.00 per bed
Drug Treatment	\$500.00 plus \$3.00 per bed
Residential Health Care	\$100.00 plus \$3.00 per bed

"Hospital" is defined in N.J.A.C. 8:43B-1. Facilities referred to as "satellites" shall be included among those referred to as "hospitals" in N.J.A.C. 8:31-26.5 for the purposes of issuance of licenses and assessment of licensure fees.

2. All other health care facilities, except hospitals, shall pay a fee as follows:

Facilities	Fees
Ambulatory Care	\$500.00 pending
Home Health Agencies	\$500.00 pending
Medical Day Care	\$500.00 pending

(b) These regulations shall supersede all previous regulations regarding fees for licensure of health care facilities *, **except hospitals***.

(a)

HOSPITAL REIMBURSEMENT

**Procedural and Methodological Regulations
Use of Findings**

Adopted Amendment: N.J.A.C. 8:31B-3.79

Proposed: April 15, 1985 at 17 N.J.R. 873(a)
 Adopted: June 13, 1985, by J. Richard Goldstein,
 M.D., Commissioner, Department of Health (with
 approval of the Health Care Administration Board)
 Filed: June 17, 1985, as R.1985 d.359, **without change**.

Authority: N.J.S.A. 26:2H-1, et seq., specifically
 26:2H-5b, and 26:2H-18d.

Effective Date: July 15, 1985.
 Expiration Date: Pursuant to Executive Order 66
 (1978): October 17, 1985.

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

Full text of the adoption follows.

8:31B-3.79 Use of findings

(a) Typical cases:
 1.-3. (No change.)

(b) Atypical cases:

1. (No change.)

2. Adjustment of payments: Outliers

i. (No change.)

ii. Inappropriate level of care:

(1) (No change.)

(2) Reimbursement for each eligible patient will be based upon a Statewide weighted average SNF or ICF per diem rate of Medicaid participating long-term care facilities, in effect as of January 1 of the rate year. Separate Statewide weighted average per diem rates will be calculated for both the Skilled (SNF) and Intermediate (ICF) levels of care patients as follows:

(A) Multiply the SNF payment rate, of each Medicaid long-term care facility, in effect as of January 1 of the rate year by the total Medicaid SNF patient days as reported on the most recent Medicaid cost report (12-month period). The Statewide Medicaid total SNF dollars are divided by the total Statewide Medicaid SNF days to arrive at a weighted average SNF per diem. The ICF per diem is calculated following the same steps using total Medicaid ICF days and costs. These SNF and ICF rates will be final for billing purposes and final reconciliation.

iii. (No change.)

(a)

**DIVISION OF HEALTH PLANNING AND
 RESOURCES DEVELOPMENT**

Renal Disease Services

**Standards and General Criteria for the
 Planning and Certification of Need for
 Regional End-Stage Renal Disease Services**

Adopted Amendments: N.J.A.C. 8:33F-1.4

Proposed: April 15, 1985 at 17 N.J.R. 874(a)
 Adopted: June 13, 1985 by J. Richard Goldstein,
 M.D., Commissioner, Department of Health (with
 approval of the Health Care Administration Board)

Filed: June 17, 1985, as R.1985 d.360 **with technical changes** not requiring additional public notice and comment. (See N.J.A.C. 1:30-3.5)

Authority: N.J.S.A. 26:2H-5 and 26:2H-8.

Effective Date: July 15, 1985.

Expiration Date: Pursuant to Executive Order 66
 (1978): January 14, 1970.

Summary of Public Comment and Agency Responses:

Written comments were received during the comment period. The two commenters were National Medical Care, Inc., from Massachusetts, who wrote on behalf of the six free-standing dialysis facilities which they own in New Jersey; and Helene Fuld Medical Center which is located in Trenton, N.J.

COMMENT:

National Medical Care, Inc. through its subsidiaries, owns and operates six outpatient hemodialysis facilities in New Jersey. This commenter outlined four main points:

1. The proposal, on its face, does not demonstrate a need for a new section 1.4(b). The current procedures are working well and the regulation should not be changed.

2. The level of detail which is set forth in the proposed section 1.4(b) should be left to licensure regulations.

3. The economic impact of proposed section 1.4(b) will necessarily increase the cost of acute hemodialysis. Every one of the nine standards which is set forth raises the cost of care.

4. The effect of the proposed amendment is to concentrate acute dialysis services at a few ESRD approved hospitals. Non-ESRD approved hospitals cannot afford to comply with the proposed regulations and Inter-Hospital Hemodialysis Outreach Program (IHOP) arrangements will be equally expensive. Questions regarding access and continuity of care are not addressed in the proposed amendments.

RESPONSE:

1. The proposed amended section 1.4(b) extends its applicability from coverage of non-ESRD approved facilities proposing to offer acute hemodialysis services, to any applicant interested in providing the service. As indicated in the rule's summary statement, the Department is especially concerned about the quality of acute dialysis services which are provided to patients particularly those acute services delivered through the Inter-Hospital Hemodialysis Outreach Program (IHOP).

2. The quality of care assurances which are presented in the proposed amendments were recommended by the State Department of Health's Renal Advisory Committee. This Committee, which is composed of both consumers and providers in the dialysis area, concluded that an acute hemodialysis treatment is much more dangerous and hazardous than chronic hemodialysis treatment, and recommended that every effort be made to inform Certificate of Need applicants of their quality of care responsibility within the planning regulations. The quality of care assurances are to also be incorporated into the Manual of Standards for Hospital Facilities which addresses licensing standards and requirements.

3. The patient who is in need of acute hemodialysis services is acutely ill, usually with other systems complications, and there are no vascular accesses available for dialysis, such as shunts or fistulae. The nephrologist must initiate the dialysis treatment directly into the circulatory system using femoral or subclavian catheters and must be available throughout the entire treatment. These staffing requirements are not new and simply reflect the operational state of the field at this time.

Every provider and recipient hospital which has contracted for the provision of acute hemodialysis through an IHOP arrangement has agreed to a pre-established charge for the purchase of services. This contractual agreement for a flat rate charge is more cost effective than the establishment of an acute unit which may have only occasional usage.

4. The medical expertise and back-up required to perform acute hemodialysis treatment is extensive and is not always available in small, less experienced hospitals. Both nephrologist and nurse must be well trained, experienced and alert to any signs of complications or emergency.

The IHOP arrangement allows a non-ESRD approved hospital to purchase individual acute dialysis service from an ESRD approved center or facility on a demand basis. This contractual agreement, which addresses the continuity of patient care, enables the critically ill patient, who cannot be transferred to an approved renal center, to receive acute dialysis treatment. This arrangement, which broadens access to services, does not financially burden the non-ESRD approved hospital with the establishment of its own acute dialysis service when it, in actuality, may only be occasionally utilized.

COMMENT:

Helene Fuld Medical Center indicated concern with proposed section 8:33F-1.4(b)(3) which states that acute hemodialysis will be performed only in intensive or coronary care units. Although this requirement was thought to be correct in most instances, the commenter indicated that there are occasions when a patient diagnosed as "acute" does not need to be housed in a critical care area. This would occur when a patient is medically stable enough to be in a step-down unit or regular medical/surgical unit. Also, some hospital-based dialysis units have cardiac monitoring capability and nursing professionals educated in Coronary Care Nursing. These professionals are as capable as those in ICU/CCU to monitor the critically ill patient.

RESPONSE:

The Department of Health, through its Renal Advisory Committee, has concluded that an acute dialysis treatment is much more dangerous and hazardous than chronic treatment. It should be done only under ideal situations, usually in an acute-care area, with emergency equipment and medical specialists readily available. This standard, however, was developed in order to protect and guarantee optimum care for the patient who is receiving acute hemodialysis service through a contracted Inter-Hospital Hemodialysis Outreach Program (IHOP). This standard was not intended to infringe in any way on those hospitals approved by the Department of Health to provide acute hemodialysis for their patients in an approved area of the hospital. The intent of this requirement will be clarified to indicate its applicability to the provision of acute hemodialysis services through an IHOP arrangement.

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

8:33F-1.4 Acute hemodialysis standards

(a) Acute hemodialysis is defined herein as the rendering of dialysis to a non-ESRD patient with previously life-supporting renal function who has sustained abrupt loss of kidney function. Recovery of kidney function is expected in such cases. The amount of time required to prepare both the patient and equipment for service is generally adequate to transfer most patients to a hospital ESRD dialysis center. Therefore, the department generally does not support the provision of acute hemodialysis

services in non-ESRD approved facilities as this service is provided in all hospital ESRD dialysis centers.

(b) Any applicant for acute hemodialysis services only must provide written documentation of the following quality of care assurances:

1. Acute hemodialysis must be delivered by a qualified team consisting of:

i. The board certified or eligible nephrologist must be acceptable to the hospital which will be providing the services. The nephrologist must be present in the facility during the entire treatment.

ii. A registered professional nurse with one year experience in providing renal dialysis services must be present during the entire treatment. A minimum of one registered professional nurse will be assigned per acute dialysis patient. This registered professional is to perform only those duties directly related to dialysis care and treatment. A registered professional nurse with the above qualifications must be available on call 24 hours a day, seven days a week.

2. The following ancillary personnel must be provided:

i. The patient's primary care physician must be available on call to the nephrologist during the entire dialysis treatment.

ii. The patient's primary care registered professional nurse must be present during the entire dialysis treatment to perform those nursing duties not directly related to dialysis care and treatment.

3. Acute hemodialysis ***being performed through a contractual arrangement with an Inter-Hospital Hemodialysis Outreach Program (IHOP)*** will be performed only in Intensive Care Units or Coronary Care Units.

4. Each acute patient shall have a medical record in accordance with Hospital Licensure Standards. This medical record shall be available to dialysis personnel during the entire dialysis treatment. A copy of dialysis records will be returned to the hospital providing the service for joint review by the Medical Director of the hospital providing these services and the treating nephrologist for the monitoring of care. The qualified team shall be responsible for recording clinical observations relevant to dialysis care and treatment.

5. All equipment used in the dialysis treatment shall be tested periodically with records of test results and equipment maintenance maintained by the provider. Water used for dialysis will be treated in an approved manner.

6. The licensing standards for acute inpatient hospital dialysis must be satisfied.

7. The applicant for acute hemodialysis must have a formal, written agreement with an approved hospital ESRD dialysis center to provide mutually agreed upon educational and training services, as well as to provide for inter-hospital transfer arrangements when necessary.

8. Any applicant proposing to perform acute hemodialysis is required to report utilization data on a quarterly basis directly to the Department of Health's Division of Health Planning and Resources Development.

9. The following must be provided with 24 hour capability by the recipient hospital: Cardiologist and thoracic surgeon, resuscitation team, coagulation laboratory, nuclear medicine and/or ultrasound.

(c) Applications for certificate of need from non-ESRD approved facilities proposing to offer only acute hemodialysis services will be considered only under the following conditions:

1. The non-ESRD approved facility proposing to provide acute hemodialysis during an inpatient stay must document at least 11,250 inpatient medical/surgical and/or intensive/coronary care admissions annually. In the case of multihospital

systems, the 11,250 inpatient admissions must occur at one hospital in the system and may not be the sum of admissions at all hospitals comprising the system.

2. To provide acute hemodialysis services, with its own resources, the applicant hospital with 11,250 inpatient medical/surgical and/or intensive/coronary care admissions must present written certification that the proposed service is needed. In so doing, the applicant must provide written documentation of a minimum of 24 acute cases during the previous 12 months within the applicant institution. The 24 cases shall be limited to kidney disease patients and shall exclude those due to drug overdose and poisoning.

3. The non-ESRD approved facility with less than 11,250 inpatient medical/surgical and/or intensive/coronary care admissions and proposing to provide acute hemodialysis services must provide substantive data that the proposed acute hemodialysis service is needed. In so doing, the applicant must provide written documentation of a minimum of 24 acute cases during the previous 12 months within the applicant institution. The 24 cases shall be limited to kidney disease patients and shall exclude those due to drug overdose and poisoning. A hospital participating in an Inter-Hospital Hemodialysis Outreach Program shall be exempt from the minimum 24 case requirement; and

4. The applicant with less than 11,250 annual inpatient admissions also must demonstrate that in the absence of the proposed service, the population to be served will be denied reasonable access based upon medical necessity to an approved hospital ESRD dialysis center providing inpatient dialysis. Reasonable access shall be interpreted to mean not more than 20 straight miles travel from the point of origin of the patients. The length of time it takes to confirm that a patient needs acute dialysis and to arrange the logistics of such treatment is such that a patient can easily be transferred to a hospital ESRD dialysis center during the time this is occurring and without jeopardy to the patient. A hospital participating in an Inter-Hospital Hemodialysis Outreach Program for acute hemodialysis shall be exempt from the aforementioned 20 straight miles travel requirements.

(d) Applications for certificates of need to provide acute dialysis services to non-approved facilities through an IHOP arrangement will only be accepted from approved ESRD Centers. New IHOPs are required to follow the full certificate of need process. Each IHOP, which has already received a certificate of need, shall undergo the administrative review process each time it adds a hospital so long as it does not propose to serve a hospital outside a radius of thirty miles from its facility (N.J.A.C. 8:33-3). An existing IHOP proposing to serve a facility beyond the thirty mile radius shall be required to follow the full certificate of need process.

(a)

PUBLIC HEALTH COUNCIL

State Sanitary Code, Chapter II Reportable Diseases

Readoption with Amendment: N.J.A.C. 8:57-1

Proposed: April 1, 1985 at 17 N.J.R. 784(a)

Adopted: June 17, 1985 by Evelyn Geddes,
Chairperson, Public Health Council.

Filed: June 18, 1985, as R.1985 d.363 with substantial changes not requiring additional public notice and comment. (See N.J.A.C. 1:30-3.5)

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

Effective Date for Readoption: June 18, 1985.

Effective Date for Amendment: July 15, 1985.

Operative Date: August 1, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): June 18, 1990.

Summary of Public Comments and Agency Responses:

The New Jersey Department of Health proposed the readoption of N.J.A.C. 8:57-1.1 et seq. with amendments to include acquired immunodeficiency syndrome (AIDS) in the list of reportable diseases and to include Meningitis, Infectious, etiology: **Hemophilus influenzae** in the list of reportable diseases by telephone, in the New Jersey Register on April 1, 1985, 17 N.J.R. 784. The public comment period remained open for 30 days through May 1, 1985. In addition, a public hearing concerning the proposed readoption with amendments was held on May 13, 1985 at the New Jersey Department of Health.

The following testified at the public hearings, three of whom submitted written testimony (indicated by an asterisk).

Mr. Gary Berger - New Jersey Lesbian and Gay Coalition*

Mathilde Krimm, Ph.D. - AIDS Foundation

Mr. Jeffrey Levi - National Gay Task Force*

Mr. Tim Sweeney - Lambda Legal Defense*

Nick Ifft, M.D. - Philadelphia AIDS Task Force

Ms. Lee Arnold - Private Citizen

An additional 10 written comments were submitted by the following:

Mr. Gary B. MacDonald, AIDS Action Council

Ms. Deborah E. Lamm, United States Conference of Local Health Officers

Mr. Jeffrey Levi, National Gay Task Force

Mr. Gary Berger, New Jersey Lesbian and Gay Coalition
Mr. Paul Jackson, Health Officer, Township of Livingston,
and Member, NJ Public Health Council

Mr. Howard Cooper, Director, Social Services, City of Trenton, NJ

Dr. Richard B. Porwancher, Chief, Infectious Diseases, St. Francis Medical Center, Trenton, NJ

Angela Perun, Esq. Assemblywoman, District 17 (Middlesex/Union)

Mr. D. Bennett Mazur, Assemblyman, District 37 (Bergen)

Dr. Molly Joel Coye, Office of Policy and Planning, Office of the Governor

The following summarizes the comments received and provides the Department's response to these comments. All comments are on file at the New Jersey Department of Health.

COMMENT:

Mr. Paul Jackson opposed the manner of reporting AIDS by physicians (8:57-1.3) and institutions (8:57-1.4). Physicians and institutions are required to report diseases, except venereal diseases, to the local health officer. The local health departments in turn report to the State Department of Health. Mr. Jackson is interested in protecting the confidentiality of the patient with

AIDS, and wished that AIDS be reported directly to the Department, similar to the manner that venereal diseases are reported.

RESPONSE:

Reporting AIDS directly to the Department of Health, as suggested by Mr. Jackson, is not in agreement with N.J.S.A. 26:4-15, Reporting of Communicable Diseases by Physicians. This statute states that in cases of venereal diseases, the report shall be made to the State Department of Health, and in other cases to the health officer and employee designated to receive such reports by the local board of health. Venereal diseases, in the same document, is defined to include syphilis, gonorrhea, chancroid, lymphogranuloma venereum and granuloma inguinale. New legislation is necessary to make AIDS reportable directly to the State Department of Health.

COMMENT:

The rest of the comments opposed reporting reactive HTLV-III test results to the State Department of Health. The currently available test for HTLV-III antibody is recommended and used to screen all donated blood for transfusion. The other uses of the test are in research and clinical evaluation of ill individuals. The test is not a test for AIDS. A reactive test, therefore, is not indicative of AIDS especially on individuals who do not have any manifestations of the disease. Disclosure of HTLV-III test results may cause harm to reactive individuals. These individuals will unjustly be labelled as AIDS cases and may be subjected to discrimination and may lose employment and life and health insurance. Cases of discrimination were cited.

RESPONSE:

The Department needs to collect data on AIDS for purposes of surveillance, disease control and research. The virus that causes AIDS is the human T cell lymphotropic virus, Type III (HTLV-III) for which an antibody test is available. AIDS is believed to be the most severe manifestation of this viral infection. Other individuals infected with the virus may remain well (asymptomatic) or may have manifestations similar to AIDS but not come down with the unusual malignancies or opportunistic infections indicative of AIDS. These individuals, while they may be infected with the same viral agent, will remain unidentified. The Department feels the need to collect data on individuals who may not have AIDS but who are symptomatic and reactive to HTLV-III antibody for surveillance, research and disease control purposes.

The Department, therefore, decided to ask the Council to defer the proposed amendment to include AIDS in the list of reportable diseases. The Department will suggest certain legislation to make AIDS reportable, strengthen the procedure to maintain confidentiality of information on AIDS cases and allow the Department flexibility in data collection to fit current and future needs.

There were no comments received on the re-adoption of N.J.A.C. 8:57-1.1 with amendment to 8:57-1.2(b) including Meningitis, infectious, etiology: ***Hemophilus influenzae*** to the list of diseases reportable immediately by telephone.

Full text of the re-adoption appears in the New Jersey Administrative Code at N.J.A.C. 8:57-1.

Full text of the adopted amendments follows: (deletions from proposal shown in brackets with asterisks*[thus]*).

8:57-1.2 Reportable diseases

(a) The following diseases are declared to be reportable to the State Department of Health for purposes of this code. All

diseases listed herein are to be reported in the manner prescribed by 8:57-1.3, 1.4, 1.5, 1.6 and 1.10 of this Chapter.

[Acquired Immunodeficiency Syndrome (AIDS)]

Amebiasis
 Anthrax
 Atypical Mycobacterioses
 Babesiosis
 Botulism
 Brucellosis
Campylobacter fetus
 Diseases
 Dengue
 Diphtheria
 Encephalitis, Infectious
 (Specify)
 Food/Water-Borne Disease
 Giardiasis
 Guillain-Barre Syndrome
 Hepatitis
 Type A
 Type B
 Non-A, Non-B
 Unspecified
 Hydatid Disease
 Kawasaki Disease
 (Mucocutaneous Lymph Node Syndrome)
 Legionellosis, including
 Legionnaires' Disease,
 Pontiac Fever, and diseases
 caused by atypical *Legionella-like* organisms
 Leprosy
 Leptospirosis
 Lyme Disease
 Malaria
 Measles
 Meningitis, Infectious (Specify)
 Meningococcal Disease
 Mumps
 Pertussis
 Plague
Pneumocystis carinii pneumonia
 Poliomyelitis
 Psittacosis
 Rabies
 Rat Bite Fever
 Relapsing Fever, Louse-Borne
 Reye's Syndrome
 Rickettsial Diseases, including
 Q Fever
 Rickettsialpox
 Rocky Mountain Spotted Fever
 Typhus Fever
 Rubella (German Measles), including
 Congenital Rubella Syndrome
 Salmonellosis
 Shigellosis
 Smallpox
 Tetanus
 Toxic Shock Syndrome
 Trachoma
 Trichinosis
 Tuberculosis
 Tularemia
 Typhoid Fever

Venereal Diseases

- Chancroid
- Gonorrhea
- Granuloma Inguinale
- Lymphogranuloma Venereum
- Ophthalmia Neonatorum
- Syphilis

Viral Hemorrhagic Fevers including (but not limited to)

- Ebola
- Lassa
- Marburg

Diseases caused by *Vibrio* species, including Cholera

- Yersiniosis
- Yellow Fever

(b) The following diseases are declared to be reportable immediately by telephone in the manner described in 8:57-1.3, 1.4, 1.5, 1.6 and 1.10.

Botulism

- Cholera
- Diphtheria
- Food/Waterborne Disease
- Measles

Meningitis, Infectious, etiology: *Hemophilus influenzae*

Meningococcal Diseases

- Plague
- Poliomyelitis

Rabies

Smallpox

Syphilis, Infectious

Viral Hemorrhagic Fevers, including (but not limited to)

- Ebola
- Lassa
- Marburg

(c) (No change.)

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Pharmaceutical Services Manual Dispensing Fee and Capitation Rates

Adopted Amendments: N.J.A.C. 10:51-1.17 and 3.15

Proposed: May 6, 1985 at 17 N.J.R. 1044(a)
 Adopted: June 21, 1985 by George J. Albanese,
 Commissioner, Department of Human Services
 Filed: June 24, 1985 as R.1985 d.369, **without change.**

Authority: N.J.S.A. 30:4D-6b(6), 7, 7a, 7b, 4D-20, 24

Effective Date: July 15, 1985.

Expiration Date Pursuant to Executive Order
 66(1978): N.J.A.C. 10:51-1, November 2, 1985;
 N.J.A.C. 10:51-3 September 11, 1986

Summary of public comments and agency responses:

No comments received.

Full text of the adoption follows.

10:51-1.17 Legend drug dispensing fee

(a) The dispensing fee for legend drugs, dispensed by providers having Retail Permits to patients other than those in long-term care facilities, shall be \$3.53. Additional increments shall be given to pharmacy providers who provide the following:

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

10:51-3.15 Capitation of dispensing fee for legend drugs provided to long-term care patients

(a) The New Jersey Medicaid program capitates the dispensing fee for legend drugs for patients in Medicaid approved long-term care facilities in accordance with the total number of Medicaid patient days in the facility(ies) served by the pharmacy.

1. Pharmacies with retail permits dispensing medication in a dispensing system in which a 24-hour supply of unit dose oral medication, both solid (i.e., tablets, capsules) and liquid formulations, is delivered for each patient daily, shall be reimbursed to the cost of all reimbursable legend medication plus a fee of \$.638 per patient day.

i. (No change.)

2. Pharmacies with a retail permit dispensing medication in a dispensing system in which up to a one month supply of oral unit dose solid medication is delivered for each patient (i.e., unit dose solids, "bingo" card), shall be reimbursed the cost of all reimbursable legend medication plus a fee of \$.529 per patient day.

3. Pharmacies with a retail permit dispensing medication in a dispensing system in which a maximum one month supply of medication is delivered for each patient monthly shall be reimbursed the cost of all reimbursable legend medication plus a fee of \$.474 per patient day.

4. Pharmacies which provide ancillary computerized services, such as, but not limited to, continuously updated computerized patient profiles, clinical records (med sheets and physicians' orders on at least a monthly basis), etc., will receive an added increment of \$.05 per patient day, thereby making the total fee \$.688, \$.579 or \$.524 depending upon the dispensing system used.

5. (No change.)

(b)

DIVISION OF YOUTH AND FAMILY SERVICES

Child Abuse Prevention and Treatment Act of 1974 Requirements

Confidentiality of Child Abuse Records in Compliance with Federal Requirements

Adopted New Rule: N.J.A.C. 10:129-2

Proposed: April 15, 1985 at 17 N.J.R. 885(a)
 Adopted: June 21, 1985 by George J. Albanese,
 Commissioner, Department of Human Services

Filed: June 24, 1985 as R.1985 d.373. **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5)

Authority: N.J.S.A. 30:4C-4, 30:1-12, 9:6-8.10a, 9:6-8.15 and 45 CFR 1340.14(i)(2)(xi).

Effective Date: July 15, 1985.

Expiration Date pursuant to Executive Order No. 66 (1978): July 15, 1990.

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

Summary of Changes Subsequent to Proposal

10:129-2.1

Delete the article "the" in the second line of the full paragraph.

10:129-2.1(b)9.

This paragraph has been changed to require that the child through his or her representative give permission to release information for bona fide research purposes. Although this changes the regulation, this requirement is already found in statute and policy at N.J.S.A. 30:4-24.3 and Department of Human Services Administrative Order 2:01, and 45 CFR 1340.14(i)(2)(xi).

10:129-2.1(d)

This subsection has been changed to put further restriction on the release of a referrant's name in those circumstances where such disclosure would be likely to result in the discharge or discrimination against the referrant with respect to his/her employment.

10:129-2.1(d)1.

This paragraph has been changed to reflect the addition to subsection (d), indicating that the determination of whether or not to release the referrant's name will also be based on whether such release is likely to jeopardize the referrant's employment.

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 2. CONFIDENTIALITY OF CHILD ABUSE RECORDS IN COMPLIANCE WITH FEDERAL REQUIREMENT***S**.*

10:129-2.1 Confidential reporting and releasing requirements

(a) All records of child abuse reports made pursuant to section 3 of *[the]* P.L.1971, c.437 (C.9:6-8.10), all information obtained by the Division of Youth and Family Services in investigating such reports including reports received pursuant to section 20 of P.L.1974, c. 119 (C.9:6-8.40), and all reports of findings forwarded to the central registry pursuant to section 4 of P.L. 1971, c.437 (C.9:6-8.11) shall be kept confidential and may be disclosed only under the circumstances expressly authorized in subsection (b) below.

(b) The division may release the records and reports referred to in subsection (a), or part thereof, to:

1. A public or private child protective agency authorized to investigate a report of child abuse or neglect;

2. A police or other law enforcement agency investigating a report of child abuse or neglect;

3. A physician who has before him a child who he reasonably suspects may be abused or neglected;

4. A physician, a hospital director or his designate, a police officer or other person authorized to place a child in protective custody when such person has before him a child who he reasonably suspects may be abused or neglected and requires the information in order to determine whether to place the child in protective custody;

5. An agency authorized to care for, treat, or supervise a child who is the subject of a child abuse report; or an agency authorized to care for, treat, or supervise a parent, guardian or other person who is responsible for the child's welfare, when the information is needed in connection with the provision of care, treatment, or supervision to such child or such parent, guardian or other person by the agency;

6. A court, upon its finding that access to such records may be necessary for determination of an issue before the court, and such records may be disclosed by the court in whole or in part to the law guardian, attorney or other appropriate person upon a finding that such further disclosure is necessary for determination of an issue before the court;

7. A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

8. Any appropriate State legislative committee acting in the course of its official functions, provided, however, that no names or other information identifying persons named in the report shall be made available to the legislative committee unless it is absolutely essential to the legislative purpose;

9. Any person engaged in a bona fide research purpose, provided, however, that no names or other information identifying persons named in the report shall be made available to the researcher unless it is absolutely essential to the research purpose and provided further that the prior written approval of the director of the Division of Youth and Family Services shall first have been obtained***[.]*** *****, and the child through his/her representative gives permission to release the information.*

(c) Any individual agency, court, grand jury or legislative committee which receives from the division the records, and reports referred to in subsection (a), shall keep such records and reports, or parts thereof, confidential.

(d) Whenever information is disclosed pursuant to any of the exceptions enumerated in (b)(1) through (9) above, the identity of the referrant and any other person shall be protected and not disclosed by the division where the disclosure of such information would be likely to endanger the life or safety of the referrant or other person***[.]*** *****, or where such disclosure would be likely to result in the discharge or discrimination against the referrant with respect to his/her employment.*

1. The determination as to whether the disclosure of such information would be likely to endanger the life or safety of the referrant or other person***,** or jeopardize the referrant's employment,* shall be based upon the caseworker's and supervisor's evaluation of the nature and seriousness of the case and an assessment of the propensity for violence and harm***[.]*** *****or discharge or discrimination.*

2. This procedure shall apply to all instances in which information (records and reports) is requested, but particularly when information is requested by an agency authorized to care for, treat or supervise the child's parent, guardian or other person responsible for the child's welfare when the information is needed in connection with the provision of care, treatment or supervision of the parent, guardian or other person responsible for the child's welfare.

INSURANCE

(a)

DIVISION OF ACTUARIAL SERVICES

Hospital-Medical-Dental Services Dental Plan Organizations

Adopted New Rule: N.J.A.C. 11:10-1

Proposed: August 20, 1984, at 16 N.J.R. 2230(a)

Adopted: June 24, 1985, by Hazel Frank Gluck,
Commissioner, Department of Insurance.

Filed: June 24, 1985, as R.1985 d.374 with substantive
and technical changes not requiring additional public
notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e) and 17:48D-1
et seq., specifically 17:48D-23.

Effective Date: July 15, 1985.

Expiration Date pursuant to Executive Order No. 66
(1978): July 15, 1990.

Summary of Public Comments and Agency Responses:

The Department received several comments concerning the proposed new rule on Dental Plan Organizations (DPO's) from representatives of DPO's as well as the New Jersey Dental Association.

The largest number of comments centered on the definition of DPO set forth at N.J.A.C. 11:10-1.3, which requires the DPO to be a direct provider of dental services, and the concomitant prohibition against the provision of dental services through "independent contractors" which is specified both in N.J.A.C. 11:10-1.3 and 11:10-1.5(c). The commenters argued that the DPO definition contained in the proposed rule was narrower than that set forth in the statute and questioned the legal basis for limiting the DPO to direct provision of dental services. Specifically, it was noted that the statute permits the DPO to provide the dental services directly and to arrange for or administer directly the dental services. The commenters expressed that the latter two situations did not require that the DPO's directly furnish the dental services but could do so through the use of outside dentists contracted to provide the services. It was pointed out that to require non-dentists be responsible for dental services may be in violation of the Dental Practice Act of New Jersey.

It was not the Department's intention to limit DPO's to utilizing salaried dentists. Providers under agreement with a DPO are permitted by the regulation. Rather, it is the concept that these providers are "independent" of the DPO which the Department wishes to eliminate. Since it is the DPO which chooses the panel of dentists who will render dental services to the enrollees, the DPO cannot absolve itself of the responsibility for the services it promises to its enrollees. Therefore, in all three types of dental plans, those which are operated by the dentists who render the services as well as those in which the DPO has arranged for or administers the provision of dental services, the DPO must assume direct responsibility for the services. The Department believes that this interpretation is supported by the direct nature of the plan (N.J.S.A. 17:48D-2b), and by the requirements for a

DPO to have quality controls (N.J.S.A. 17:48D5a(4)) and a system of complaint handling (N.J.S.A. 17:48D-12) and thus does not further restrict the statutory definition. A DPO which provides services through independent contractors could not meet the above statutory requirements and, therefore, must be prohibited.

Regarding the possibility of conflict between the Dental Practices Act and this requirement, it should be noted that the Dental Practices Act was enacted long before the concept of DPO's was conceived. We trust the Legislature was cognizant of the restrictions of the Dental Practices Act and, if a conflict does exist, it will have to be resolved in the appropriate forum. To clarify that agreements with outside dentists are permitted, the definition of Dental Plan Organization in the regulation has been supplemented.

The section of the regulation dealing with the expense limitations (N.J.A.C. 11:10-1.9) was the subject of comments from two sources. Both commenters objected to the application of the concept of retention, an insurance related term, to DPO operations. They expressed the opinion that the inclusion of profits in the items considered to be expenditures in N.J.S.A. 17:48D-14 went beyond the Department's statutory authority. In one case, the commenter pointed out that dental service corporations, which are non-profit, are permitted 30 percent for expenses and felt it was unrealistic to expect DPO's, which are for-profit, to operate within a 20 percent cap for expenses and profits.

The Dental Plan Act provides for strict regulation of DPO's and stringent standards of accountability. N.J.S.A. 17:48D-14 attempts to impose such stringent standards upon DPO's. It is reasonable to surmise that the Legislature, in empowering the Department of Insurance, rather than some other state agency, with the authority to regulate DPO's, expected that the insurance expertise of the Department would be brought to bear on the task of fulfilling the intended purpose of N.J.S.A. 17:48D-14. Drawing upon this expertise, it is the Department's position that the Legislature's intent was to limit expenditures on non-dental items so that the remainder would be spent on dental care for the benefit of enrollees. Retention, the amount of income not applied to providing benefits, is a concept which the Department feels is appropriately applied to the operations of a DPO. The statute is, therefore, interpreted to mean that, in the first year of operation, 70 percent of gross income shall be used for the direct provision of professional services to subscribers, 75 percent in the second year, and 80 percent thereafter. The percentages are similar to loss ratios which the Department regulates in health insurance. Extending this idea, all other items, not for the direct provision of professional services, including profits, must be included in the remaining percentages. While N.J.S.A. 17:48D-14 does list certain items which are included in these percentages, the Department believes that those items constitute examples and, since profits are not excluded, the Commissioner, exercising his or her broad power to regulate the DPO rates, can include profits. To interpret this statute any other way could result in enormous sums being directed to non-dental items. This result would be contrary to the purpose of the statute, which is to assure that enrollees receive the maximum benefit for the rates they or their employers pay. In establishing rules on the expense limitation the Department is carrying out a responsibility mandated at N.J.S.A. 17:48D-14 and N.J.S.A. 17:48D-10, which are the principle rate control provisions of the Dental Plan Organization Act.

While it is true that the Dental Corporation Act does allow dental service corporations 30 percent for expenses, it must be noted that a DPO's expenses should be significantly less since no claim processing is involved. Without this large expenditure for

claim processing, DPO's should have less difficulty keeping within the percentages permitted with a sufficient profit margin.

Other comments received revolved around the prohibition in N.J.A.C. 11:10-1.2(e), 1.3 and 1.6(b) of DPO's operating on a fee-for-service basis. These commenters felt that the statutes did not prohibit DPO's from providing coverage on a fee-for-service basis. The president of one of the DPO's indicated that the inclusion of the word "postpaid" in the statutory definition of a "dental plan" permits DPO's to provide fee-for-service coverage.

The factor which makes DPO's unique is that payment is made on a capitation basis, whether prepaid, or postpaid, or under a group or individual plan. While it was originally thought by the Department that exceptions to the capitation requirement could be made for specialty and emergency services, a careful reading of the statutes revealed no provision for such exceptions. Postpaid refers only to the time at which the capitation rate is paid. While it is always a predetermined amount, the capitations under a postpaid plan are not paid to the provider until an enrollee is actually treated, since the enrollees may not be required to select a dentist until treatment is necessary. Once a provider has treated the enrollee, the capitation rate is paid to the dentist and continues to be paid periodically thereafter whether or not additional services are rendered to that enrollee.

This mechanism differs from the prepaid capitation plan in which each enrollee chooses a dentist and the capitation is paid to that dentist on the promise that, if treatment is needed, it will be provided. Each method is consistent with the premise that, in a capitation plan, the provider is "at risk" for the volume of services rendered since the dentist would receive a predetermined capitation regardless of the amount of treatment a particular enrollee receives.

Coverage on a fee-for-service basis is either insurance or service benefits which are regulated under separate chapters in Titles 17 and 17B. DPO's are authorized to operate under the DPO Act only. Since the Act does not provide for a DPO to offer fee-for-service benefits, the regulation cannot permit such coverage.

Another comment made by the president of a DPO related to the restrictions placed by the regulation on plans which either cover the copayments required by plans held by an enrollee or plans which offer benefits covering less than 50 percent of an enrollee's dental expenses. Both types of plans are defined as "Supplemental Dental Plans" by the regulation. The commenter indicated that the Department's attempt to regulate the rates may not be of benefit to the enrollees, as such regulation would reduce the availability of these plans.

The Department does not share the commenter's view. If supplemental plans are to be offered, the Department feels a responsibility to ensure that the rates charged are sufficient to fund the benefit and are not excessive. As the commenter correctly points out, the statute places the obligation to regulate rates upon the Commissioner. The regulation merely explains the manner in which this obligation is fulfilled and provides a basis on which a DPO can begin to demonstrate actuarially the financial soundness of the rates. Although we do not anticipate that this will reduce the availability of these plans, if such were the case, the necessity of ensuring that the rates are adequate but not excessive outweighs that consideration.

An additional comment was made regarding the requirement in N.J.A.C. 11:10-1.7(c) of financial disclosure of non-DPO activities in which a DPO may be involved. The commenter felt that since non-DPO activities are not within the jurisdiction of the Department they should be segregated from DPO activities.

The Department concurs that DPO and non-DPO activities should be segregated. Without reporting requirements which include disclosure of the non-DPO activities, however, the Department would have great difficulty ensuring that segregation is being done. One of the conditions for issuance of a certificate of authority, set forth in N.J.S.A. 17:48D-5, is that the dental plan organization be "financially responsible." The Department feels that the financial disclosure of both DPO and non-DPO activities is necessary to determine that the DPO is financially responsible.

Comments received from the New Jersey Dental Association concerned areas which were not addressed by the other sources. The Association raised a question as to the manner in which a DPO could act as a secondary carrier in the coordination of benefits process. Since the regulation prohibits DPO's from providing coverage on a fee-for-service basis, the Association stated that DPO's would be unable to quote the cost of its services to other carriers when coordinating benefits.

The Department has relied in this regard on the "Coordination of Benefits Guidelines" adopted by the National Association of Insurance Commissioners (NAIC). The NAIC is currently revising these guidelines to address a number of areas which have been affected by changes in the health care industry since the guidelines were last adopted. The reference in the regulation, at N.J.A.C. 11:10-1.5(f)3, to "any subsequent amendments or supplements thereto" is in consideration of the upcoming revisions which the Department expects will deal with this issue. While the regulation does prohibit DPO's from covering services on a fee basis, it does not preclude a DPO from developing its own schedule of fees which could be used to quote the cost of its services when it coordinates benefits.

The New Jersey Dental Association also commented on the regulation's definition of "one full-time equivalent dentist" and the reference therein that a full-time general practitioner can serve a group of at least 1,500 enrollees and dependents combined. The Association felt that the 1,500 benchmark should be considered an average and suggested the deletion of the words "at least."

The primary criterion for determining if a DPO employs one full-time equivalent dentist is whether the hours spent on DPO enrollees equal a 40-hour week. Only in the event that the total number of hours spent per week could not be determined would one look to the number of patients as a determining factor. Since removing "at least" could expose smaller DPO's to regulation and this exposure is contrary to the intent of the statute, the Department believes the phrase should remain.

Lastly, the Association suggested a reference in the regulation to the requirement that copy of P.L. 1983 c. 142-145 be delivered to each employer or other organization and each enrollee by a DPO. This requirement is addressed in another regulation, specifically N.J.A.C. 11:10-2, and we believe reference to it here is unnecessary and repetitious.

Internal review of the proposed rule revealed that changes to section N.J.A.C. 11:10-1.12 were necessary to correct an error and to reduce the possibility of ambiguity. An error was found in the statutory citation contained in N.J.A.C. 11:10-1.12(e)1. The citation should have been "N.J.S.A. 17B:48D-14" rather than "N.J.S.A. 17B:48D-10a." The Department, out of concern that those within the scope of the regulation may be misled by the wording of N.J.A.C. 11:10-1.12, has rewritten the section. It was not the Department's intention to indicate that the criterion listed was the sole measure of the schedule of rates' compliance with statutes. The new wording clarifies this. In addition, to improve the format, the last two sentences of N.J.A.C. 11:10-1.12(e)2 were transferred to subsection N.J.A.C. 11:10-1.12(b).

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

CHAPTER 10

HOSPITAL-MEDICAL-DENTAL SERVICES

SUBCHAPTER 1. DENTAL PLAN ORGANIZATIONS

11:10-1.1 Purpose

(a) The Dental Plan Organization Act (N.J.S.A. 17:48D-1 et seq.) regulates persons and corporations which offer plans for the prepayment or postpayment of dental services. The Act provides for the licensing and supervision of dental plan organizations to protect enrollees of the plan and to assure that the services contracted for are actually delivered.

(b) Section 23 of the Act authorizes the Commissioner to promulgate rules and regulations to effectuate its purposes. This subchapter establishes rules to implement the Act. These rules are designed to facilitate compliance with the Act by clarifying its requirements. Specific standards are also prescribed to ensure that the purposes of the Act are fulfilled.

11:10-1.2 Scope and application

(a) This subchapter applies to dental plan organizations as defined in N.J.S.A. 17:48D-2c and N.J.A.C. 11:10-1.3. Such organizations may offer group and individual dental plans on a capitation basis.

(b) If the dental plan organization utilizes more than one full-time equivalent dentist to serve dental plan enrollees, it is subject to the Act and this subchapter.

(c) An individual dentist in solo practice who capitates his services is not required to comply with the Act or this subchapter.

(d) Supplemental dental plans as defined at N.J.A.C. 11:10-1.3 are subject to the Act and this subchapter. A DPO may not offer a supplemental dental plan unless it can be actuarially demonstrated that the capitation rate for such a plan is proportionate to the rate for an identical plan that provides 100 percent full coverage for the same services provided under the supplemental plan.

(e) An organization which provides coverage of dental services on a fee-for-service basis cannot qualify as a dental plan organization. Such organizations may not operate in this State without a certificate of authority as a health insurer or hospital, medical, dental or health service corporation, since fee-for-service coverage is either insurance or service benefits.

11:10-1.3 Definitions

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

"Capitation" refers to the method by which the DPO, and its dentists, are compensated for the direct provision of services on a prepaid or postpaid, individual or group basis. "Capitation" exists when a DPO, and the individual dentist providing services, is compensated on the basis of the presence of an enrollee to whom services have been promised under a contract and such services are available to an enrollee if needed. Under a capitation arrangement, the DPO, or more particularly, the individual dentists, are "at risk", and generally the risk is that volume of services that must be provided by the DPO might be higher than anticipated, rather than that the amount the DPO must pay (or indemnify) for those services will exceed the expectation. An arrangement whereby the DPO compensates individual dentists on a fee-for-service basis is not permitted. A plan which uses

dentists who are employed and paid a salary by the DPO, or who are compensated on a capitation basis according to the number of enrollees, is permissible.

"Commissioner" means the Commissioner of the Department of Insurance.

"Department" means the Department of Insurance.

"Dental Plan Organization" (or "DPO") means a direct provider of dental services compensated on a prepaid or postpaid capitation basis, which provides such services to either individuals or groups. The provision of such services by the DPO is deemed to be a "non-delegable" duty. An arrangement whereby dental services are provided indirectly through "independent contractors" is not considered a DPO. An arrangement whereby compensation to dentists for dental services is provided on a fee-for-service basis is not considered a DPO. ***An arrangement whereby dental services are provided by entering into an agreement with providers, or by employing dentists, where the dentists agree to treat enrollees of the plan in their private offices or a central facility, is considered a DPO.***

"Fee-for-service" is a reimbursement arrangement in which the amount reimbursed for dental services is paid either to an insured (or subscriber) or to a provider of services and the amount is determined on the basis of the dental procedure performed and/or the amount charged by the dentist for the procedure. An example of a fee-for-service plan is one covering or indemnifying the services provided by dentists on the basis of a schedule of fees or percentage reimbursement of the fee charged, under which the dentist does not share in the "volume of service" risk assumed by the DPO.

"One Full-Time Equivalent Dentist" means one dentist working full time or an aggregation of hours spent by more than one dentist on DPO enrollees so as to equal a 40-hour week. A full-time general practitioner can serve a group of at least 1,500 enrollees and dependents combined. This number could vary by specialty and service performed; for example, an orthodontist may serve a smaller number of patients than a general practitioner.

"Supplemental Dental Plan" means an arrangement in which a dentist or group of dentists agrees to relieve patients of paying any patient charges or copayments associated with dental insurance or other dental coverage for a predetermined fee. Supplemental dental plan also means an arrangement which covers less than 50 percent of an enrollee's dental expenses regardless of whether the enrollee has other coverage.

11:10-1.4 General rules

(a) To obtain an application for a certificate of authority as a dental plan organization, a written request for the appropriate forms must be submitted to the Commissioner. Applicants shall complete and return the forms with the supporting documents requested by the Department.

(b) To renew its certificate of authority, a DPO shall remit the \$100.00 renewal fee to the Commissioner 30 calendar days prior to the renewal date.

(c) The notice of significant modification of information submitted with the application required by N.J.S.A. 17:48D-4 shall include the document being modified and an explanation of the modification. Examples of modifications which are considered significant include, but are not limited to:

1. Changes in the DPO's organizational structure;
2. New officers, partners or members of the DPO's board of directors, board of trustees, executive committee or other governing board or committee;
3. Changes in the group or individual contract form issued by the DPO; and

4. Adjustments to financial statements.

11:10-1.5 Written agreements with dentists

(a) Every DPO shall enter into a written agreement with each dentist who will be providing dental services for plan enrollees, unless the dentist is employed by the DPO.

(b) Agreements with dentists shall include:

1. The amount and method of compensation and the service to be provided;
2. The minimum number of hours per week which the dentist must make available for the treatment of plan enrollees or a statement that an appointment must be granted to an enrollee within 10 working days of the date of request;
3. A statement that treatment for an emergency must be granted within 24 hours of the emergency;
4. The DPO's program for the assurance of quality dental care;
5. The requirement for malpractice insurance coverage; and
6. The date and term of the agreement.

(c) Agreements with dentists shall not include:

1. Provisions creating or purporting to create, an "independent contractor" relationship between the DPO and the dentist, or otherwise attempting to restrict the responsibility of the DPO for the dental services provided by the dentist; or
2. Any compensation agreement on a "fee-for-service" basis or any other basis which shields the dentist from the "volume of services" risks assumed by the DPO.

11:10-1.6 Evidence of coverage and group contracts

(a) The DPO shall prepare and issue the evidence of coverage form to each enrollee. Covered groups may distribute the forms to its members on behalf of the DPO.

(b) An evidence of coverage form must contain all the information required by N.J.S.A. 17:48D-9. A card containing only basic identifying information is not sufficient to meet these requirements.

(c) No evidence of coverage, or group contract, or amendment thereto, may be issued or delivered until a copy of the form has first been filed with the Commissioner and has not been disapproved by the Commissioner. A form or amendment, which is significantly different from that previously filed with the Commissioner, may not be issued until it has first been filed with the Commissioner and has not been disapproved by the Commissioner. All forms and amendments shall be filed at least 30 working days prior to the planned date of issuance.

(d) All evidence of coverage forms shall clearly identify the name of the dental plan organization on its cover and in the text.

(e) All exclusions, exceptions, limitations, items not covered and services not provided by the plan should be clearly identified in the evidence of coverage form and group contract forms.

(f) Coordination of benefits and non-duplication of benefits provisions which limit payment to 100 percent of allowable expenses when more than one dental plan covers an enrollee are not permitted in an evidence of coverage or group contract issued by a DPO unless the following conditions are met:

1. Enrollees are covered under a group, not an individual contract;
2. The provisions are not operative with respect to dental plans provided by another DPO;
3. The DPO follows the rules set forth in the "Coordination of Benefit Guidelines" adopted by the National Association of Insurance Commissioners and any subsequent amendments or supplements thereto;

4. The funds recovered as a result of these provisions are credited directly against the charges payable by the group for the plan's services; and

5. If these conditions are met, both the group contract and evidence of coverage must include the coordination of benefits or non-duplication of benefits provisions.

(g) Provisions which exclude coverage for services provided by other dental plans or by dental insurance are not permitted in a contract issued by a DPO.

(h) No DPO may cover dental services on a fee-for-service, expense incurred or indemnity basis. A DPO may offer dental services directly (that is, not on an indemnity, expense incurred or fee-for-service basis), and may do so only on a capitation basis. A DPO may also arrange for the provision of dental services on a fee-for-service, expense incurred or indemnity basis by purchasing coverage for such service from a duly authorized insurer, or a hospital, medical, dental or health service corporation.

(i) An evidence of coverage issued to a non-group enrollee is subject to the plain language requirements of N.J.S.A. 56:12-1 et seq. All evidences of coverage, including those issued to enrollees of a group, should be written in a simple, clear, understandable and easily readable way. In writing an evidence of coverage form to be issued to an enrollee of a group, a DPO may use the guidelines set forth in N.J.S.A. 56:12-10 to assure compliance with this subsection.

11:10-1.7 Financial reporting

(a) Every DPO shall submit to the Commissioner a quarterly report of its activities on the form prescribed by the Commissioner within 45 calendar days after the end of each calendar quarter. The Commissioner in his discretion may waive this submission requirement.

(b) A DPO which also maintains a non-dental plan practice shall segregate its non-dental plan activities from its dental plan activities and report its dental plan activities only in the quarterly and annual report forms prescribed by the Commissioner. Non-dental plan activities include those activities involving private practice dentistry.

(c) A DPO which is engaged in non-dental plan practice shall also report the activities of the entire organization in financial reports prepared by its accountant within 15 working days of completion of the report. The assets of the entire organization of which the DPO is a part are considered to be assets of the DPO.

(d) All financial reports from DPO's which are not incorporated shall include a breakdown of the personal finances of its proprietors and the finances of the dental plan.

(e) The records of a DPO shall be audited by an independent certified public accountant in preparing the financial statement of its Annual Report. The independent certified public accountant who audited the records and prepared the financial statement shall certify in writing the DPO's financial statement, and this certification shall be submitted with the Annual Report.

11:10-1.8 General surplus

(a) Every DPO shall accumulate and maintain a minimum general surplus of \$25,000. The rate of accumulating the surplus shall be five percent of its contract and certificate income in its first year of operation following the effective date of this subchapter, three and one-half percent in the second year and two percent annually thereafter.

(b) This surplus shall consist of unencumbered funds, cash or marketable investments available for the protection of the DPO's enrollees.

(c) The general surplus shall be maintained over and above its reserves, liabilities and special contingent surplus.

(d) The Commissioner may waive all or a part of the general surplus requirement if the DPO maintains a contract(s) with an insurer, or a hospital medical, dental or health service corporation which is sufficient to assure the performance of its obligations.

11:10-1.9 Expense limitation

(a) To achieve compliance with the expense limits set forth in N.J.S.A. 17:48D-14, every DPO shall:

1. Use at least 70 percent of its gross contract and certificate income in the first year of operation, 75 percent in the second year, and 80 percent in all subsequent years for the direct provision of professional dental services to enrollees;

2. Set its per enrollee retention in conformity with the statutory limits in constructing its schedule of charges.

(b) Expenditures for the direct provision of professional dental services are, in general, that portion of the DPO's total expenses which would exist if the DPO were simply a dental practice and if enrollees were the patients of that practice. Monies paid to dentists for their time, for the cost of their assistants, hygienists, and other support personnel, for their laboratory costs, malpractice insurance, and for all other necessary costs of offices and equipment which are not required for the non-dental care delivery activities of a DPO are examples of such dental expenditures.

(c) Portions of expenditures such as rent, utilities, building maintenance, accounting, real estate taxes, payroll taxes, depreciation, amortization, employee benefits, interest and bad debts, which a dentist or dental group incurs in delivering dental care, may also be counted as expenditures for dental services as long as a reasonable method of allocating these expenditures to the dental and non-dental functions is used.

(d) Gross contract and certificate income not needed for the direct provision of dental care shall be considered as retention and will be subject to the limitations of N.J.S.A. 17:48D-14. Two examples of items of retention are profits and marketing costs.

(e) Copayment income shall be considered gross contract and certificate income in determining compliance with the expense limitations. Similarly, the costs of providing the dental services to which the copayments apply shall be included with other dental service costs. For the purpose of this subsection, copayment income means the fees that a DPO collects for the portion of the dental services which is not covered under the dental plan contract.

(f) The year of operation for determining the applicable expense limitation (see N.J.S.A. 17:48D-14) shall be the year that the DPO first enters into a dental plan with any group or enrollee.

11:10-1.10 Complaints and other communications

(a) Complaint systems required of every DPO (see N.J.S.A. 17:48D-12) shall provide that a written response shall be furnished to the enrollee within 15 working days after its receipt of a written complaint. The DPO's response shall, based on the information available to it at the time of response, be complete and accurate.

(b) Every DPO shall, based on the information available to it, provide the Department of Insurance with a complete and accurate written response to any inquiry from the Department within 15 working days after its receipt of such inquiry.

(c) Every DPO shall furnish an appropriate reply to all other communications which reasonably suggest that a response is expected within 15 working days of receipt.

(d) Every DPO shall retain all written complaints and correspondence relating thereto for at least three years after the date of the last correspondence in file.

11:10-1.11 Fidelity bonds and malpractice insurance

(a) The minimum amount of the fidelity bond on each director, officer, partner or employee of the DPO required by N.J.S.A. 17:48D-8 shall be \$50,000.

1. Every DPO shall increase the bond amount as appropriate whenever its risk of loss for individual employee theft is substantially greater than \$50,000.

2. The fidelity bond shall name the DPO and the State of New Jersey as dual obligees.

(b) All dentists serving enrollees of a DPO shall be insured against professional liability or for malpractice in an amount not less than \$1,000,000.

(c) The fidelity bond and the malpractice policy shall be obtained only from insurers which are authorized to conduct business in New Jersey.

11:10-1.12 Schedule of charges

(a) Every new or revised schedule of charges must be filed with the Commissioner at least 30 working days prior to its effective date. A DPO shall not use a schedule of charges which has been disapproved by the Commissioner.

(b) All filings of charges must include sufficient information to enable the Commissioner to determine whether the charges are not excessive, inadequate or unfairly discriminatory. ***[All details, including the actuarial principles, assumptions and methods of calculation used in developing the rates, must accompany the filing.]*** ***All details, used in the development of rates, must accompany the filing, including:**

1. Actuarial principles;

2. Assumptions and methods of calculation; and

3. Method of development of the dental portion of the charges.

i. Development shall be based upon actual utilization of the DPO, or on comparable experience if the DPO does not yet have adequate utilization. Included in this development shall be projections based on trends observed within the DPO, the profession of dentistry or the overall economy.*

(c) Every filing of a schedule of charges shall include projections of the following information:

1. The schedule of charges to be used by the DPO during the period that the charges are to be effective;

2. The portion of the charge to be used for the direct provision of professional dental services to enrollees (N.J.A.C. 11:10-1.9(b) and (c));

3. The portion of the charges to be used for retention (N.J.A.C. 11:10-1.9(d)), except for the items of retention referred to in 4 below; and

4. Anticipated profits and losses, surplus additions and reductions, each of which shall be itemized separately.

(d) Every filing of a revised schedule of charges shall include the information required by (a) through (c) above, the percentage increase or decrease requested and the prior experience under the old rates itemized as described in (c) above.

(e) ***[Compliance with N.J.S.A. 17:48D-10b. (requirements for the establishment of charges) shall be satisfied if:]*** ***A schedule of charges, in addition to meeting any other requirements imposed by statute or regulation, must meet the following criteria:***

1. The ratio of retention to the charge falls within the limitations set forth by N.J.S.A. 17:48D-*[10a]**14*; and,

2. The portion of charges intended for professional dental services meets the standards prescribed by N.J.A.C. 11:10-1.9(a)1. *[Development of the dental portion of the charges shall be based on actual utilization of the DPO, or on comparable experience if the DPO does not yet have adequate utilization. Projections based on trends observed within the DPO, the profession of dentistry or the overall economy shall also be included in this development.]*

(f) A schedule of charges for a supplemental dental plan is also subject to (a) through (e) above. In determining whether such charges comply with (a) through (e) above, the Department shall consider whether the charges for a supplemental dental plan are proportionately equivalent to the charges for a dental plan providing greater benefits. For example, charges for a supplemental dental plan covering 20 percent of dental expenses must be at least one-fifth of the charges for a plan covering 100 percent of these dental expenses.

11:10-1.13 Enforcement

Any DPO which violates any provision of this subchapter shall be subject to the penalty for violations of the Dental Plan Organization Act and amendments thereto. DPOs are also subject to suspension, nonrenewal or revocation of their certificate of authority for failure to comply with this subchapter pursuant to N.J.S.A. 17:48D-16.

11:10-1.14 Separability

If any provision of this subchapter, or its application to any person or circumstances, is held invalid, the remainder of this subchapter and its application to other persons or circumstances shall not be affected.

LAW AND PUBLIC SAFETY

(a)

DIVISION ON CIVIL RIGHTS

Discrimination Against Handicapped Persons

Notice of Correction: N.J.A.C. 13:13-1.3, 2.2, 2.3

Take notice that errors appear in the June 17, 1985 New Jersey Register at 17 N.J.R. 1576 concerning rules on discrimination against handicapped persons. N.J.A.C. 13:13-1.3, 13:13-2.2 and 13:13-2.3 should have appeared as follows:

13:13-1.3 Definitions

“Handicap” as used in this chapter will have the same meaning as that term is given by N.J.S.A. 10:5-5(q). It is also unlawful to take any action prohibited by these regulations:

- 1. (No change.)
- 2. Because a person has been at any time handicapped.

13:13-2.2 Job referrals

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

(c) It is an unlawful employment practice for any employment agency or labor organization to classify handicapped individuals in any way which would deprive or have the effect of

depriving handicapped persons of employment opportunities or otherwise affect employee status.

13:13-2.3 Employment criteria

(a) It is an unlawful employment practice for any employer, employment agency or labor organization to make use of any employment test or other selection criterion that screens out or has the effect of screening out handicapped persons unless:

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

(b)

DIVISION OF CONSUMER AFFAIRS

BOARD OF VETERINARY MEDICAL EXAMINERS

Fee Schedule

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

Proposed: February 19, 1985 at 17 N.J.R. 383(a).

Adopted: March 27, 1985 by Board of Veterinary Medical Examiners, David Eisenberg, D.V.M., President.

Filed: June 18, 1985 as R.1985d.364, without change.

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

Effective Date: July 15, 1985.

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

Summary of Public Comments and Agency Responses:

One comment was received from the New Jersey Veterinary Medical Association objecting to the increased fee for inactive biennial registration on the ground that most of the administrative costs incurred by the Board relate to active registrants.

The Board rejected the comment because an increase in fees is necessary to meet Board expenses and because the Board has found that it is not unfair to expect those who wish to maintain inactive licenses in New Jersey to pay a fair share of all Board expenses, not only those incurred in processing registrations. Expenses incurred in such Board activities as the examination of applicants for licensure, investigation of consumer complaints and disciplining licensees when appropriate are necessary to ensure that a high standard of veterinary practice is maintained in New Jersey. The maintenance of this high standard benefits all licensees both active and inactive.

Full text of the adoption follows.

13:44-4.1 General provisions

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

- 1.-8. (No change.)
- 9. Non-active registration fee (biennial) . . . 100.00
- 10.-12. (No change.)
- 13. Training certificate . . . 50.00

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Routes U.S. 9 and 34 in Monmouth County

Adopted Amendments: N.J.A.C. 16:28A-1.7 and 1.24

Proposed: May 6, 1985 at 17 N.J.R. 1064(a).
Adopted: June 6, 1985 by Jarrett R. Hunt, Assistant
Chief Engineer, Traffic and Local Road Design.
Filed: June 17, 1985 as R.1985 d.354, **without change**.

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

Effective Date: July 15, 1985.
Expiration Date pursuant to Executive Order 66(1978):
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) (See related adoption in this Register.)

(b) The certain parts of State highway Route U.S. 9 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1.-33. (No change.)

34. Along the northbound (easterly) side in Old Bridge Township, Middlesex County:

i. Mid-block bus stop:

(1) Between Inverness Drive and Ferry Road—Beginning 300 feet south of the southerly curb line of Inverness Drive and extending 135 feet southerly therefrom.

35. Along the southbound (westerly) side in Old Bridge Township, Middlesex County:

i. Near side bus stop:

(1) Inverness Drive—Beginning at the prolongation of the southerly curb line of Inverness Drive and extending 135 feet southerly therefrom.

16:28A-1.24 Route 34

(a) (No change.)

(b) The certain parts of State highway Route 34 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1. Along the easterly (northbound) side in Old Bridge Township, Middlesex County:

i. Near side bus stop:

(1) Canyon Woods Drive—Beginning at the southerly curb line of the entrance to Canyon Woods Drive and extending 105 feet southerly therefrom.

ii. Far side bus stop:

(1) Canyon Woods Drive—Beginning at the northerly curb line of Canyon Woods Drive and extending 150 feet northerly therefrom.

2. Along the southerly (westbound) side in Old Bridge Township, Middlesex County:

i. Far side bus stop:

(1) Canyon Woods Drive—Beginning at the prolongation of the southerly curb line of Canyon Woods Drive and extending 150 feet southerly therefrom.

(b)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping U.S. 9 in Ocean County

Adopted Amendment: N.J.A.C. 16:28A-1.7

Proposed: May 6, 1985 at 17 N.J.R. 1063(a)
Adopted: June 6, 1985, Jarrett R. Hunt, Assistant
Chief Engineer, Traffic and Local Road Design.
Filed: June 17, 1985 as R.1985 d.355, **without change**.

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

Effective Date: July 15, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): November 7, 1988.

Summary of Public Comments and Agency Response:
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.-6. (No change.)

7. No stopping or standing in Berkeley Township, Ocean County:

i.-ii. (No change.)

iii. Within the corporate limits of Berkeley Township including all ramps and connections thereto which are under the jurisdiction of the Commissioner of Transportation.

8.-18. (No change.)

(b) (See related proposal in this Register.)

(c)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Routes U.S. 9W in Bergen County, U.S. 30 in Camden County, 36 in Monmouth County,

45 in Gloucester County, 67 in Bergen County and 71 in Monmouth County

Adopted Amendments: N.J.A.C. 16:28A-1.21, 1.26, 1.31, 1.38, 1.61 and 1.71

Proposed: May 6, 1985 CITE 17 N.J.R. 1064(b)
 Adopted: June 6, 1985, Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design
 Filed: June 17, 1985 as R.1985 d.356, **without change.**

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

Effective Date: July 15, 1985.
 Expiration Date pursuant to Executive Order 66(1978): November 7, 1988.

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

Full text of the adoption follows.

16:28A-1.61 Route U.S. 9W

(a) The certain parts of State highway Route U.S. 9W described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1. (No change.)
2. Along the westerly (southbound) side in Englewood Cliffs Borough, Bergen County:
 - i. Far side bus stop:
 - (1) Sage Road (105 feet);
 - (2)-(6) (No change.)
 - ii. Near side bus stops:
 - (1) Demarest Avenue (120 feet);
 - (2) Palisades Avenue (120 feet);
 - (3) Charlotte Place—Beginning at the northerly curb line of Charlotte Place and extending 105 feet northerly therefrom.
3. Along the easterly (northbound) side in Englewood Cliffs Borough, Bergen County:
 - i. Far side bus stops:
 - (1) Demarest Avenue (105 feet);
 - (2)-(6) (No change.)
 - ii. Near side bus stops:
 - (1) Palisades Avenue (120 feet);
 - (2) Sage Road (120 feet);
 - (3) Charlotte Place—Beginning at the southerly curb line of Charlotte Place and extending 105 feet southerly therefrom.
1. (No change.)
2. Along the westerly (southbound) side in Englewood Cliffs Borough, Bergen County:
 - i. Far side bus stop:
 - (1) Sage Road (105 feet);
 - (2)-(6) (No change.)
 - Near side bus stops:
 - (1) Demarest Avenue (120 feet);
 - (2) Palisades Avenue (120 feet);
 - (3) Charlotte Place—Beginning at the northerly curb line of Charlotte Place and extending 105 feet northerly therefrom.
3. Along the easterly (northbound) side in Englewood Cliffs Borough, Bergen County:
 - i. Far side bus stops:

- (1) Demarest Avenue (105 feet);
- (2) From a point 1,000 feet north of the northerly curb line of Demarest Avenue to a point 120 feet northerly therefrom;
- (3) From a point 500 feet southerly of the southerly curb line of Hollywood Avenue to a point 120 feet southerly therefrom;
- (4) From a point 500 feet northerly of the northerly curb line of Hollywood Avenue to a point 120 feet northerly therefrom;
- (5) From a point 1,600 feet southerly of the southerly curb line of Sage Road to a point 120 feet southerly therefrom;
- (6) From a point 1,000 feet northerly of the northerly curb line of Sage Road to a point 120 feet northerly therefrom;
 - ii. Near side bus stops:
 - (1) Palisades Avenue (120 feet);
 - (2) Sage Road (120 feet);
 - (3) Charlotte Place—Beginning at the southerly curb line of Charlotte Place and extending 105 feet southerly therefrom.
 - (4) Clendinen Place—Beginning at the southerly curb line of Clendinen Place and extending 105 feet southerly therefrom. Renumber 3.-6. as 4.-7.
- (b) (No change.)

16:28A-1.21 Route U.S. 30

(a) (No change.)
 (b) The certain parts of State highway Route U.S. 30 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

- 1.-7. (No change. See proposal at 17 N.J.R. 803.)
- 8.-9. (No change. See proposal at 17 N.J.R. 900.)
10. Along the northbound (westerly) side in Winslow Township, Camden County:
 - i. Mid-block bus stop:
 - (1) Between Waterford—Blue Anchor Road and Ehoke Road—Beginning 163 feet south of the southerly curb line of Waterford—Blue Anchor Road and extending 135 feet southerly therefrom.
 - ii. Near side bus stop:
 - (1) Elmtowne Boulevard—Beginning at the southerly curb line extension of Elmtowne Boulevard and extending 100 feet southerly therefrom.
11. Along the southbound (westerly) side in Winslow Township, Camden County:
 - i. Mid-block bus stop:
 - (1) Between Waterford Road and McDougal Road—Beginning 178 feet south of the southerly curb line of Waterford Road and extending 135 feet southerly therefrom.
 - ii. Near side bus stop:
 - (1) Ehrke Road—Beginning at the northerly curb line of Ehrke Road and extending 105 feet northerly therefrom.
12. Along the (White Horse Pike) on the southbound (westerly) side in Chesilhurst Borough, Camden County:
 - i. Near bus stop:
 - (1) Cleveland Avenue—Beginning at the southerly curb line of Cleveland Avenue and extending 105 feet therefrom.
13. Along the (White Horse Pike) on the northbound (easterly) side in Chesilhurst Borough, Camden County:
 - i. Near side bus stop:
 - (1) Cleveland Avenue—Beginning at the southerly curb line of Cleveland Avenue and extending 150 feet therefrom.

16:28A-1.26 Route 36

(a) The certain parts of State highway Route 36 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. No stopping or standing in the City of Long Branch, Monmouth County:

i.-iv. (No change.)

v. Along Joline Avenue (Route 36) and Myrtle Avenue:

(1) Along the south side.

(A) Along the south side of Joline Avenue (Route 36) from a point 250 feet west of the westerly curb line of Myrtle Avenue to a point 480 feet east of the easterly curb line of Myrtle Avenue.

(B) Along the south side of Joline Avenue (Route 36) from a point 50 feet east of the easterly curb line of Seventh Avenue to a point 50 feet west of the westerly curb line of Seventh Avenue.

(2) Along the north side:

(A) Along the north side of Joline Avenue (Route 36) from a point 225 feet west of the westerly curb line of Myrtle Avenue to a point 490 feet east of the easterly curb line of Myrtle Avenue.

(B) Along the north side of Joline Avenue (Route 36) from a point 46 feet east of the easterly curb line of Seventh Avenue to a point 56 feet west of the westerly curb line of Seventh Avenue.

2.-8. (No change.)

(b) (No change.)

16:28A-1.31 Route 45

(a) (No change.)

(b) The certain parts of State highway Route 45 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1. (No change.)

2.-3. (No change. See proposal at 17 N.J.R. 900.)

4. Along the northbound (easterly) side in Woodbury Heights Borough, Gloucester County:

i. Near side bus stop:

(1) Lincoln Avenue—Beginning at the southerly curb line of Lincoln Avenue and extending 115 feet southerly therefrom.

16:28A-1.71 Route 67

(a) The certain parts of State highway Route 67 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1.-2. (No change.)

3. Along the easterly (northbound) side in Fort Lee Borough, Bergen County:

i. Far side bus stop:

1. Wall Street—Beginning at the northerly curb line of Wall Street and extending 107 feet northerly therefrom.

(b) The certain parts of State highway Route 67 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. (No change.)

16:28A-1.38 Route 71

(a) The certain parts of State highway Route 71 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.-5. (No change.)

6. No stopping or standing in Long Branch City, West Long Branch Borough, and Ocean Township, Monmouth County:

i.-ii. (No change.)

iii. Along both sides (Monmouth Road) in West Long Branch Borough:

(1) Between Route 36 and Wall Street, including all ramps and connections under the jurisdiction of the Commissioner of Transportation.

7. No stopping or standing in Deal Borough, Monmouth County:

i. Along the easterly (northbound) side:

(1) From the northerly curb line of Roosevelt Avenue to the Deal Borough-City of Long Branch Corporate Line.

(2) From 40 feet south of, to 40 feet north of the following intersections:

(A)-(D) (No change.)

(E) Parker Avenue

ii. Along the westerly (southbound) side:

(1) (No change.)

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

(C) Parker Avenue;

(D) Phillips Avenue

8.-9. (No change.)

(b) (No change.)

(c) The certain parts of State highway Route 71 described in this section shall be designated and established as "Time Limit Parking" zones where parking is prohibited except as specified. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established Time Limit Parking Zones:

1. Time Limit Parking Zone—2 hours 8:00 A.M. to 8:00 P.M. in Deal Borough, Monmouth County:

i. Along the east side (Norwood Avenue):

(1) Between Poplar Avenue and Roosevelt Avenue.

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping
Route 52 in Cape May County

Adopted Amendment: N.J.A.C. 16:28A-1.35

Proposed: April 15, 1985 at 17 N.J.R. 898(b).

Adopted: June 12, 1985 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.

Filed: June 19, 1985 as R.1985 d.365, without change.

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

Effective Date: July 15, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

Summary of Public Comments and Agency Response:

On April 15, 1985 the Department proposed an amendment concerning restricted parking and stopping along Route 52 in Ocean City, Cape May County. The notice appeared at 17 N.J.R. 898 (b), which brought forth comments from Mr. John T. Glenn, 305 Central Avenue, Ocean City, New Jersey 08626 and Mr. George F. Prinz, 315 Wesley Avenue, Ocean City, New Jersey 08626.

COMMENT:

Mr. John T. Glenn stated that "Ocean City's resolution No. 84-26-263, no-stopping no-standing along Route 52 will force me out of my fishing business." He further stated that he had used the beach on the North East side of Beach Thorofare Bridge to load live eels on a tank truck for the past six years and utilized the same area as bridge tenders for parking. Should parking in that area be denied there is no other area available to continue his operations.

RESPONSE:

The area to which the restriction applies is the traveled way along Route 52 as promulgated in the rule and requested by resolution from the local officials of Ocean City. It is not and has never been the intent of the Department to put anyone out of business, but to effect those rules necessary to regulate and enhance safety along the highway system. The parking in any other area not under the jurisdiction of the Commissioner of Transportation should be addressed to the local municipality.

COMMENT:

Mr. George F. Prinz objected to the elimination of parking on the ninth street causeway in Ocean City. His contention was that the main causes for accidents along the highway were speeding, passing while cutting in and persons under the influence of alcohol from Somers Point. Additionally, motorists make left turns, crossing the road to get back to Ocean City which creates a dangerous situation and suggested that signs be placed depicting "no left turn."

RESPONSE:

The Department upon request from the local officials of Ocean City conducted a traffic investigation and found that the establishment of "no parking" zones was warranted. The causes of accidents in the area were found to be a multiplicity of causes and could not be restricted to those outlined. The making of left turns by motorists is potentially dangerous and has merit. Consideration may be given upon further investigation to the posting of "no left turn" or "no U" turn signs.

Full text of the adoption follows.

16:28A-1.7 Route U.S. 9

(a) (No change.)

(b) The certain parts of State highway Route U.S. 9 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1.-33. (No change.)

34. Along the northbound (easterly) side in Berkeley Township, Ocean County:

i. Far side bus stops:

(1) Bay Boulevard—Beginning at the northerly curb line of Bay Boulevard and extending 110 feet northerly therefrom.

(2) Morris Boulevard—Beginning at the northerly curb line of Morris Boulevard and extending 130 feet northerly therefrom.

16:28A-1.19 Route 28

(a) The certain parts of State highway Route 28 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.-7. (No change.)

8. No stopping or standing in Somerville Borough, Somerset County:

i. Along the eastbound side:

(1) Beginning at the westerly curb line of Union Street and extending 50 feet westerly therefrom.

(2) Beginning at Meadow Street to South Gaston Avenue.

(3) Beginning at the easterly curb line of North Gaston Avenue extending to the Borough Line (Rehill Avenue).

ii. Along the westbound side:

(1) Union Avenue:

(A) Beginning at the Borough Line (opposite Rehill Avenue and extending to North Gaston Avenue).

(2) North Gaston Avenue:

(A) Beginning at the northerly curb line of Bartine Street and extending 59 feet northerly therefrom;

(B) Beginning at the southerly curb line of Bartine Street and extending 56 feet southerly therefrom;

(C) Beginning at the northerly curb line of East Cliff Street and extending 81 feet northerly therefrom;

(D) Beginning at the southerly curb line of East Cliff Street and extending 81 feet southerly therefrom;

(E) Beginning at the northerly curb line of East High Street and extending 245 feet northerly therefrom;

(F) Beginning at the southerly curb line of East High Street and extending 111 feet southerly therefrom;

(G) Beginning at the northerly curb line of East Main Street and extending 173 feet northerly therefrom;

iii. Along the northbound side:

(1) Beginning at a point 150 feet from the westerly curb line of North Gaston Avenue and extending westerly to Park Avenue;

(2) Beginning at the prolongation of the westerly curb line of Hamilton Street and extending 68 feet easterly therefrom;

(3) Beginning at the easterly curb line of Mechanic Street and extending 45 feet easterly therefrom;

(4) North Gaston Avenue:

(A) Beginning at the northerly curb line of East Main Street and extending 174 feet northerly therefrom.

(B) Beginning at the southerly curb line of East High Street and extending 147 feet southerly therefrom.

(C) Beginning at the northerly curb line of East High Street and extending 98 feet northerly therefrom.

(D) Beginning at the southerly curb line of East Cliff Street and extending 81 feet southerly therefrom.

(E) Beginning at the northerly curb line of East Cliff Street and extending 48 feet northerly therefrom.

(F) Beginning at the northerly curb line of Reimer Street and extending 71 feet northerly therefrom.

(G) Beginning at the southerly curb line of Union Avenue and extending 108 feet southerly therefrom.

9.-13. (No change.)

(b) (No change.)

(c) The certain parts of State highway Route 28 described in this section shall be designated and established as "no parking loading zone" where parking is prohibited at all times. In accordance with N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established Loading Zones.

1. (No change in text.)

2. (No change in text.)

3. Along the eastbound side in Somerville Borough, Somerset County:

i. Beginning 35 feet westerly of the projection of the curb line of Davenport Street and extending 62 feet westerly therefrom.

4. Along the westbound side in Somerville Borough, Somerset County:

i. Beginning 35 feet westerly of the westerly curb line of Maple Street and extending 64 feet westerly therefrom.

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

16:28A-1.21 Route U.S. 30

(a) (No change.)

(b) The certain parts of State highway Route U.S. 30 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1.-7. (No change.)

8. Along (White Horse Pike) westbound on the northerly side in Lawnside Borough, Camden County:

i. Far side bus stops:

(1) Mouldy Road—Beginning at the westerly curb line of Mouldy Road and extending 100 feet westerly therefrom.

(2) Emlen Avenue—Beginning at the westerly curb line of Emlen Avenue and extending 100 feet westerly therefrom.

9. Along (White Horse Pike) eastbound on the southerly side in Lawnside Borough, Camden County:

i. Mid-block bus stop:

(1) Between Gloucester Pike and Emlen Avenue—Beginning 390 feet east of the easterly curb line of Gloucester Avenue and extending 135 feet easterly therefrom.

16:28A-1.31 Route 45

(a) (No change.)

(b) The certain parts of State highway Route 45 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:

1. (No change.)

2. Along the northbound (easterly) side in the City of Woodbury, Gloucester County:

i. Near side bus stops:

(1) Barber Avenue—Beginning at the southerly curb line of Barber Avenue and extending 110 feet southerly therefrom.

(2) Newton Avenue—Beginning at the southerly curb line of Newton Avenue and extending 105 feet southerly therefrom.

3. Along (Broad Street) southbound on the westerly side in the City of Woodbury, Gloucester County:

i. Far side bus stop:

(1) West Red Bank Avenue—Beginning at the southerly curb line of West Red Bank Avenue and extending 100 feet southerly therefrom.

ii. Near side bus stop:

(1) Delaware Street—Beginning at the northerly curb line of Delaware Street and extending 115 feet northerly therefrom.

16:28A-1.32 Route U.S. 46

(a) (No change.)

(b) The certain parts of State highway Route U.S. 46 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:

1.-9. (No change.)

10. Along the eastbound (southerly) side in Saddle Brook Township, Bergen County:

i. Near side bus stop:

(1) Sixth Street—Beginning at the westerly curb line of Sixth Street and extending 108 feet westerly therefrom.

ii. Mid-block bus stop:

(1) President Street and 10th Street—Beginning 150 feet east of the easterly curb line of President Street and extending 135 feet easterly therefrom.

11. Along the westbound (northerly) side in Saddle Brook Township, Bergen County:

i. Mid-block bus stop:

(1) Sixth Street—Beginning 108 feet east of the easterly curb line of Sixth Street and extending 168 feet easterly therefrom.

16:28A-1.35 Route 52

(a) The certain parts of State highway Route 52 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 change.)

2. No stopping or standing in Ocean City, Cape May County:

i. Along both sides:

(1) (Howard M. Stainton Memorial Causeway)—Entire Corporate Limits including all ramps and connections under the jurisdiction of the Commissioner of Transportation.

(a)

TRANSPORTATION OPERATIONS

MISCELLANEOUS TRAFFIC RULES

**Truck Weigh Stations on Interstate Highway System
Routes I-78 in Warren County; I-80 in Warren County; I-287 in Middlesex County and I-295 in Salem County**

Readoption: N.J.A.C. 16:30-12

Proposed: April 15, 1985 CITE 17 N.J.R. 987(a)
Adopted: June 4, 1985, Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-81, 39:3-84(a)3 and 39:4-183.27

Expiration Date under Executive Order 66(1978):
November 7, 1988.

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

Full text of the readoption follows.

SUBCHAPTER 12. TRUCK WEIGH STATIONS ON THE INTERSTATE HIGHWAY SYSTEM

16:30-12.1 Truck Weigh Stations established

(a) The Commissioner is authorized, pursuant to the provisions of N.J.S.A. 27:1A-5 and 27:1A-7, to establish Truck Weigh Stations on the Interstate Highway System of this State

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at such locations as he deems appropriate and does hereby establish the following Truck Weigh Stations:

1. Interstate 78, Section 6(c), located in Greenwich Township, Warren County, at or about milepost 4.1 eastbound;
2. Interstate 80, Section 1AJ, located in Knowlton Township, Warren County, at or about milepost 2.3 eastbound;
3. Interstate 287, Section 2K, located in Piscataway Township, Middlesex County, at or about milepost 4.7, northbound;
4. Interstate 295, Section IAM, located in Carneys Point Township, Salem County, at or about milepost 3.6, northbound.

16:30-12.2 Operation

The Truck Weigh Stations established by the Commissioner pursuant to the regulations in this subchapter shall be operated by and under the authority of the Superintendent of the Division of State Police, Department of Law and Public Safety, for the purpose of effectuating enforcement of all State laws pertaining to vehicle size and weight and to comply with Federal law (23 U.S.C. 127).

16:30-12.3 Signs

(a) The Commissioner, pursuant to N.J.S.A. 39:4-183.27, shall cause to be created alongside of the roadway in advance of the Truck Weigh Stations established by the regulations in this subchapter such signs as are in conformance with the current Manual on Uniform Traffic Control Devices for Truck Weigh Stations. There shall be at least one sign which bears the legend:

"ALL TRUCKS, COMMERCIAL VEHICLES NEXT RIGHT", which shall be in conformance with the current Manual on Uniform Traffic Control Devices for Truck Weigh Station regulatory signs and any such sign is declared to be an "official traffic control device."

(b) In addition to the "official traffic control device" as declared in (a) above, the Commissioner shall also cause to be placed, consistent with the current Manual on Uniform Traffic Control Devices, an informational sign which shall indicate if the Truck Weigh Station is "open" or "closed" for operations, and such other signs as are in conformance with the current Manual on Uniform Traffic Control Devices.

(c) When the Truck Weigh Station is "open" all trucks and commercial vehicles are required, pursuant to these regulations and the provisions of N.J.S.A. 39:4-81 and 39:3-84(3)a, to comply and enter the Truck Weigh Station to be measured and/or weighed. Failure to comply will subject the operator of that vehicle to statutory penalties as provided in Title 39 of the Revised Statutes.

(a)

AERONAUTICS

Airport Safety Improvement Aid Classification of State Aid

Adopted Amendment: N.J.A.C. 16:56-4.1

Proposed: May 6, 1985, CITE 17 N.J.R. 1067(a)

Adopted: June 14, 1985, James A. Crawford, Assistant Commissioner for Transportation Services and Planning

Filed: June 20, 1985 as R.1985 d.366, **without change.**

OTHER AGENCIES

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 6:1-29, 6:1-44 and "Airport Safety Act of 1983; P.L. 1983, c264

Effective Date: July 15, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): June 4, 1989.

Summary of Public Comments and Agency Response:
No comment received.

Full text of the adoption follows.

16:56-4.1 Classification of State aid

(a)-(d) 1. (No change.)

2. Airport safety improvement loans are limited to \$90,000 maximum disbursements to any eligible local sponsor (airport).

3.-6. (No change.)

(e) 1. (No change.)

2. Airport safety improvement grants are limited to an annual \$15,000 maximum disbursement to any eligible recipient.

3. (No change.)

(f)-(g) (No change.)

1. The limit of State Airport Safety Improvement Grants is \$15,000.

2.-3. (No change.)

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(b)

DELAWARE RIVER BASIN COMMISSION

Comprehensive Plan and Article 2 of the Water Code of the Delaware River Basin

Adopted: May 29, 1985 by Delaware River
Basin Commission, Susan Weisman,
Secretary

Filed: June 17, 1985 as R.1985 d.358.

Effective Date: May 29, 1985.

Full text of the adoption follows:

NO. 85-19

A RESOLUTION to amend the Comprehensive Plan and *Water Code of the Delaware River Basin* in relation to well registration.

WHEREAS, the Special Ground Water Study Basinwide Report and Executive Summary was accepted by the Delaware River Basin Commission on December 15, 1982; and

WHEREAS, the study outlines a recommended program for integrated management of ground-water quantity and quality in the Basin; and

WHEREAS, Recommendation #14 of the study states—"All new and existing wells or projects that withdraw 10,000 gallons per day or more during any calendar month should be registered by the signatory states"; and

WHEREAS, the Commission's Ground Water Advisory Committee unanimously approved on September 13, 1984 a proposal (Task VIa) to accomplish well registration, including the automation of well records; and

WHEREAS, the Commission held a public hearing on March 27, 1985 regarding this proposed amendment and has received and considered testimony from water users and other interested parties; and

WHEREAS, the Ground Water Advisory Committee met on May 10, 1985 and revised the proposed amendment in response to the comments and testimony received; and the committee recommends that the revised proposal be adopted by the Commission; now therefore

BE IT RESOLVED by the Delaware River Basin Commission:

1. The Comprehensive Plan and Article 2 of the *Water Code of the Delaware River Basin* are hereby amended by the addition of a new section, Section 2.20.7, to read as follows:

2.20.7 Basinwide Well Registration Standards and Criteria

A. Policy.—(1) All owners of individual wells or groups of wells operated as a system that withdraw an average of 10,000 gallons per day (gpd) or more during any 30-day period from the underground waters of the Basin shall register their wells with the designated agency of the state where the well is located. (2) Registrations may be filed by agents of owners, including well drillers. (3) Owners of existing wells that withdraw 10,000 gpd or more in any 30-day period that have not been previously registered with the respective designated state agencies pursuant to state law or the Southeastern Pennsylvania Ground Water Protected Area Regulations shall register their wells with the designated state agency by March 1, 1986. In lieu of this provision, alternative arrangements for registration of previously unregistered existing wells may be approved by the Executive Director pursuant to subsection C. Administrative Agreements. (4) Any well that is replaced or redrilled, or modified in a manner such as to increase the withdrawal capacity of the well, shall be reregistered with the designated state agency. (5) The following are the designated registration agencies for the respective states: Delaware Department of Natural Resources and Environmental Control; New Jersey Department of Environmental Protection; New York State Department of Environmental Conservation; and Pennsylvania Department of Environmental Resources.

B. Forms, Procedures, and Information Requirements.—(1) Registrations shall be filed on forms and in accordance with procedures established by the Commission. In lieu of such forms and procedures, the Executive Director may approve forms and procedures established by the respective state agencies which are essentially equivalent. (2) The following data shall constitute minimum information requirements for well registration:

(Owners or their agents are responsible for items a-i; states and/or the United States Geological Survey (U.S.G.S.) are responsible for items j-m.)

- a. Well identification number (owner ID)
- b. Well owner's name, address, and telephone number
- c. Well location
 - i. State
 - ii. County
 - iii. Political subdivision
 - iv. U.S.G.S. Quadrangle with location
- d. Well construction information
 - i. Date of well completion
 - ii. Driller's name, state license number
 - iii. Diameter(s) of hole (inches)
 - iv. Depth drilled (ft. below land surface)
 - v. Depth of completed well (ft. below land surface)
 - vi. Drilling method

- vii. Casing(s)
 - depth(s) (ft. below land surface)
 - diameter(s)
 - material
- viii. Screen(s)
 - depth(s) of top (ft. below land surface)
 - depth(s) of bottom (ft. below land surface)
 - diameter(s) (inches)
 - material
 - type
- ix. Gravel pack
 - depth of top (ft. below land surface)
 - depth of bottom (ft. below land surface)
- x. Grout information
 - grout material
 - grout top (ft. below land surface)
 - grout bottom (ft. below land surface)
- xi. Driller's Log
 - e. Water-yielding zones (consolidated-rock aquifers)
 - i. Depth of top (ft. below land surface)
 - ii. Depth of bottom (ft. below land surface)
 - f. Pump test/well yield information
 - i. Date
 - ii. Static water level (ft. above or below land surface)
 - iii. Pumping water level (ft. below land surface)
 - iv. Pumping time (hours and minutes)
 - v. Pumping rate (gpm)
 - vi. Pumping measurement method
 - vii. Maximum sustainable well yield
 - g. Use information
 - i. Use type
 - agriculture (non-irrigation)
 - commercial
 - domestic
 - industrial
 - irrigation
 - mining
 - dewatering
 - air conditioning, geothermal heat pump
 - power
 - fossil-fueled power
 - nuclear power
 - sewage treatment
 - public water supply
 - ii. Anticipated or estimated usage (gpd, gpm, or gpy)
 - iii. Meter type
 - iv. Pump installation date
 - v. Pump capacity (gpm)
 - vi. Motor capacity (hp)
 - vii. Pump manufacturer and type
 - viii. Power source(s)
 - ix. Intake setting (ft. below land surface)
 - x. Current pumping level (if available)
 - h. Manner and location of water or wastewater disposal
 - i. Verification: Name, address, signature, date, and telephone number of person supplying data for items a-h
 - j. Identification and location
 - i. Latitude and longitude (method used) or New Jersey Grid No.
 - ii. Major watershed (U.S.G.S. Hydrologic Unit)
 - iii. Minor watershed
 - iv. Identification numbers (Registration ID)
 - v. Altitude (ft. above or below mean sea level) (method used)
 - k. Aquifer information

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- i. Aquifer and geologic formation
- ii. Lithology of aquifer
- iii. Depth to bedrock
- iv. Bedrock material
- v. Confined or unconfined aquifer
- vi. Specific capacity
- l. Water-withdrawal permit data (if available)
- i. Name of permitting agency
- ii. Permit number
- iii. Permit quantity
- iv. Expiration date
- m. Verification: Name, agency, address, date, and telephone number of person supplying data for items j-l.

(3) The designated state agency may waive specific information requirements set forth in (2) for existing wells if the information is unavailable.

C. Administrative Agreements.—Recognizing the existence of ongoing well registration programs in the signatory states and recognizing the major differences among the four signatory

states regarding the legal authority and enforcement capability for the conduct of well registration, the Executive Director shall effectuate independent administrative agreements with each state for the conduct of well registration. The administrative agreements shall at a minimum provide for: (1) the adoption by each state of the minimum information requirements presented in subsection B(2) for registration of ***new wells*** producing an average of 10,000 gpd or more during any 30-day period and automation of well records; (2) the identification and automation of well records for all ***registered, existing wells*** producing an average of 10,000 gpd or more during any 30-day period; and (3) the adoption of procedures for registration of ***unregistered, existing wells*** producing an average of 10,000 gpd or more during any 30-day period and automation of well records.

2. This resolution shall take effect immediately.

OFFICE OF ADMINISTRATIVE LAW NOTE: These rules are not subject to codification and will not appear in the New Jersey Administrative Code.

EMERGENCY ADOPTIONS

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code Asbestos Hazard Abatement Subcode

Adopted Emergency New Rule and Concurrent Proposal: N.J.A.C. 5:23-8

Emergency New Rule Adopted: June 6, 1985 by John P. Renna, Commissioner, Department of Community Affairs.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)): June 18, 1985.

Emergency New Rule Filed: June 18, 1985 as R. 1985, d. 362.

Authority: N.J.S.A. 52:27D-124, 34:5A-32.

Emergency New Rule Effective Date: June 18, 1985.

Emergency New Rule Expiration Date: August 17, 1985.

Concurrent Proposal Number: PRN 1985-396.

A public hearing concerning the concurrent proposal will be held on:

August 1, 1985 at 10:00 A.M.
1333 Brunswick Circle
Trenton, New Jersey

Submit comments by August 14, 1985 to:

Michael L. Tickin, Esq.
Administrative Practice Officer
Division of Housing and Development
CN 804
Trenton, New Jersey 08625

This new rule was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). It contains the amended text of a proposed new rule published in the April 1, 1985 *New Jersey Register** at 17 N.J.R. 767(a). The purpose of this emergency adoption is to make the new rule effective before the end of the 1984-85 school year so that there will be no unnecessary delay in asbestos removal work. Concurrently, the provisions of this emergency new rule are being proposed for re-adoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The re-adopted rule becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

The agency emergency adoption and concurrent proposal follows:

Summary

The Department of Community Affairs, in cooperation with the Departments of Health and Labor seeks to implement an Asbestos Hazard Abatement Program (see jointly adopted rules of the Department of Health and Labor in the July 1, 1985 issue of the Register). Asbestos, a material used in buildings to provide fire protection, has been found to create a health hazard in certain situations in which its fibers can get into the air.

Since the work of asbestos removal or containment necessarily involves alteration or repair of buildings, it must be done in accordance with the State Uniform Construction Code (N.J.A.C. 5:23). However, the present adopted subcodes and administrative rules do not deal adequately with the issues involved in asbestos hazard abatement. Since there exists no nationally-recognized model code in this area, the Department has adopted on an emergency basis and consequently proposed this subchapter as an Asbestos Hazard Abatement Subcode.

This subchapter concerning asbestos abatement contains rules which deal with permits, fees, licenses, certifications, required reports and documentation, inspection requirements, air monitoring, enforcement responsibilities and procedures and inspector certification. These rules will apply to buildings and structures in Use Group E as defined in the building subcode. See definition of Use Group E in N.J.A.C. 5:23-8.2 for educational buildings affected.

Social Impact

With this subchapter in effect, the Department will be able to implement an asbestos removal and containment program that will protect the health and welfare of people using those educational buildings subject to these rules in which asbestos is now present.

Economic Impact

Permit fees are established for asbestos work. The fee shall be \$300.00 for any work having a cost of up to \$7,500, with the amount thereafter being \$40.00 per \$1,000 up to \$10,000; \$32.00 per \$1,000 for from \$50,001 to \$100,000; and \$24.00 per \$1,000 thereafter. A certificate of occupancy fee in the amount of ten percent of the asbestos work permit fee, with a minimum of \$100.00 is established. Where the inspection is done by a local enforcing agency, fees in lieu of these fees may be set by ordinance.

The procedure for asbestos removal will clearly impose costs upon property owners that would not otherwise exist. However, asbestos removal poses serious hazards not posed by other repair or alteration activities and the special procedures and requirements are necessary to protect the health, safety and welfare of all who use the building.

Full text of the emergency new rule and concurrent proposal follows.

SUBCHAPTER 8. Asbestos Hazard Abatement Subcode

5:23-8.1 Title; scope; intent

(a) This part of the regulations, adopted pursuant to c.217, P.L. 1975, the Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) and entitled Asbestos Hazard Abatement Subcode shall be known and may be cited throughout the regulations as N.J.A.C. 5:23-8 and when referred to in this subchapter, may be cited as "this subchapter."

1. In addition, the New Jersey Departments of Health and Labor have jointly adopted regulations pursuant to c.217, P.L. 1984, the Asbestos Control and Licensing Act (N.J.S.A. 34:5A-32 et seq.) and are cited as N.J.A.C. 8:60, and N.J.A.C. 12:120, respectively. These regulations provide for: a standardized training course for all asbestos workers; licensing of asbestos removal contractors; and issuing work-permits for asbestos removal workers.

i. Copies of N.J.A.C. 8:60 may be obtained from the New Jersey Department of Health, Occupational Disease Prevention and Information Program, CN 360, Trenton, New Jersey 08625-0360.

ii. Copies of N.J.A.C. 12:120 may be obtained from the New Jersey Department of Labor, Division of Workplace Standards, CN 054, Trenton, New Jersey 08625-0054.

2. The New Jersey Department of Environmental Protection has authority to enforce regulations regarding the transport and disposal of asbestos-containing materials pursuant to N.J.S.A. 13:1D-9, 13:1E-1 et seq. and are cited as N.J.A.C. 7:26-1 et seq.

i. Copies of N.J.A.C. 7:26 may be obtained from the New Jersey Department of Environmental Protection, Division of Waste Management, Bureau of Field Operations, 120 Route 156, Yardville, New Jersey 08620.

(b) Unless otherwise specifically provided, all references to article or section numbers or to provisions not specifically identified by number, shall be construed to refer to such article, section or provision of this subchapter.

(c) This subchapter, which pertains to Educational Facilities as defined in N.J.A.C. 5:23-8.2, shall control matters relating to: construction permits for asbestos abatement; fees; licenses; certification; work permits; reports required; documentation; inspections by the administrative authority having jurisdiction; air monitoring; enforcement responsibilities; inspector certification; and remedies and enforcement. Until further action is taken, this subcode remains advisory for all other buildings and structures in the State.

(d) This subchapter seeks to provide and ensure public safety, health, and welfare insofar as they are affected by asbestos and asbestos-containing materials. It is not intended to, nor should it be construed to, conflict with or impede the operation of the asbestos work standards issued by the Occupational Safety and Health Administration, 29 CFR Section 1910.1001 et seq.

1. It is the purpose of this subchapter to establish standards and procedures to ensure that all State laws and regulations applicable to asbestos hazard abatement work are actually adhered to wherever work takes place.

2. Asbestos has been a pervasive construction material which in many of its forms poses no significant health risk. These standards and procedures need not be applied to all work involving asbestos-containing materials but only those which pose serious health hazards to the public.

3. Asbestos which is or which can readily become friable was a widely used construction material. Its removal, replacement, repair, enclosure or encapsulation shall be considered construction work and therefore requires a construction permit issued pursuant to the State Uniform Construction Code Act (N.J.S.A. 52:27d-119 et seq.). Asbestos and asbestos-containing materials were, in many cases, used in order to satisfy important code requirements pertaining to fire safety. Accordingly, where asbestos was used originally to satisfy fire code requirements, it shall not be removed unless it is replaced as part of the project, with material or assembly which has equivalent fire

resistive or heat resistive characteristics. Additionally, any encapsulation materials or methods shall conform to the construction requirements of the Uniform Construction Code.

5:23-8.2 Definitions

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

"Asbestos" means a general term used to describe a group of naturally occurring hydrated mineral silicates. The asbestiform varieties include chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite-grunerite);

"Asbestos-containing material" means any material which contains more than 1 percent asbestos by weight.

"Asbestos Safety Monitor" means a private firm approved by the New Jersey Department of Health, hired by the building owner, who continuously monitors the asbestos abatement work pursuant to this subchapter. This monitor shall be required to be on the job site during the time the asbestos abatement work is taking place.

"Barrier" means polyethylene sheeting that completely seals off the work area to prevent the distribution of fibers to surrounding area.

"Bureau" means Bureau of Construction Code Enforcement, Division of Housing and Development, Department of Community Affairs.

"Construction permit for asbestos abatement" means required official approval to commence any asbestos hazard abatement job. This permit is issued by the administrative authority having jurisdiction.

"Contractor" means the Asbestos Removal Contractor licensed by the New Jersey Department of Labor.

"Decontamination unit" means serial arrangement of rooms or spaces for the purpose of separating the work site from the building environment upon entering the work site and for the cleaning of persons, equipment, and contained waste prior to returning to the clean environment.

"Educational facility" means all buildings and structures, or parts thereof, which are under common ownership or control of an educational institution. Educational institutions include schools (public and private), colleges, universities, academies, child day care centers and nurseries.

"Employee" means an asbestos abatement worker having a valid work permit, issued by New Jersey Department of Labor and employed by the contractor.

"Encapsulation" means treatment of asbestos-containing materials, generally ceilings, using a liquid to bond or seal the surface to minimize the potential for fiber release.

"Enclosure" means an impermeable barrier (made of wood, metal, etc.) placed around asbestos-containing material.

"Friable" means any material applied to ceilings, walls, piping, duct work, etc., which when dry may be crumbled, pulverized, or reduced to a powder by moderate hand pressure.

"Glove bag" means a plastic bag especially designed to contain sections of pipe for the purpose of removing short lengths of damaged asbestos material without releasing fibers into the air.

"HEPA" means High Efficiency Particulate Absolute filter, capable of filter efficiency of 99.97 percent down to 0.3 um (microns).

"Large asbestos hazard abatement job" means asbestos-containing materials which: involves the removal, repair, enclosure, or encapsulation within one year of 160 square feet or more of asbestos-containing material used on an equipment, wall, or ceiling area; or involves the removal or encapsulation, using a liquid material applied by a pressurized spray, within one year

of 260 linear feet or more of asbestos-containing material on covered piping.

"Minor asbestos hazard abatement job" means asbestos-containing materials which: involves the removal, repair, encapsulation or enclosure of 25 square feet or less of asbestos-containing material used on an equipment, wall or ceiling area; or involves the removal or encapsulation, using a liquid material applied by a pressurized spray, of 10 linear feet or less of asbestos-containing material on covered piping as delineated in N.J.A.C. 5:23-8.4. Encapsulation by other methods and the repair and enclosure of any amount of asbestos-containing material, used to cover piping, shall also be a minor asbestos hazard abatement job.

"Primary seal/critical barrier" means two layers of 6 mil polyethylene sheeting that completely seals off the work area to prevent the distribution of fibers to the surrounding area, such as the opening between the top of a wall and the underside of ceiling construction, electrical outlets, non-removable lights, HVAC systems, windows, doorways, entranceways, ducts, grilles, grates, diffusers, wall clocks, speaker grilles, floor drains, sink drains, etc.

"Repair" means corrective action using recommended work practices to minimize the likelihood of fiber release from small damaged areas of asbestos ceilings, pipe and boiler insulation. Repair may include but is not limited to: enclosure of pipe and boiler insulation, spot removal and replacement with non-asbestos materials, and spot encapsulation of ceiling materials with minor damage.

"Small asbestos hazard abatement job" means asbestos-containing materials which: involves the removal, repair, enclosure, or encapsulation within one year of more than 25 and less than 160 square feet of asbestos-containing material used on an equipment, wall or ceiling area; or involves the removal or encapsulation, using a liquid material applied by a pressurized spray, within one year of more than 10 and less than 260 linear feet of asbestos-containing material on covered piping.

5:23-8.3 Matters covered; exceptions

(a) Except as is otherwise provided in 1. below, the provisions of this subchapter shall be enforced by municipal enforcing agencies (the Bureau of Construction Code Enforcement, hereafter cited as the Bureau, if applicable) and shall be administered and enforced uniformly throughout the State. Any municipality shall be authorized to enforce this subchapter when staffed with at least one inspector who is certified pursuant to this subchapter. This subchapter shall be in addition to existing regulations already adopted pursuant to the Uniform Construction Code Act (P.L. 1975, c.217 as amended) and known as the Regulations for the Uniform Construction Code (N.J.A.C. 5:23). This subchapter contains administrative procedures for the inspection of asbestos abatement work involving: removal; encapsulation; enclosure; repair; renovation or demolition work which disturbs asbestos in Educational Facilities.

1. Rules concerning exceptions are as follows:

i. State-owned or State-managed buildings: The Division of Building and Construction, New Jersey Department of Treasury, shall be the sole enforcing agency to administer and enforce the Asbestos Hazard Abatement Subcode with respect to State-owned or State-managed buildings where construction work is required to be contracted through the Division. This shall involve the issuance of permits; monitoring of asbestos projects; issuance of written notices to proceed and certificates of approval or occupancy; and any other provisions as may be deemed appropriate.

(b) Except as is otherwise provided in 1. below, the joint regulations adopted by the New Jersey Departments of Health and Labor, which are cited as N.J.A.C. 8:60 and N.J.A.C. 12:120, respectively, provide the licensing requirements of contractors who perform any of the functions of application, enclosure, removal or encapsulation.

1. Rules concerning exceptions are as follows:

i. Repair: A contractor is not required to be licensed to perform the function of repair.

5:23-8.4 Minor asbestos hazard abatement job

(a) Minor asbestos hazard abatement job, as defined in N.J.A.C. 5:23-8.2, involves asbestos abatement work which may be made without application or notice to the administrative authority having jurisdiction. This work requires general isolation of the work area from the surrounding environment, proper clean-up procedures, and shall be conducted by trained personnel who have successfully completed a training program for maintenance and custodial personnel and other construction trade groups which meets the applicable requirements of the New Jersey Public Employees OSHA or applicable federal standards. Specific records of each minor asbestos hazard abatement job shall be kept on file at a central location by the owner of the facility and shall be open for review and audit by the administrative authority having jurisdiction and for public inspections during normal business hours. The information required shall be: exact locations of the worksite within the building, type of abatement work conducted, scope of work, type of replacement material used (if applicable), date, name(s) and address(es) of personnel, and the location of the disposal site. A copy of this information shall be sent to the administrative authority having jurisdiction each time a minor asbestos hazard abatement job takes place.

1. Exception: Although asbestos abatement work involving enclosure of any amount of asbestos-containing material used to cover piping does not require a construction permit for asbestos abatement pursuant to this subchapter, it shall be considered construction work and, therefore, may require a construction permit issued by the administrative authority having jurisdiction pursuant to N.J.A.C. 5:23-2.

5:23-8.5 Variations

(a) No variations from the requirements of this subchapter shall be made except upon written approval from the administrative authority having jurisdiction and shall be consistent with N.J.A.C. 5:23-2.

(b) An application for a variation pursuant to this section shall be filed in writing with the administrative authority having jurisdiction and shall include specifically:

1. A statement of the requirements of the subcode from which a variation is sought;
2. A statement of manner by which strict compliance with said provisions would result in practical difficulties;
3. A statement of nature and extent of such practical difficulties; and
4. A statement of feasible alternatives to the requirements of the subcode which would adequately protect the health, safety and welfare of the occupants or intended occupants and the public generally and which would adequately prevent contamination of the environment.

5:23-8.6 Construction permit for asbestos abatement

(a) It shall be unlawful to undertake a large or small, but not a minor asbestos hazard abatement job unless the owner or an authorized representative on behalf of the owner, first files an application in writing with the administrative authority having

jurisdiction and obtains the required permit. All asbestos abatement work shall be conducted in unoccupied buildings except under limited circumstances approved by the New Jersey Departments of Community Affairs and Health (and New Jersey Department of Education for public school projects). The type of asbestos abatement work to be performed and the amount of asbestos to be removed, encapsulated, enclosed or repaired shall be the governing factor in determining whether it is considered a large asbestos hazard abatement job, a small asbestos hazard abatement job or a minor asbestos hazard abatement job.

1. The Bureau; Division of Building and Construction, New Jersey Department of Treasury; or a municipality which has been authorized by the Bureau to enforce the Asbestos Hazard Abatement Subcode within its jurisdiction, shall be the sole enforcing agency for asbestos hazard abatement work which:

i. For the purposes of this subchapter, the following work shall be considered a large asbestos hazard abatement job: Involves the removal, repair, enclosure or encapsulation within one year of 160 square feet or more of asbestos-containing material used on an equipment, wall, or ceiling area; or involves the removal, or encapsulation, using a liquid material applied by pressurized spray, within one year, of 260 linear feet or more of asbestos-containing material on covered piping.

ii. For the purposes of this subchapter, the following work shall be considered a small asbestos hazard abatement job: Involves the removal, repair, enclosure, or encapsulation within one year of more than 25 and less than 160 square feet of asbestos-containing material used on an equipment, wall or ceiling area; or involves the removal or encapsulation, using a liquid material applied by pressurized spray, within one year of more than 10 and less than 260 linear feet of asbestos-containing material on covered piping.

(b) The application for a construction permit for asbestos abatement shall be subject to the following:

1. The application for a permit shall be submitted in such form as the Bureau may prescribe and shall be accompanied by the required fee as provided for in this subchapter.

2. The application for a construction permit for asbestos abatement shall be required to include the following:

i. The name, address and license number of the asbestos contractor pursuant to N.J.A.C. 12:120 Asbestos Licenses and Permits under the jurisdiction of the New Jersey Department of Labor;

ii. The asbestos hazard assessment conducted by the New Jersey Department of Health;

iii. The name and address of the private air monitoring firm, hired by the building owner who shall act as the Asbestos Safety Monitor approved by the New Jersey Department of Health who will be responsible for continuously monitoring the asbestos abatement project;

iv. The name and address of the analytical testing laboratory approved by the New Jersey Department of Health which shall analyze bulk, dust and air monitor samples, as needed;

v. Plans and specifications (not less than two sets) indicating the scope of the proposed work, the provisions proposed to contain the asbestos-containing material during abatement work and scheduled starting and completion dates for the asbestos work project;

vi. Documentation that all buildings, except under limited circumstances approved by the New Jersey Departments of Health, Education or Community Affairs, as appropriate, will be unoccupied at the time an asbestos abatement job takes place;

vii. The name and address of the New Jersey Department of Environmental Protection registered waste hauler and of the

New Jersey Department of Environmental Protection registered landfill where the asbestos waste will be deposited.

(c) The issuance of a construction permit for asbestos abatement shall be subject to the following:

1. Submission of a completed application;

2. The described work and containment measures conform to the requirements of this subchapter and the requirements of any other applicable law or regulation adopted or enforced by any other State agency.

(d) The issuance of the construction permit for asbestos abatement authorizes the preparation of the job site. No actual asbestos abatement work shall commence until:

1. A pre-commencement inspection has been conducted and approved by the administrative authority having jurisdiction.

(e) A permit, once issued remains valid only as long as all of the information contained in the application remains correct and is adhered to. Any change requires an amendment to the application before the change takes place. Failure to adhere to these requirements may result in a stop work order.

(f) The applicant or contractor shall notify the following agencies in writing prior to the start of the asbestos abatement project. Such notice shall be supplied in the form of a copy of the completed application for a construction permit for asbestos abatement and a copy of the permit if the administrative authority is a municipal enforcing agency and not the Bureau:

1. New Jersey Department of Health
Asbestos Control Project
Environmental Health Program
CN 360
Trenton, New Jersey 08625-0360

2. New Jersey Department of Education
(For Public School Projects Only)
Bureau of Facility Planning Services
225 W. State Street
Trenton, New Jersey 08625

3. New Jersey Department of Community Affairs
Bureau of Construction Code Enforcement
CN 805
Trenton, New Jersey 08625-0805

5:23-8.7 Inspections; violations

(a) Pre-commencement inspections shall be conducted as follows:

1. Notification to the administrative authority having jurisdiction shall be made by the applicant or contractor to request a pre-commencement inspection at least 48 hours in advance of the desired date of inspection. This inspection shall be requested each time another worksite is started in a multi-phase project.

2. The inspector shall ensure that:

i. The job site is properly prepared and that all containment measures are in place pursuant to this subchapter;

ii. All workers shall present to the inspector a valid work permit issued by the New Jersey Department of Labor;

iii. Measures for the disposal of removed asbestos material are in place and shall conform to the adopted standards;

iv. The Asbestos Safety Monitor approved by the New Jersey Department of Health is on the job site and properly equipped to carry out the monitor's responsibilities.

v. The contractor has a list of emergency telephone numbers at the job site which shall include the monitoring firm employed by the building owner and telephone numbers for fire, police, emergency squad, local hospital and health officer, New Jersey Department of Labor and New Jersey Department of Health.

3. If all is in order, the inspector from the administrative authority having jurisdiction shall issue a written notice to proceed in the field. If the job site is not in order, then any needed corrective action must be taken before any work is to commence. Conditional approvals shall not be granted.

(b) Progress inspections shall be conducted as follows:

1. Primary responsibility for ensuring that the asbestos abatement work progresses in accordance with this subchapter rests with the Asbestos Safety Monitor. This monitor shall continuously be present to observe the progress of work and perform required tests.

2. Inspections performed by inspectors from the administrative authority shall be unannounced and ensure that:

- i. The Asbestos Safety Monitor is present and is performing all required tests and maintaining required records; and
- ii. The work is progressing in accordance with this subchapter.

3. If the Asbestos Safety Monitor observes irregularities at any time, the monitor shall direct such corrective action as may be necessary. If the contractor fails to take the corrective action required, or if the contractor or any of their employees habitually and/or excessively violate the requirements of any regulation, then the Asbestos Safety Monitor shall inform the inspector from the administrative authority having jurisdiction who shall issue a Stop Work Order to the contractor and have the work site secured until all violations are abated.

(c) Clean-up inspections shall be conducted as follows:

1. Notice for clean-up inspection shall be requested by the contractor at least 48 hours in advance of the desired date of inspection;

2. The clean-up inspection shall be conducted prior to the removal of the critical barriers;

3. The inspector from the administrative authority having jurisdiction shall ensure that:

- i. The work site has been properly cleaned and is free of visible asbestos and asbestos-containing material;
 - ii. All Asbestos Safety Monitor responsibilities have been properly performed and all records are complete and demonstrate compliance with this subchapter; and
 - iii. All removed asbestos has been properly disposed of off-site in accordance with the regulations of the New Jersey Department of Environmental Protection, N.J.A.C. 7:26-1 et seq.
4. If all is in order, the inspector shall issue a written notice of authorization to remove barriers from the job site.

(d) Final inspections shall be conducted as follows:

1. Upon notice by the owner or by the contractor and at least 48 hours after the removal of the critical barriers, a final inspection shall be made to ensure the absence of any visible signs of asbestos or asbestos-containing materials.

(e) Bureau inspections shall be conducted as follows:

1. The Bureau shall make unannounced periodic inspections of any job-site involving asbestos abatement work.

(f) Violations: The inspector shall ensure that the work conforms to this subchapter. If it is found that the asbestos abatement work is being conducted in violation of this subchapter, the inspector shall issue a Stop Work Order to the contractor and have the work site secured until all violations are abated.

5:23-8.8 Certificate of occupancy; certificate of approval

(a) Certificate of occupancy requirements are as follows:

1. It shall be unlawful to use or occupy the portion of the building affected by asbestos abatement in whole or part until a certificate of occupancy has been issued by the administrative authority having jurisdiction. The certificate of occupancy shall be issued after the project has been successfully completed in

which asbestos is disturbed and the work is conducted in an unoccupied building.

2. The application for a certificate of occupancy shall be in writing and submitted in such form as the Bureau may prescribe and shall be accompanied by the required fee as provided for in this subchapter.

i. The application shall include the following:

- (1) The name and address of the owner;
- (2) The address of the building or structure;
- (3) The statement by the responsible person in charge of work, that to the best of his knowledge all work has been completed in accordance with the permit, the approved plans, and the regulations;
- (4) A statement of the final costs of the asbestos abatement project;
- (5) The report of the Asbestos Safety Monitor, including all records and test data required; and
- (6) Final air monitoring level of .01 fibers/cc or lower submitted by the Asbestos Safety Monitor.

3. If all the information required is complete and in accordance with this subchapter, and if the final inspection reveals no visible evidence of asbestos, a certificate of occupancy shall be issued.

i. If the project fails to pass the final inspection or meet the final air monitoring level, a certificate shall not be issued until remedial measures are taken.

(b) Certificate of approval requirements are as follows:

1. It shall be unlawful to use or occupy the portion of the building affected by asbestos abatement in whole or part until a certificate of approval has been issued by the administrative authority having jurisdiction. The certificate of approval shall be issued after the project has been successfully completed and the work has been conducted in an occupied building.

2. The application for a certificate of approval shall be in writing and submitted in such form as the Bureau may prescribe and shall be accompanied by the required fee as provided for in this subchapter.

i. The application shall include the information specified in (a)2i(1) through (4) above.

3. If all the information required is complete and in accordance with this subchapter, and if the final inspection reveals no visible evidence of asbestos, a certificate of approval shall be issued.

i. If the project fails to pass the final inspection, a certificate shall not be issued until remedial measures are taken.

5:23-8.9 Fees

(a) Bureau of Construction Code Enforcement fees are as follows:

1. The fee charged for a construction permit for asbestos abatement shall be based upon the estimated cost of the abatement work. The fee shall be charged according to the following rate: \$40.00 per \$1,000 for each \$1,000 increment up to \$50,000; \$32.00 per \$1,000 for each \$1,000 increment from \$50,001 to \$100,000; \$24.00 per \$1,000 for each \$1,000 above \$100,000. For the purpose of determining estimated cost, the applicant shall submit to the department, if available, cost data produced by the architect or engineer of record, or by a recognized estimating firm, or by the contractor. A bona fide contractor's bid, if available, shall be submitted. The department will make the final decision regarding estimated costs. This fee shall be paid before the permit is issued.

i. The minimum fee charged for a construction permit for asbestos abatement shall be \$300.00.

2. The fee charged for a certificate of occupancy or a certificate of approval shall be in the amount of 10 percent of the construction permit for asbestos abatement fee which is charged pursuant to this subchapter.

i. The minimum fee charged for a certificate of occupancy or a certificate of approval pursuant to this subchapter shall be \$100.00.

(b) Municipal enforcing agency fees are as follows:

1. The fees charged for a construction permit for asbestos abatement, certificate of occupancy, and certificate of approval shall be set forth by Ordinance as provided in N.J.A.C. 5:23-4.17.

5:23-8.10 Precautions and procedures during a large asbestos hazard abatement job.

(a) Protective clothing and equipment for asbestos abatement shall be subject to the following requirements:

1. The contractor shall provide the required respirators and protective clothing to all who may inspect or visit the job site;

2. The protective clothing and equipment requirements set forth in this section shall be used to prevent the contamination of areas and buildings accessible to or used by the public by persons engaged in asbestos abatement projects;

3. No specific protective clothing is required; however, all clothing worn during removal operations shall be disposed of as contaminated waste. The requirement that clothing be disposed of as contaminated waste shall not include rubber boots, respirators, eye protection, hard hats, and other protective clothing, which can be easily cleaned.

4. Polyethylene bags shall be 6 mil thick and of sufficient size for their intended use;

5. All tape shall be a high-quality duct tape. All spray-on adhesives, glue, and other barrier securing material shall also be high quality products;

6. The contractor shall have available sufficient inventory of protective clothing, respirators, filter cartridges, plastic sheeting of size and thickness, duct tape, glue, spray-on adhesives, and air filters. Personal protective equipment inventory shall allow for inspector and visitor usage;

7. The contractor shall have available shower stalls and sufficient plumbing for these showers including sufficient hose length and drain systems or an acceptable alternate such as a portable decontamination trailer with showers. Waste shower water shall be filtered through 5-um filters and recycled to be used as a wetting agent or added to asbestos contaminated waste before disposal in an approved landfill;

8. The contractor shall have available ladders and/or scaffolds of adequate length and sufficient quantity so that all work surfaces may be easily reached by inspectors;

9. The contractor shall have available air filtering equipment capable of filtering asbestos fibers to 0.3 um at 99.97 percent efficiency and of sufficient quantity and capacity to cause a complete air change within the work area once every 15 minutes; such equipment shall exhaust the filtered air so as to maintain a negative pressure inside the work area. Air shall flow in through the decontamination chamber and waste exit ports, and exhaust through the negative air filtration unit by means of flexible duct leading outside the work area, preferably outside of the building. The air-filtering equipment should be positioned at a maximum distance from the decontamination chamber. Air flow shall be sufficient to prevent escape of airborne fibers. Negative air-filtration shall be in operation at all times.

(b) Decontamination procedures are as follows:

1. The contractor shall provide an adequate decontamination unit consisting of a serial arrangement of rooms or spaces adjoining the work area or a decontamination trailer. Each space shall be clearly identified and separated from the others by plastic sheet doors, acceptable air locks, or other arrangements designed to minimize fiber and air transfer as people pass between areas. A minimum of two layers of 6 mil plastic sheeting shall be required for floors, walls, and the ceiling for on-site contracted decontamination units. Air locks shall have at least three layers of 6 mil plastic sheetings.

2. The decontamination areas shall consist of the following:

i. Clean room: In this room persons remove and leave all street clothes and put on clean disposable coveralls. Approved respiratory protection equipment is also picked up in this area. No asbestos contaminated items are permitted in this room.

ii. Shower room: This is a separate room used for transit by cleanly dressed people entering the job site from the clean room and for showering by them after they have undressed in the equipment room. This is a contaminated area.

iii. Equipment room: Work equipment, footwear, and all other contaminated work clothing shall be stored here. This is also a change and transit room for people. All areas between the shower room and work area shall be considered part of the equipment room. This is a contaminated area.

3. The contractor in order to prevent contamination of the environment shall be responsible for controlling access at the work site and shall maintain a daily log of personnel entering the work area. A list of names of workers shall be posted with their start and stop times for each day. In addition, the contractor shall assure that all who enter the work area (hereafter referred to as person) shall observe the following work area entry and exit procedures:

i. Person enters clean room and removes street clothing, puts on a respirator, and passes through shower room into the equipment room.

ii. Any additional required clothing and equipment previously deposited in the equipment room is put on.

iii. Person proceeds to work area.

iv. Before leaving the work area, the person shall remove all gross contamination and debris from the coveralls using a vacuum with a high efficiency particulate absolute (HEPA) filter. In practice, this is usually carried out by one person assisting another.

v. The person then proceeds to equipment room and removes all clothing except approved respirators. Extra clothing may be stored in contaminated end of the unit. Disposable coveralls are placed in a bag for disposal with other material.

vi. The person then proceeds directly into the shower room. Respirators shall be taken off last to prevent inhalation of fibers during removal of contaminated clothing, and shall not be removed until they have been washed free of dust.

vii. After showering, the person moves to the clean room and dresses in street clothing prior to exiting.

viii. Respirators are picked up, washed thoroughly, and disinfected as required, wrapped and stored in the clean room.

4. The contractor shall assure that filters in dual cartridge type respirators used during the preparation phase of the job shall be removed, wetted and discarded as contaminated waste. A new filter shall be in place in the respirator prior to reuse. For powered air purifying respirators or supplied air respirators, the manufacturer shall be consulted about the proper decontamination sequence.

5. There shall be no smoking, eating, or drinking in any contaminated areas (shower room, equipment room, and work area). Respirators shall be worn in all contaminated areas.

6. Nondisposable footwear shall remain inside the contaminated area until completion of the visit, and shall be thoroughly cleaned at that time.

(c) Preliminary preparations in the work area shall be conducted as follows:

1. The contractor shall provide and post in clearly visible locations, caution signs indicating that asbestos work is being conducted and that unprotected persons should not enter;

2. The contractor or persons employed by the building owner shall clean with wet cloths all movable items that can be removed from the work area without disrupting the asbestos material. This shall include furniture, equipment, drapes, curtains. The cloths used for cleaning shall be disposed of as asbestos contaminated waste;

3. The contractor shall install or build an approved decontamination facility;

4. The contractor shall shut down and seal off all heating, cooling ventilating or other air handling systems;

5. The contractor shall establish written emergency procedures to be posted within each work area. These procedures shall include plans for medical emergencies, fire evacuation, temporary loss of electrical power or water and procedures for repair and clean-up following temporary breach of containment barriers.

(d) Isolation and barrier construction in the work area shall be conducted as follows:

1. Before removing any asbestos from the work area, the contractor shall ensure that the outer perimeters of the work area have been securely sealed off from the rest of the building;

2. All vertical and horizontal surfaces except those of asbestos containing materials shall be sealed with watertight polyethylene plastic sheeting except as provided in (d)3 below;

3. The only permissible exception to total enclosure shall be:

i. An entrance airlock with showers and a decontamination chamber;

ii. A debris removal airlock to permit cleaning and removing asbestos waste;

iii. Staircases.

4. Barriers used to isolate contaminated from uncontaminated areas shall be constructed of plastic polyethylene sheeting. This plastic sheeting shall be replaced or repaired immediately if torn or damaged. The minimum acceptable thickness for covering walls shall be 6 mil plastic sheeting. A double layer of 6 mil plastic sheeting shall be used to seal open space between work areas and non-contaminated areas and for all floors except stairs.

(e) Initial activity in the work area shall be conducted in the following order:

1. Remove filters from all heating, ventilating and air conditioning systems and place them in 6 mil plastic bags, double bagged with visible labels, for disposal as asbestos-containing waste and securely sealed by knotting the bag. These bags should be handled in the same manner as removed asbestos;

2. The contractor shall: wet clean and/or HEPA vacuum all non-removable non-asbestos items such as radiators and suspended light fixtures in the work area, including built-in equipment; and cover with two thicknesses of 6 mil plastic sheeting taped securely in place;

3. The contractor shall detach and wet clean removable electrical, heating and ventilating equipment and other items which may be connected to the asbestos surfaces. These items shall be removed from the work area and returned and re-attached to their proper place when the work area has been decontaminated and final air testing provided satisfactory results;

4. The contractor shall seal all openings between the work area and uncontaminated areas including (but not limited to) windows, doorways, elevator openings, skylights, corridor entrances, floor and sink drains, air ducts, grills, grates and diffusers with two layers of 6 mil plastic sheeting taped securely in place or stapled or fastened by spray-on adhesives, glue beads, or horizontal wood battens or the equivalent. Floor drains shall be sealed individually and then covered as all other floor surfaces with two thicknesses of 6 mil plastic sheeting. Temporary walls may be constructed in order to facilitate barrier construction;

5. For floor covering two layers of 6 mil polyethylene sheeting shall be used. Floor sheeting shall be extended up sidewalls at least 24 inches. Sheetting shall be sized so as to minimize the number of seams necessary. No seams shall be located at the joints between walls and floors;

6. Wall sheeting shall consist of one layer of 6 mil polyethylene sheeting. It shall be installed to minimize joints and shall overlap floor sheeting by at least 18 inches. No seams shall be located at the corners. Plastic wall coverings shall be taped first to the upper most edge of the wall and shall hang straight down;

7. As all existing ventilating systems in the work area are to be sealed throughout the removal operation, an alternate system shall be utilized. Install approved negative air filtration units utilizing appropriate HEPA filters to exhaust air from the work area. Negative air filtration units shall be of sufficient number and capacity to ensure that total air volume is exchanged once every 15 minutes.

8. Replacement air shall enter the work area through the decontamination facility, in order to reduce the possible escape of contaminated air. The entire alternate ventilating system shall be installed and operating prior to commencement of asbestos abatement.

(f) Sequence of asbestos removal activities shall be conducted as follows:

1. The asbestos-containing material shall be sprayed with water containing an additive to enhance penetration (amended water). All wetting agents shall be tested on a small area before use to ensure effectiveness. A fine low-pressure spray of this solution shall be applied to prevent fiber disturbance preceding removal. The wetted or amended water shall be sprayed on as many times and as often as necessary to ensure that the asbestos material is adequately wetted throughout (especially that asbestos nearest the substrate) to prevent dust emission. No dry removal of asbestos is allowable.

2. As a method of organizing the asbestos removal work, workers shall begin working on the areas nearest to the decontamination unit and work towards the negative air filtration units.

3. Asbestos-containing material located more than 15 feet above the floor shall be dropped into inclined chutes, or dropped onto scaffolding, or containerized at that height for eventual disposal. Asbestos-containing materials shall not be dropped or thrown to the floor from 15 feet or greater. For materials located at heights greater than 40 feet above the floor, a dust-tight, enclosed chute shall be constructed to transport removed material directly to containers located on the floor.

4. The wet material from each section shall be packed and sealed into labeled 6 mil plastic bags, double bagged with visible labels, prior to starting the next section. Water-soaked fallen material shall be picked up while wet to prevent water loss due to evaporation.

5. Contaminated material containing sharp edged items shall be cut to size while adequately wet, placed in small cardboard boxes and double bagged, or singly bagged and then placed in

temporary fiber drums. 40 CFR 61.22 (j) prescribes a leak-tight container, the integrity of which is the contractor's responsibility.

6. Bags and drums shall be marked with the label prescribed by Section 61.22(c) of the EPA regulations. The outside of all containers shall be wet-cleaned or HEPA vacuumed before leaving the work area.

7. After completion of this removal phase (stripping), all surfaces from which asbestos has been removed shall be scrubbed using nylon or bristle brushes and wet sponged or cleaned by an equivalent method to remove all visible asbestos containing material. During this work the surfaces being cleaned shall be kept wet using amended water. All disposable equipment shall be packaged for disposal. Containers shall be washed with amended water and shall have all exterior particulate matter removed prior to removal from the contaminated area.

8. All accessory equipment shall be moved to the equipment room in sealed polyethylene (6 mil minimum) and decontaminated for removal.

9. All free water (in contaminated areas) shall be retrieved and added to asbestos-contaminated waste and/or placed in plastic lined leak-tight drums.

10. Final clean-up of the work area may commence.

(g) Final clean-up work of the work area shall be conducted as follows in the order listed:

1. The contractor shall first clean all surfaces in the work area using a fine spray or mist of amended water applied to all surfaces followed by the wet-wiping procedure using disposable cloths. These cloths shall be disposed of or rinsed thoroughly on a frequency sufficient to eliminate visible accumulation of debris. Allow 24 hours before re-entering the work area and proceeding to step number 2 below of this procedure.

2. After completion of cleaning all surfaces in the work area, the contractor shall spray coat all dried exposed surfaces with a binding agent such as a diluted clear encapsulant or a water based paint. The surfaces to be coated shall include surfaces from which asbestos-containing materials have been removed (such as ceilings) and polyethylene which has been used to cover walls, floors and non-removable fixtures and equipment.

3. The plastic sheeting used to protect floors, walls, fixtures and equipment shall be carefully removed and rolled up, with the contaminated portion on the inside, and packaged for disposal. Tape and any other debris shall also be disposed of in sealed plastic bags labeled as asbestos-contaminated waste.

4. Wet clean with amended water all walls, floors, woodwork, ceilings, electric light fixtures and other surfaces. Allow all surfaces to dry and repeat procedure. Cloths or sponges used in the cleaning operation shall be disposed of as contaminated waste.

5. Plastic used to maintain critical barriers between work areas and clean areas such as those in doorways, windows and air vents shall be sprayed with encapsulant, but not removed until air monitoring is completed and satisfactory results have been obtained.

6. After completion of the cleaning operations the contractor shall:

i. Notify the administrative authority having jurisdiction that a clean-up inspection can be performed to insure all visible asbestos has been removed and the area is dust free;

ii. Request air monitoring of the work area.

7. Air monitoring results must indicate asbestos concentrations of no more than .01 f/cc for every 10,000 square feet of floor space contained by the critical barrier. These results must be achieved before critical barrier removal and reconstruction

activities may begin. If the test results show asbestos fiber concentrations above the acceptance criteria, then clean-up shall be repeated until compliance is achieved by re-cleaning all surfaces using wet methods and operating HEPA equipped Negative Air Filtration Units to exhaust air outside the work area to filter the air.

8. After the work area is found to be in compliance with the acceptance criteria, the following tasks shall be performed by the contractor:

i. All critical barriers shall be unsealed;

ii. The inside of windows shall be washed;

iii. Any walls, floors, trim, doors, furniture or other items damaged during the work shall be repaired and refinished to match existing material;

9. Notice for a final inspection shall be made by the owner or contractor to the administrative authority having jurisdiction.

10. Upon receiving a satisfactory final inspection, application for a Certificate of Occupancy may be made.

5:23-8.11 Precautions and procedures during a small asbestos hazard abatement job

(a) Since this work may disturb small amounts of asbestos, it does not require the same level of precautions as with a large asbestos hazard abatement job, but it does require that all asbestos abatement work be performed by a licensed contractor and that the employees have valid work permits issued by the New Jersey Department of Labor. A construction permit shall be issued. An asbestos safety monitor approved by the New Jersey Department of Health and air monitoring will not be required but the work will have to be contained and performed in accordance with established standards.

1. Exception: The administrative authority having jurisdiction may require an asbestos safety monitor, with the responsibility of air monitoring, and the installation of a decontamination unit consisting of a serial arrangement of rooms or spaces adjoining the work area or a decontamination trailer. Reasons for which, but are not limited to, may be that the type of asbestos abatement work to be performed may involve a highly friable asbestos-containing material, or that the asbestos-containing material contains a high percentage of asbestos by weight, or because of the asbestos abatement procedure, the asbestos-containing material becomes highly friable. The administrative authority shall receive written approval from the New Jersey Department of Community Affairs or the New Jersey Department of Health, which may require this additional measure.

(b) The following minimum level of precautions and procedures shall be employed:

1. The contractor shall provide the required respirators and protective clothing to all who may inspect or visit the job site;

2. Prior to the start of the project adequate warning signs of asbestos dust hazard shall be posted outside of all work areas where work on asbestos-containing materials will be conducted;

3. Work areas where asbestos-containing materials will be disturbed must be isolated from the surrounding environment. This enclosure is extremely important where work is to be performed adjacent to occupied areas. Furniture and moveable equipment shall be removed from the work area. The work area shall then be sealed off from the surrounding area with polyethylene sheeting having a thickness of 6 mil. The material and building conditions involved in each job need to be evaluated carefully to develop a proper enclosure;

4. Only personnel essential to asbestos abatement work shall be present in the work area. This may necessitate that the work

not be done during normal work hours, so as to avoid exposure to people who usually occupy the area;

5. Release of asbestos fibers from material to be repaired or removed can be controlled by thoroughly wetting the materials. Before removal of asbestos-containing material from covered pipes, boilers, hot water heaters, etc., all asbestos-containing material must be thoroughly sprayed (using a large garden-type insect sprayer) with water, using a wetting agent. Wetting agents shall be tested on a small area first before full scale use to insure effectiveness;

6. After wetting the material which is to be removed, every effort shall be made to minimize disturbance of the material. Under special conditions, glovebags can also be used to minimize building contamination;

7. Fans or blowers shall not be used to ventilate tunnels, basement areas or manholes before or during asbestos removal or repair work;

8. All gross contamination of people or their disposable clothing shall be removed using a HEPA vacuum before leaving the work area. The suits shall be discarded after cleaning up the work area with the HEPA vacuum. Maintenance employees must have access to shower facilities after performing asbestos-related work activities;

9. The work area must be thoroughly HEPA-vacuumed and wet mopped before any plastic sheeting is taken down. All contaminated clothing, cleaning rags, mops, etc. must be treated and disposed of as asbestos waste;

10. All asbestos waste shall be picked up while wet and shall be placed in 6 mil plastic bags, double bagged with visible labels for disposal as asbestos-containing waste, and securely sealed by knotting the bag;

11. When work is completed, all plastic sheeting used to protect walls, floors, and equipment shall be carefully wet-cleaned and removed in a manner that keeps the contaminated area inside. Sheets of plastic can be rolled up, ends tucked in, and placed in 6 mil plastic bags, double bagged with visible labels for disposal as asbestos-containing waste, and securely sealed by knotting the bags. The outside of all containers shall be wet-cleaned or HEPA vacuumed before leaving the work area;

12. Asbestos waste must be disposed of in accordance with the regulations of the New Jersey Department of Environmental Protection, N.J.A.C. 7:26-1 et seq.

13. Outside contractors, who will be working in an area where asbestos materials are located, should be advised of its presence and cautioned to prevent disturbance of the material and possible exposure to the workers.

(c) Asbestos repair jobs in tunnels, crawl spaces and plumbing access spaces are likely to present unique conditions which will require modification of the recommended procedures described in this section. In all instances, every effort should be made to minimize airborne fibers and contamination of surrounding areas by enclosing the work area effectively.

(d) Asbestos repair or removal projects should not be conducted when the building is in general use.

5:23-8.12 Asbestos encapsulation and enclosure

(a) Encapsulation usually constitutes spraying friable asbestos-containing material with a liquid sealant (not including paint) that helps bind the asbestos together with other material components and to adhere it firmly to the building structure.

1. The requirements of this section are set forth in order to prevent the contamination of the building environment which may be caused by improperly performed asbestos encapsulation work.

i. Encapsulation shall not be performed where:

(1) Asbestos-containing material is friable, damaged, or deteriorating;

(2) Effective long-term inspection of the encapsulated site cannot be assured;

(3) The source of asbestos is highly accessible to building occupants and damage to material is probable;

(4) The asbestos-containing material does not adhere well to the substrate;

(5) There is existing or potential water damage to asbestos containing material;

(6) The asbestos-containing material is more than one inch thick; and is used to cover ceilings, walls, beams, or other structural members;

(7) The asbestos-containing material is subject to high vibration.

ii. Encapsulation may be performed when:

(1) Damage to the material is improbable;

(2) The asbestos-containing material is granular or cementitious;

(3) The encapsulating material is known to bond asbestos to the subsurface and asbestos-containing material still retains its bonding integrity;

(4) Asbestos-containing material has been removed and loose fibers remain which should be bonded.

iii. If encapsulation is used as a method of asbestos abatement the following maintenance procedures shall be employed:

(1) A periodic monitoring and maintenance program consisting of inspection at least annually to check for damage to all encapsulated surfaces;

(2) Maintenance of records by the building owner, on the locations and condition of the encapsulated material;

(3) The removal of encapsulated asbestos when conditions change, making encapsulation no longer an appropriate method of asbestos abatement.

iv. Sealants considered for use in encapsulation shall first be tested to ensure that the sealant is adequate for its intended use. A section of the asbestos-containing material shall be evaluated following this initial test application of the sealant to quantitatively determine the sealant's effectiveness in terms of penetrating and hardening the asbestos-containing material. The United States Environmental Protection Agency, Office of Toxic Substances, has developed guidelines for the use of encapsulants on asbestos-containing materials which discuss advantages and disadvantages of encapsulation. The American Society of Testing and Materials (ASTM) Committee E06.21.06E on Encapsulation of Building Materials has developed a guidance document to assist in the selection of an encapsulant once a decision to encapsulate has been made.

v. Before encapsulation is performed, all loose and hanging asbestos-containing material shall be removed while damp, and disposed of in accordance with this subchapter.

vi. Filler material used to repair damaged and missing areas of asbestos-containing material shall contain no asbestos, shall adhere well to the substrate and shall provide an adequate base for the encapsulating agent.

vii. Encapsulated asbestos containing materials shall be identified by signs, labels, color coding or some other mechanism to warn persons who may be required to disturb the material that asbestos is present.

viii. Where encapsulants are sprayed on asbestos-containing materials:

(1) Low pressure airless spray shall be used.

(2) Negative air filtration units (with HEPA filters) shall be used during the encapsulation process which shall have sufficient capacity to cause one complete air exchange every 30 minutes.

ix. Sealants used in encapsulation shall be flame resistant.

(b) Enclosure constitutes construction of an air-tight barrier to isolate a surface coated with asbestos-containing material. The barrier for an enclosure job should be impact-resistant. It is not necessary to have an air-tight barrier for piping if the insulation has first been covered with an appropriate sealant or tape. When removal is not feasible or practical and the integrity of the barrier can be maintained, enclosure may be the most appropriate remedial measure. Enclosure is particularly suitable (when applied after the repair of damaged material) as part of the remediation procedure for piping because the shape and structure of piping is relatively complex to be treated and the usual difficulty of accessibility prevents an adequate removal job. For example, an enclosure is recommended for vertical piping in classrooms, or for piping in basement areas to prevent the asbestos insulation from being damaged or disturbed by an opening door.

1. The requirements of this section are set forth in order to prevent the contamination of the building environment which may be caused by improperly performed asbestos enclosure work. The following procedures shall be adhered to:

i. The surface area of asbestos-containing material which will be disturbed during the installation of hangers, brackets or other enclosure supports shall first be sprayed with amended water using a low pressure airless spray;

ii. Power drills used to install anchors or other tools which may disturb asbestos containing material shall be equipped with or used in conjunction with HEPA vacuum filters;

iii. Loose and hanging asbestos-containing materials shall be removed while damp and disposed of in accordance with this subchapter;

iv. After the installation of hangers, brackets or other supports and before the asbestos-containing material is enclosed, asbestos containing materials shall be repaired, using materials which do not contain asbestos;

v. Enclosures for asbestos-containing materials shall be identified by signs, labels, color coding or some other mechanism to warn persons who may be required to disturb the enclosure that asbestos is present;

vi. Enclosures shall be inspected at least annually to ensure their integrity.

5:23-8.13 Disposal of asbestos waste

(a) This subsection shall apply to the removal of asbestos from the job site and the disposal of asbestos waste.

1. Disposal of asbestos waste shall be conducted as follows:

i. A notification of intent to dispose of asbestos shall be sent to the New Jersey Department of Environmental Protection at least 10 days prior to actual disposal. The notification shall be sent to the Division of Waste Management, Bureau of Field Operations, 120 Route 156, Yardville, New Jersey 08620 pursuant to N.J.A.C. 7:26-1 et seq.

ii. All asbestos waste materials destined for disposal in New Jersey shall be wetted and packaged in permanently sealed, leaktight containers (such as 6 mil plastic bags, double bagged with visible labels) in accordance with 40 CFR 61.20-25 before it can be legally transported and disposed of in New Jersey. No haulage of loose asbestos is permitted.

iii. The notification of (a)1ii above shall include the following:

(1) Name, address, and telephone number of the removal project;

(2) Quantity and nature of the waste to be disposed;

(3) Name, address, and New Jersey Department of Environmental Protection registration number of the collector-handler;

(4) Name and address of the landfill at which disposal will occur;

(5) Date and time of disposal;

(6) A copy of any written notification required by 40 CFR 61.22 to 61.25.

iv. Asbestos waste which is properly packaged is classified as Waste ID #27, non-hazardous industrial waste, and shall be disposed of at a landfill which is registered by the New Jersey Department of Environmental Protection in conformance with the following:

(1) The landfill used must be registered by the New Jersey Department of Environmental Protection to accept Waste ID number 27;

(2) The specific landfill facility chosen must be one designated by the New Jersey Department of Environmental Protection as the recipient facility for the community in which the removal project is located;

(3) The waste hauler must possess a valid solid waste transporter registration issued by the New Jersey Department of Environmental Protection. A licensed solid waste transporter shall be a commercial collector/hauler or shall be the removal company if they are so registered;

(4) Asbestos waste can be hauled in dumpster containers provided the load is comprised only of asbestos in bags and does not contain any other wastes or asbestos-containing wastes which could compromise the integrity of the permanent containers;

(5) If rough surfaces or other materials are present in the load which could potentially puncture the permanent containers, then those containers shall be enclosed in temporary fiber or steel drums during loading, transport, and unloading operations. In addition, asbestos wastes shall not be loaded into or hauled with vehicles containing compaction devices;

(6) To determine which landfill to use for a particular project, N.J.A.C. 7:26-6.5 shall be consulted.

5:23-8.14 Duties of the Asbestos Safety Monitor

(a) The asbestos safety monitor shall perform all air sampling specified in this subchapter, and shall be thoroughly familiar with this subchapter. He shall have access to all areas of the asbestos removal project at all times and shall continuously inspect and monitor the performance of the contractor to verify that said performance complies with this subchapter. The asbestos safety monitor shall be on site throughout the entire abatement operation.

(b) The asbestos safety monitor shall have the authority to direct the actions of the contractor verbally and in writing to assure compliance. The monitor shall have authority to require that all workers present a valid work permit issued by the New Jersey Department of Labor before entering the worksite. The monitor shall have the authority to test the seal of the respirator of all who enter the worksite to ensure a proper fit. In matters of gross negligence and/or flagrant disregard for the safety of others including the possibility of contaminating the building environment and the appearance of an emergent, unsafe condition at the worksite, the monitor shall have the authority to stop work. In the event of continual noncompliance or serious violation, the asbestos safety monitor shall notify the inspector from the administrative authority having jurisdiction who shall issue

a written Stop Work Order to the contractor and have the work site secured until all violations are abated.

(c) The asbestos safety monitor, upon receipt of testing results indicating that concentrations above 0.01 fibers per cc have occurred outside the containment barriers or above 0.02 fibers/cc within the clean room of the decontamination chamber during the abatement action shall report these results within one working day verbally or by telephone communication if necessary to the contractor, the owner and the architect/engineer so that prompt corrective action may be taken. This telephone or verbal communication shall be followed by a written report, a copy of which shall be sent to the administrative authority having jurisdiction.

(d) The asbestos safety monitor shall keep a daily log of on-site observations concerning contractor's compliance with activities required under this subchapter. This log shall be made available upon request at all times to the owner, the architect/engineer and to appropriate local and State agencies.

(e) The asbestos safety monitor shall report results in a comprehensive final report, including daily logs, observations and air monitoring results simultaneously to the owner or his agent, the contractor and the New Jersey Department of Community Affairs within 20 working days following final testing for re-occupancy. For public school projects only, the results of tests shall be reported also to the New Jersey Department of Education, Bureau of Facility Planning Services.

(f) Removal phase shall be conducted as follows:

1. Monitoring outside the work area shall be provided throughout removal operations, to ensure that no outside contamination is occurring;

2. Filter cassettes and sampling train shall be assembled as specified in NIOSH #7400. The flow rate shall be between 0.5 and 16 liters per minute. The total volume shall be a volume sufficient to achieve a detection limit of 0.01 f/cc. Pumps shall be calibrated before and after sampling and a record kept of this calibration;

3. Three samples per day shall be provided. One stationary sample at decontamination unit entrance/exit and two samples adjacent to work area but remote from the decontamination unit entrance. In the selection of adjacent areas to be monitored, preference shall be given to rooms adjacent to critical barriers;

4. If the contractor's barriers or other control methods are observed to malfunction and if the contractor does not correct the problems immediately upon notification, the monitor shall inform the administrative authority having jurisdiction. In such a situation additional sampling of up to three samples per day shall be performed by the asbestos safety monitor;

5. The analysis of air samples shall be done using NIOSH Method #7400;

6. The maximum turn-around time for analysis of the samples shall be two working days following delivery of the samples to the laboratory;

7. The evaluation criteria shall be 0.01 fibers per cubic centimeter;

8. A series of smoke tests shall be performed at the decontamination unit entrance/exit, by the asbestos safety monitor to ensure continuous negative air pressure. This test shall be performed before each work shift and every four hours thereafter until the work stops;

9. The asbestos safety monitor shall calculate the required number of negative air filtration units for each work area. This calculation shall be made whenever the volume of the work area changes. The asbestos safety monitor shall inform the owner,

contractor and the architect/engineer of any discrepancies between the number of units required and those in operation within the work area. If problems are identified and not corrected, the monitor shall inform the administrative authority having jurisdiction.

10. A record shall be kept in a daily log of all on-site observations, and required activities of the contractor.

(g) Post-removal test shall be conducted as follows:

1. Within 48 hours after final clean-up and before the removal of critical barriers, a final air test shall be performed. This test is required to establish safe conditions for removal of critical barriers and to permit reconstruction activity to begin. Sufficient time following clean-up activities shall be allowed so that all surfaces are dry during monitoring. Negative air filtration units shall not be in use during monitoring. At least 24 hours shall be allowed to pass after any wet cleaning has been done and negative air filtration units have been used before the post-removal tests are begun;

2. Normal occupancy use conditions shall be simulated using propeller-type fans. The fans shall be placed in each room to be sampled so as to cause settled fibers to rise and enter the air. The fans shall have fan blades with a radius of at least one foot and shall be capable of creating a minimum air velocity of 500 feet per minute. These fans may be of the oscillating type. The sampling pump and sampling media shall be placed 20-40 feet at a right angle from the line(s) of air flow created in front of the fan;

3. Filter cassettes and sampling train shall be assembled as specified in NIOSH #7400. The flow rate shall be between 0.5 and 16 liters per minute. The total volume shall be a volume sufficient to achieve a detection limit of 0.01 f/cc. Pumps shall be calibrated before and after sampling and record kept of this calibration.

4. One representative sample for every 10,000 square feet of floor space where asbestos containing materials have been removed or abated shall be taken. Where the 10,000 square feet area includes several rooms, the sample shall be located in the room where the asbestos-containing material was in the worst conditions before the abatement project began;

5. Analysis shall be by NIOSH Method #7400;

6. Maximum turn-around time for analysis of samples shall be 24 hours after submission of samples to the laboratory;

7. Evaluation criteria: If test results exceeds 0.01 fiber/cc TWA, the asbestos safety monitor shall so inform the contractor, the owner and the architect/engineer. If these criteria have not been met, the contract shall be required to re-clean all surfaces using wet cleaning methods and provide negative HEPA-filtered exhaust air during the re-cleaning process. This process of re-cleaning, allowing surfaces to dry and re-testing shall be repeated until compliance is achieved.

(h) Submission of final report shall be conducted as follows:

1. Upon satisfactory completion of all asbestos removal work and of all tests, the asbestos safety monitor and an official of the testing laboratory shall jointly submit a written final report to the owner including copies of all back-up records (charts, logs, calibration results, records, ventilation measurements, etc.) documenting the day-by-day progress of work and related tests;

2. Copies of this report shall be made available upon request to appropriate State or Federal agencies. This report shall be presented in logical form, neatly bound, and properly titled, dated and signed;

3. Any deviations from acceptable practice on the part of the contractor, and any unsatisfactory test results reported during the course of the job, shall be highlighted in the report for record purposes.

EMERGENCY ADOPTIONS

5:23-8.15 Coordination with other permits

(a) When a building owner or an authorized representative on behalf of the owner submits an application for a construction permit for repair, renovation, or demolition work, the following information shall be required to be given to the construction official having jurisdiction before a construction permit is issued:

1. An architect/engineer certification concerning whether asbestos will be disturbed and to what extent it will be disturbed during the planned construction work.

i. Where minor work not requiring an architect/engineer is involved then this certification will be required of the contractor undertaking the work.

(b) When it is certified that asbestos may become disturbed, an assessment performed by a New Jersey Department of Health certified assessor shall be required.

1. If the assessment indicates that the work and the disturbance which will result from it has made asbestos hazard abatement work necessary, then the construction official shall determine if the issuance of the permit is within the proper jurisdiction or if it is within the administrative authority having jurisdiction to enforce this subchapter.

i. The work which will cause the disturbance will not be permitted to proceed until the hazard abatement work is complete or the asbestos-containing material clearly presents no further hazard.

ii. The construction official shall issue a partial permit for work which clearly will not disturb or interfere with the asbestos hazard abatement work. Written approval from the administrative authority having jurisdiction is required before such a partial permit is issued.

5:23-8.16 Asbestos Hazard Abatement Inspector: Qualifications

(a) Individuals permitted to administer and enforce the Asbestos Hazard Abatement Subcode shall possess the following requirements:

1. Licensed code enforcement officials pursuant to N.J.A.C. 5:23-5 shall have:

i. A technical license as an Inspector with at least a license level of Residential and Small Commercial Structures (R.C.S.); and

ii. Successful completion of a training program approved for inspectors by the New Jersey Department of Health and certification by the New Jersey Department of Health.

iii. As delineated in i and ii above, for the purposes of this subchapter, the inspector shall be permitted to inspect all aspects of asbestos abatement work including replacement work pursuant to the Uniform Construction Code.

iv. The license may be renewed as follows:

(1) Individuals must meet the requirements for license renewal pursuant to N.J.A.C. 5:23-5.7; and

(2) Successful completion of such continuing educational requirements as may be established by the New Jersey Department of Health.

2. As an alternative to 1. above, a person shall be permitted to inspect the removal of asbestos only, if:

i. That person demonstrates practical knowledge in the area of architecture, inspection, engineering, construction, environmental sciences or health; and

ii. Successful completion of a training program approved for inspectors by the New Jersey Department of Health and certification by the New Jersey Department of Health.

HUMAN SERVICES

5:23-8.17 Application of asbestos

(a) This section shall apply to the application of asbestos, except as provided in 1. below.

1. This section shall not apply to asbestos materials which are applied in solid, non-friable form, such as floor tiles or cement pipe.

(b) The requirements of this section are set forth in order to prevent the contamination of the building environment which may be caused by improperly performed asbestos application work.

1. No person may cause or allow surface coating by spraying on any building structure, facility, installation or internal or external portion thereof, using asbestos or any friable material containing in excess of 0.25 percent by weight of asbestos. See N.J.A.C. 7:27-17.

2. The direct application of asbestos material during construction or renovation of structures, facilities or installations by means such as troweling by hand shall be prohibited.

3. The only permissible applications of asbestos-containing materials during construction or renovation of structures, facilities or installations shall be those in which the asbestos is securely bound into a solid matrix before the application is performed, such as floor tiles in which asbestos is a minor component.

HUMAN SERVICES

(a)

DIVISION OF PUBLIC WELFARE

Food Stamp Program

Revised Maximum Income Eligibility Limits

Adopted Emergency Amendment and

Concurrent Proposal: N.J.A.C. 10:87-12.3, 12.4, and 12.7

Emergency Amendment Adopted: June 3, 1985 by
George J. Albanese, Commissioner, Department of
Human Services

Gubernatorial Approval (N.J.S.A. 52:14B-4(c): June
18, 1985.

Emergency Amendment Filed: June 24, 1985 as
R.1985 d.371.

Authority: N.J.S.A. 30:4B-2, the Food Stamp Act of
1977, as amended (7 USC 2014), 7 CFR 273.9(a)
and 50 FR 19766.

Emergency Amendment Effective Date: June 24, 1985.

Emergency Amendment Operative Date: July 1, 1985.

Emergency Amendment Expiration Date: August 23,
1985.

Address comments and inquiries to:

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

HUMAN SERVICES

This amendment was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of this emergency amendment are being proposed for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted rule becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

This proposal is known as PRN 1985-399.

The agency emergency adoption and concurrent proposal follows:

Summary

The Department of Human Services is mandated by the Food Stamp Act of 1977, as amended (7 USC 2014) and by Federal regulations at 7 CFR 273.9(a) and 50 FR 19766 to revise the maximum allowable net and gross income eligibility standards to reflect the annual Federal adjustment of income eligibility limits which take into account changes in the cost of living and the annual adjustment of the poverty guidelines issued by the United States Department of Health and Human Services. The "165 percent of poverty level" used when determining separate household status for elderly and disabled individuals is also revised. Since all three standards are based on the poverty income guidelines, they are being adjusted simultaneously.

Social Impact

The increase in the income eligibility standards will increase the number of households eligible to participate in the program and receive food stamp benefits. The changes to the eligibility standards will not increase food stamp benefit levels to any currently eligible household.

Economic Impact

The revised, increased income eligibility limits will expand the number of households eligible to receive food stamp benefits. These changes will bring additional Federal funds into the State for those households previously not eligible to participate in this Federally funded program. This change will not impact significantly on administrative functions of the Department or the county welfare agencies administering the program.

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

10:87-12.3 Maximum allowable net income standards

TABLE III

Maximum Allowable Net Income

Household Size	Maximum Allowable Income
1	\$ [415] 438
2	[560] 588
3	[705] 738
4	[850] 888
5	[995] 1038
6	[1140] 1188
7	[1285] 1338
8	[1430] 1488
9	[1575] 1638
10	[1720] 1788
Each Additional Member	[+145] +150

EMERGENCY ADOPTIONS

10:87-12.4 Maximum allowable gross income standards

TABLE IV

Maximum Allowable Gross Income

Household Size	Maximum Allowable Income
1	\$ [540] 569
2	[728] 764
3	[917] 959
4	[1105] 1154
5	[1294] 1349
6	[1482] 1544
7	[1671] 1739
8	[1859] 1934
9	[2048] 2129
10	[2237] 2324
Each Additional Member	[+189] +195

10:87-12.7 165 percent of poverty level

(a) The following table is to be used when determining separate household status for elderly and disabled individuals in accordance with N.J.A.C. 10:87-2.2(a)4.

TABLE VII

165% of Poverty Level

Household Size	Maximum Allowable Income
1	\$ [685] 722
2	[924] 970
3	[1164] 1217
4	[1403] 1465
5	[1642] 1712
6	[1881] 1960
7	[2121] 2207
8	[2360] 2455
9	[2600] 2703
10	[2840] 2951
Each Additional Member	[+240] +248

MISCELLANEOUS NOTICES

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules of Practice General Hearing Rules

Notice of Correction: 1:1-13.4 and 1:1-15.7

Take notice that errors appear in the New Jersey Administrative Code at 1:1-13.4(a) and 1:1-15.7(b) concerning opposing affidavits, and expert and other opinion testimony. N.J.A.C. 1:1-13.4 and 1:1-15.7 should appear as follows:

1:1-13.4 Opposing affidavits

(a) When a motion for summary decision is made and supported as provided by N.J.A.C. 1:1-13.2, an adverse party in order to prevail must set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding. If the adverse party does not so respond, a summary decision, if appropriate, shall be entered. If it appears from the affidavits that a party is then unable to establish the existence of a genuine issue of material fact, the judge may deny the motion, **may order a continuance to permit additional affidavits or discovery to be obtained**, or may enter such other order as may be appropriate.

(b) (No change.)

1:1-15.7 Expert and other opinion testimony

(a) (No change.)

(b) If a witness is testifying as an expert, testimony of that witness in the form of opinions or inferences is **limited to such opinions or inferences** as the judge finds are:

1.-2. (No change.)

(c)-(e) (No change.)

(b)

OFFICE OF ADMINISTRATIVE LAW

Emergency Relief Pending Settlement or Decision

Notice of Correction: 1:6A-3.1

Take notice that an error appears in the New Jersey Administrative code at N.J.A.C. 1:6A-3.1(e)2 concerning emergency relief pending settlement or decision. The adoption notice of this rule which appeared in the June 18, 1984 issue of the New Jersey Register at 16 N.J.R. 1469 is also incorrect. N.J.A.C. 1:6A-3.1(e)2 should have appeared as follows:

1:6A-3.1 Emergency relief pending settlement or decision

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

(e) At the emergency relief hearing, the judge may allow the affidavits to be supplemented by testimony and/or oral argument. The judge may order emergency relief if the judge determines from the proofs that:

1. (No change.)

2. Either serious physical harm will result to a student or students if the relief is not granted; or the student's [educated] educational program will be terminated or interrupted; and

3. (No change.)

(f)-(g) (No change.)

ENVIRONMENTAL PROTECTION

(c)

DIVISION OF FISH, GAME AND WILDLIFE

Marine Fisheries Administration Notice of Closure of Certain Natural Oyster Seed Beds in Delaware Bay

Authority: N.J.S.A. 50:1-5

Take notice that based upon physical tests of natural oyster seed beds and the recommendation of the Bay Season Advisory Committee, the Delaware Bay Section of the Shellfisheries Council has voted to close the natural seed beds below a line from Bennies Point to Buoy No. 35, effective 3:30 P.M., Friday, June 7, 1985, and to close all remaining natural seed beds, effective 3:30 P.M., Friday, June 14, 1985. Pursuant to N.J.A.C. 7:25A-1.9(f), I, Robert E. Hughey, Commissioner of Environmental Protection, hereby grant the necessary approvals to effect these closures.

(d)

DIVISION OF PARKS AND FORESTRY

Office of New Jersey Heritage Criteria for Inclusion of Sites on Register of Historic Places

Take notice that the Commissioner of the Department of Environmental Protection, pursuant to N.J.S.A. 13:1B-15.128 and N.J.S.A. 13:1B-15.129, hereby certifies that the following criteria, utilized by the National Park Service for determining eligibility of properties for the National Register of Historic Places, 36 CFR §60.4, will continue to be used for evaluating and approving of areas, sites, structures and objects, both publicly and privately owned, for inclusion in the New Jersey Register of Historic Places.

Pursuant to Executive Order No. 66 (1978), N.J.A.C. 7:4-2 expired on August 16, 1984. The Department intends to readopt

this rule. In the interim, this notice is published to inform the public that the above criteria, which are the same as those contained in the expired rule, will continue to be utilized until the rule is readopted.

Criteria—The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures and objects that possess integrity of location, design, setting, materials, workmanship, feeling and association; and

- a. That are associated with events that have made a significant contribution to the broad patterns of our history;
- b. That are associated with the lives of persons significant in our past;
- c. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- d. That have yielded, or may be likely to yield, information important in pre-history or history.

Criteria Considerations—Ordinarily, cemeteries, birthplaces or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past fifty years are generally not considered eligible for the State Register by the Office of Historic Preservation. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

- a. A religious property deriving primary significance from architectural or artistic distinction or historic importance;
- b. A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with an historic person or event;
- c. A birthplace or grave of an historical figure of outstanding importance if there is no appropriate site or building directly associated with his productive life;
- d. A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events;
- e. A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived;
- f. A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance; or
- g. A property achieving significance within the past fifty years if it is of exceptional importance.

The above criteria are the same criteria that have been used for evaluation and approval of sites currently listed in the New Jersey Register of Historic Places. Since the New Jersey Register of Historic Places nomination process is incorporated with the National Register of Historic Places program and utilizes the same nomination form, State administrative agency, professional review board and State Historic Preservation Officer

(SHPO) for formal nomination signature, these criteria maintain program integrity, avoid duplicative regulation and enhance program efficiency. When the SHPO signs the nomination form, the property is included in the New Jersey Register of Historic Places and the nomination is forwarded to the National Park Service, Washington, D.C. with a recommendation that it be included in the National Register of Historic Places. The owners of all areas, sites, structures or objects approved for inclusion in the New Jersey Register of Historic Places shall continue to be provided with appropriate written notice of the nomination process with opportunity for public comment as required by law.

(a)

DIVISION OF WATER RESOURCES

Amendment to the Northeast Water Quality Management Plan

Public Notice

The Borough of Totowa has requested an amendment to the Northeast Water Quality Management (WQM) Plan. This amendment provides for the elimination of Totowa Borough's West End Sewage Treatment Plant (STP) converting it to a pumping station, and the expansion of Wayne Township sewer service area to include that which was previously serviced by the West End STP.

This notice is being given to inform the public that a plan amendment has been developed for the Northeast WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08628. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to Mr. George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within thirty days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendments. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(a)**DIVISION OF WASTE MANAGEMENT****Statewide Solid Waste Management Plan Update****Public Notice**

Take notice that pursuant to N.J.S.A. 13:1E-1 et seq. (the Solid Waste Management Act), the Division of Waste Management of the Department of Environmental Protection (DEP) will hold a public hearing on the proposed **New Jersey Solid Waste Management Plan Update** as follows:

Wednesday, August 21, 1985
2:00 P.M.-5:00 P.M. and 7:00 P.M.-10:00 P.M.
Labor Education Center
Ryders Lane
Cook College Campus
Rutgers University
New Brunswick, New Jersey

The purpose of the hearing is to receive verbal and written comments on the Department of Environmental Protection's Statewide Solid Waste Management Plan Update (hereinafter update). Pursuant to N.J.S.A. 13:1E-1 et seq., the DEP has formulated, developed and updated a plan for the environmentally sound management of the solid wastes disposed of within New Jersey. The update includes the various guidelines, rules and regulations, and policies of the DEP; the solid waste management plans developed by the State's twenty-two solid waste management districts; and other solid waste management planning and program components, such as the State Recycling Plan, developed to address the State's solid waste needs.

The major focus of the update is on the management of non-hazardous residential, institutional, commercial and industrial solid wastes. The update evaluates existing solid waste generation rates and disposal capacity, identifies disposal and resource recovery needs and recommends the implementation of appropriate disposal and recovery technologies to meet these needs. The update's strategy for the proper management of these wastes includes the maximum utilization of recovery programs and technologies (for example, source separation and recycling, composting, energy recovery via incineration of wastes) combined with the use of state-of-the-art landfilling techniques including leachate collection and treatment, gas venting and recovery, proper operations and system monitoring. The update also contains sections on hazardous waste facility siting, the cleanup of hazardous waste sites, sludge and septage management, and environmental controls.

After the public hearing and the close of the comment period, the DEP will carefully review all comments relevant to the update and prepare a document summarizing the comments and the DEP's responses thereto, including revisions to the proposed update that the DEP deems necessary and appropriate. Following this, the DEP intends to adopt the update and submit it to the United States Environmental Protection Agency for review and approval under the federal Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.).

Copies of the proposed update, (**New Jersey Solid Waste Management Plan Update**), are available at all libraries in the State Library depository system and at all county solid waste management offices. In addition, copies of the **Summary of the New Jersey Solid Waste Management Plan Update** are available

at the offices of the county freeholder directors, the Hackensack Meadowlands Development Commission, and the mayors of each municipality. Written comments on the update may be submitted during the comment period which will end on September 4, 1985 to:

Bart Carhart
Division of Waste Management
Department of Environmental Protection
32 East Hanover Street
Trenton, New Jersey 08625

For additional information on the hearing, please call (609) 292-8242.

(b)**DIVISION OF COASTAL PROTECTION****Notice of Correction: Extended Comment Period**

Please take notice that the close of comment period for the proposed amendments to N.J.A.C. 7:7E (Rules Governing Coastal Resources and Development) which were published in the June 17, 1985 Register at 16 N.J.R. 1466(a) has been extended from July 17, 1985 to August 15, 1985.

(c)**DIVISION OF COASTAL RESOURCES****Notice of Correction to the New Jersey Administrative Code at N.J.A.C. 7:7E and Proposed Amendments to N.J.A.C. 7:7E**

Take notice that on April 19, 1982 at 14 N.J.R. 385(c), The Department of Environmental Protection adopted amendments to the Coastal Resources and Development Policies at N.J.A.C. 7:7E-3.10, 3.30, 3.33, 3.37, 4.10, 5.5, 8.7, 8.16 and 8.17. The Department also adopted a new rule at N.J.A.C. 7:7E-4.11.

Due to printing errors these rule changes were not completely included in the New Jersey Administrative Code which is published by the Office of Administrative Law.

Furthermore, also due to printing errors several typographical errors appear in the most recent amendments to N.J.A.C. 7:7E proposed by the Department on June 17, 1985 at 17 N.J.R. 1466(a).

Corrections to existing Code sections and corrections to the affected portions of the proposed amendments are set forth below:

The current text as found in the New Jersey Administrative Code at N.J.A.C. 7:7E-3.10 is corrected to read as follows:

7:7E-3.10 Marina

(a) Definition

Marina are areas of water that provide mooring, docking and boat maneuvering room as well as access to land and navigational channels for recreational boats. Typically maintenance dredging is required to preserve water depth.

(b) Policy relevant to marina is as follows:

1. Any use that would detract from existing or proposed recreational boating use in marina is discouraged.

2. (No change from Code.)

(c) (No change from Code.)

Corrections to the June 17, 1985 proposal which amends N.J.A.C. 7:7E-3.10 are as follows:

7:7E-3.10 Marinas

[(a) Definition]

(a) Marina moorings are areas of water that provide mooring, docking and boat maneuvering room as well as access to land and navigational channels for recreational boats. Typically maintenance dredging is required to preserve water depth.

(b) [Policy relevant to marinas is as follows:] **Non-water dependent development in a marina mooring is prohibited. Water dependent development is conditionally acceptable provided there is no loss of boat slips or decrease in the water area provided for mooring.**

[1.](c) Any use that would detract from existing or proposed recreational boating use in marina mooring areas is discouraged.

Correction to the June 17, 1985 proposal at proposed new 7:7E-3.24(c), "about" should read "abut".

The current text as found in the New Jersey Administrative Code at N.J.A.C. 7:7E-3.30 is corrected to read as follows:

7:7E-3.30 Coastal bluffs

(a) A coastal bluff is a steep slope (greater than 15 percent) of consolidated (rock) or unconsolidated (sand, gravel) sediment that is formed by wind and water erosion forces, and which is adjacent to the shoreline or demonstrably associated with shoreline processes.

1. (No change from Code.)

2. The landward limit of a coastal bluff is the landward limit of the area likely to be eroded within 50 years, or a point 25 feet landward of the crest of the bluff, whichever is farthest inland (see Figure 17).

3. (No change from Code.)

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

Corrections to the June 17, 1985 proposal which amends N.J.A.C. 7:7E-3.30(a)3 (proposed new codification: 7:7E-29(a)3.) are as follows:

[7:7e-3.30]7:7E-3.29 Coastal [Bluffs]bluffs

3. Steep [Slopes] slopes (N.J.A.C. [7:7E-3.33]7:7E-3.32) are isolated inland areas with slopes greater than 15 percent. All steep slopes associated with shoreline processes, i.e. adjacent to the shoreline or contributing sediment to the system, will be considered bluffs.

The current text as found in the New Jersey Administrative Code at 7:7E-3.37(b) is corrected to read as follows:

7:7E-3.37 Endangered or threatened wildlife or vegetation species habitats

(b) Policy: Development that would adversely affect an Endangered or Threatened Wildlife or Vegetation Species Habitat is prohibited unless habitat adequate to assure the survival of the species within the region surrounding the site is preserved, either on or off site. These areas preserved as habitat must be appropriately managed in accordance with a plan approved by the Division of Coastal Resources with the advice of DEP's Endangered and Nongame Species Project within the Division of Fish, Game and Wildlife.

Corrections to the June 17, 1985 proposal which amends N.J.A.C. 7:7E-3.37(b) (proposed new codification: 7:7E-3.36(b)) are as follows:

(b) [Policy:]Development [that would adversely affect an endangered or threatened wildlife or vegetation species habitat] of this special area is prohibited unless [habitat adequate to assure the survival of the species within the region surrounding the site is preserved either on or offsite. These areas preserved as habitat must be appropriately managed in accordance with a plan approved by the Division of Coastal Resources with the advice of DEP's Endangered and Nongame Species Project within the Division of Fish, Game and Wildlife] **it can be demonstrated that endangered or threatened wildlife or vegetation species habitat would not directly or through secondary impacts on the relevant site or in the surrounding region be adversely affected.**

At the proposed amendment to N.J.A.C. 7:7E-3.37 (proposed new codification: 7:7E-3.36) the following corrections are made: At subsection (d), "Eretomochelys imbricata" should read "Eretmochelys imbricata"; "Balaenopetera musculus" should read "Balaenoptera musculus"; "Balaenopetera physalus" should read "Balaenoptera physalus"; "Balaenopetera borealis" should read "Balaenoptera borealis".

At subsection (e) "[Cliff Swallow Petrochelidon pynhonote]" should read: "[Cliff Swallow Petrochelidon pynhonote*];

"[*]¹ Status designation applicable to breeding population only." should read "[*]¹Status designation applicable to breeding population only.

The current text as found in the New Jersey Administrative Code at N.J.A.C. 7:7E-4.2 is corrected to read as follows:

7:7E-4.2 Water Area Policy Summary Table

The Water Area Policy Summary Table (Figure 21) indicates the Location Policy for the introduction of various uses in each of the General Water Areas. This table is included for quick reference. For further details on conditions for acceptability of uses, see N.J.A.C. 7:7E-4.11.

WATER AREA POLICY SUMMARY TABLE FIGURE (21)

Note: Depths are mean depth of water

Use	Water Area Type	Ocean		Open Bay			Semi-Enclosed and Back Bay		Tidal Guts	Large Rivers	Medium Rivers, Creeks & Streams	Lakes Ponds and Reservoirs	Man-Made Harbors
		18'+	0-18'	18'+	6-18'	0-6'	6'+	0-6'					
Aquaculture		C	C	C	C	C	C	C	C	C	C	C	C
Boat Ramps		/	P	/	C	C	C	C	C	C	C	C	C
Docks (cargo)		C	C	C	C	C	C	C	P*	C	C	/	C
Docks (recreation)		C	C	C	C	C	C	C	C	C	C	C	C
Dredging (maintenance)		C	C	C	C	C	C	C	C	C	C	C	C
Dredging (new)		C	C	D	D	D	D	D	D*	C	C	C	D
Spoil Disposal		C	C	C	C	D	C	D	P*	C	P	C	P
Dumping		P	P	P	P	P	P	P	P	P	P	P	P
Filling		D	D	P	D	D	D	D	D	D	D	P	D**
Piling		D	C	D	C	C	C	C	C	C	C	D	C
Mooring		C	C	C	C	C	C	C	C	C	C	C	C
Sand, Gravel Extraction		C	D	D	D	D	D	D	P	C	C	P	C
Bridges		/	/	D	D	D	D	D	C	C	C	P	P
Submerged Infrastructure		C	C	C	C	C	C	C	D*	C	C	C	C
Overhead Lines		/	/	P	P	P	P	P	C	D	C	P	C
Dams and Impoundments		/	/	/	/	/	P	D	P	P	D	/	/
Outfalls and Intakes		C	C	C	C	C	C	C	C	C	C	C	C
Realignment		/	/	D	D	D	D	D	D	D	D	D	D
Miscellaneous		C	C	C	C	C	C	C	C	C	C	C	C

*Conditionally acceptable in the Arthur Kill and Kill Van Kull
 **Conditionally acceptable in Lagoons
 P=Prohibited
 C=Conditionally Acceptable
 D=Discouraged
 /=Impractical

Corrections to the June 17, 1985 proposal which amends N.J.A.C. 7:7E-4.2 are as follows:

WATER AREA POLICY SUMMARY TABLE FIGURE (21)

Note: Depths are mean depth of water

Use	Water Area Type	Ocean		Open Bay			Semi-Enclosed and Back Bay		Tidal Guts	Large Rivers	Medium Rivers, Creeks & Streams	Lakes, Ponds and Reservoirs	Man-Made Harbors
		18'+	0-18'	18'+	6-18'	0-6'	6'+	0-6'					
Aquaculture		[C]E	[C]E	[C]E	[C]E	[C]E	[C]E	[C]E	[C]E	[C]E	[C]E	[C]E	[C]E
Boat Ramps		/	[P]C	/	C	C	C	C	C	C	C	C	C
Docks (cargo)		C	C	C	C	C	C	C	[P*]C	C	C	/	C
Docks (recreation)		C	C	C	C	C	C	C	C	C	C	C	C
Dredging (maintenance)		C	C	C	C	C	C	C	C	C	C	C	C
Dredging (new)		C	C	[D]C	[D]C	D	[D]C	D	D*	C	C	C	D
[Spoil] Dredge material Disposal		C	C	C	C	D	C	D	[P*]C	C	P	C	P
Dumping		P	P	P	P	P	P	P	P	P	P	P	P
Filling		D	D	P	D	D	D	D	D	D	D	P	D[**]
Piling		D	C	D	C	C	C	C	C	C	C	D	C
Mooring		C	C	C	C	C	C	C	C	C	C	C	C
Sand, Gravel Extraction		C	D	D	D	D	D	D	P	C	C	P	[C]P
Bridges		/	/	D	D	D	D	D	C	C	C	P	P
Submerged Infrastructure		C	C	C	C	C	C	C	[D*]C	C	C	C	C
Overhead Lines		/	/	P	P	P	P	P	C	D	C	P	C
Dams and Impoundments		/	/	/	/	/	P	D	P	P	D	/	/
Outfalls and Intakes		C	C	C	C	C	C	C	C	C	C	C	C
Realignment		/	/	D	D	D	D	D	D	D	D	D	D
Miscellaneous		C	C	C	C	C	C	C	C	C	C	C	C

[*Conditionally acceptable in the Arthur Kill and Kill Van Kull]
 [**Conditionally acceptable in Lagoons]
 P=Prohibited
 C=Conditionally Acceptable
 D=Discouraged
 /=Impractical
 E=Encouraged
 (See appropriate policy)

The current text as found in the New Jersey Administrative Code at N.J.A.C. 7:7E-4.10 is corrected to read as follows:

7:7E-4.10 Man-made harbor

(a) Man-made harbors are semi-enclosed or protected water areas which have been developed for boat mooring or dockage. This general water area type includes Marinas (N.J.A.C. 7:7E-3.10), Ports (N.J.A.C. 7:7E-3.11), semi-enclosed water bodies created by man-made jetties or similar structures, fishing ports and harbors, and lagoons (see N.J.A.C. 7:7E-3.18).

(b) (No change from Code.)

(c) (No change from Code.)

Corrections to the June 17, 1985 proposal which amends N.J.A.C. 7:7E-4.10 are as follows:

7:7E-4.10 Man-made harbors

(a) Man-made harbors are semi-enclosed or protected water areas which have been developed for boat mooring or dockage. This general water area type includes Marinas (N.J.A.C. 7:7E-3.10), Ports (N.J.A.C. 7:7E-3.11), semi-enclosed water bodies created by man-made jetties or similar structures, fishing ports and harbors, and lagoons (see N.J.A.C. [7:7E-3.18] 7:7E-3.17).

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

The current text as found in the New Jersey Administrative Code at N.J.A.C. 7:7E-4.11 is corrected to read as follows:

7:7E-4.11 Acceptability conditions for uses

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

(i) Filling:

2. Acceptability conditions:

(i)-(iii) (No change from code.)

(iv) Filling is acceptable at the landward end of lagoons when flushing is poor, and water quality is significantly degraded. This usually pertains only to the deep water in the lagoon. Shallow areas will not, in general, have low oxygen concentrations.

The Department has proposed to delete 7:7E-4.11(i)2(iv).

Proposed amendments to N.J.A.C. 7:7E-4.11 are also corrected so that subsections (k) through (s) are proposed to be recodified as subsections (j) through (r).

The Department has proposed to amend N.J.A.C. 7:7E-7.2(e) (proposed recodifications: 7:7E-7.2(f)) by the addition of three paragraphs which are proposed to be codified as 7:7E-7.2(f)2. through 7:7E-7.2(f)4. Due to a printer's error these proposed paragraphs do not appear in bold face type at 17 N.J.R. 1489.

Due to a printer's error, large portions of the Department's proposed amendments to N.J.A.C. 7:7E-7.6 and 7:7E-7.7 were omitted from the proposal. The proposed amended sections, as corrected, are set forth below.

7:7E-7.6 Public facility use policies

(a) (No change.)

(b) [General] **Standards relevant to general public facilities are as follows:**

1. [Policy]: Upgrading existing facilities to meet development and redevelopment needs in developed waterfront areas is encouraged. New or expanded public facility development is conditionally acceptable provided that:

i.iii. (No change.)

2. (No change.)

(c) [Solid] **Standards relevant to solid waste facilities are as follows:**

[1. Policy relevant to solid waste is as follows:]

[i.]1. (No change in text.)

[ii.]2. Sanitary landfills that are located in the upland [must] shall demonstrate that the leachate will not adversely impact the ground or surface waters[, by using a lining and/or leachate filtration plant.] **by using an impervious liner and/or leachate collection, treatment and disposal system. Acceptable plans for restoring the site must be submitted with the original proposal.**

[2. Rationale: See the OAL Note at the beginning of this subchapter.]

3. Sanitary landfills are prohibited in Wetlands.

(d) [Wastewater] **Standards relevant to wastewater treatment facilities are as follows:**

[1.] Policy relevant to wastewater treatment is as follows:]

[i.]1. (No change in text.)

[ii.]2. (No change in text.)

[iii.]3. (No change in text.)

[iv.]4. (No change in text.)

[2.]5. (No change in text.)

7:7E-7.7 Industry use policies

(a) (No change.)

[1. Policy relevant to industry is as follows:]

[i.](b) Industry is encouraged in special urban areas and conditionally acceptable elsewhere, provided it is compatible with all applicable Location and Resource Policies. Particular attention should be given to Location Policies which reserve the water's edge for water-dependent uses (N.J.A.C. 7:7E-3.17 [and 3.21] **through 3.31**); to Resource Policy N.J.A.C. 7:7E-8.15, which requires that the use be compatible with existing uses in the area, or adequate buffering to be provided; and to Resource Policy N.J.A.C. 7:7E-8.13, which places public access requirements upon the use.

[ii.](c) New industrial development is encouraged to locate at or adjacent to existing industrial sites, to the maximum extent practicable.

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

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

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

[2.](g) (No change in text.)

The current text as found in the New Jersey Administrative Code at N.J.A.C. 7:7E-8.7(b)7.i. is corrected to read as follows:

i. Stormwater runoff calculations shall be based on 24 hour storms of at least 10 years frequency in designing storm drains and of at least 100 years frequency in designing detention basins.

The Department has proposed to delete N.J.A.C. 7:7E-8.7(b)7.i.

The current text as found in the New Jersey Administrative Code at N.J.A.C. 7:7E-8.17(b) is corrected to read as follows:

(b) Policy: Coastal development shall incorporate energy conservation techniques and alternative sources of energy, including passive and active solar energy and wind turbines, to the maximum extent practicable.

Correction to the June 17, 1985 proposal which amends N.J.A.C. 7:7E-8.17(b) is as follows:

[7:7E-8.17]7:7E-8.15

(b) [Policy:] Coastal development shall incorporate energy conservation techniques and alternative sources of energy, including passive and active solar energy and wind turbines, to the maximum extent practicable.

(a)

DIVISION OF COASTAL RESOURCES

Notice of Relaxation of Application of N.J.A.C. 7:6-1.37(d)

Authority: N.J.S.A. 12:6-1e and 12:7-34.49.

Take Notice that the Commissioner, Department of Environmental Protection, upon recommendation of the Boat Regulation Commission and finding it to be in the public interest and as provided at N.J.A.C. 7:6-1.2(b), relaxes the application of N.J.A.C. 7:6-1.37(d) in the manner specified below.

For the purpose of operating parasailing exhibitions in the area of Harrah's Marina Hotel Casino, Richard C. Gardner is hereby granted a waiver of the maximum tow line length (75 feet) contained in N.J.A.C. 7:6-1.37(d), permitting his use of 300-foot tow lines. This waiver is only on the dates set forth as follows:

- June 21, 1985 through June 23, 1985
- July 12, 1985 through July 14, 1985

This waiver can be withdrawn upon the Commissioner's making the finding that the parasailing operation is not being conducted with utmost attention to the safety of participants and observers alike or that said operation is not being conducted without endangerment to the general boating public.

HEALTH

(b)

DIVISION OF HEALTH PLANNING AND RESOURCES DEVELOPMENT

Change of Hospital Bed Additions; Modernization/Renovation, New Construction in Excess of \$5,000,000 Certificate of Need Batching Cycle

Public Notice

Take notice that the Commissioner of Health in cooperation with the Health Care Administration Board, has changed for one time only the batching cycle scheduled to begin August 15, 1985 for certificate of need applications for hospital bed additions or modernization/renovation and new construction projects in excess of \$5,000,000.

Applications for projects below the \$5,000,000 threshold will not be affected by this notice and will continue to be accepted by the Department of Health. This will allow the processing of relatively minor projects and those applications of an emergency nature which address patient safety and licensure deficiencies.

The batching cycle for certificate of need applications scheduled to begin on August 15, 1985 will be deleted. The next deadline for the submission of new or revised certificate of need applications for hospital bed additions or modernization/renovation and construction projects will be on November 30, 1985.

The change is for one time only and shall have no effect on subsequent batching cycles for certificate of need applications for hospital bed additions or modernization/renovation and construction projects.

This one time change in the batching cycle is being implemented in order to permit adequate time to complete public comment on the Hospital Policy Manual (N.J.A.C. 8:43E-1.1 et seq.) and subsequent review of the proposed rules by the Health Care Administration Board. The Hospital Policy Manual is the principal set of planning regulations addressing Certificate of Need review of hospital construction, modernization/renovation, and bed addition projects. Potential applicants will not have had an opportunity to prepare Certificate of Need applications based on the final regulations, which would not become effective until after the July 31 submission deadline for the August 15th cycle.

In addition, revisions to the Guidelines and Criteria for Submission of Applications for Certificate of Need (N.J.A.C. 8:33-1.1 et seq.) which govern the process by which all Certificate of Need applications are submitted and reviewed, are currently undergoing public comment following initial publication in the **New Jersey Register**. These proposed rules will specifically modify the review process for hospital applications.

The Department of Health is also currently developing revised bed need methodologies in cooperation with the Statewide Health Coordinating Council, which will be completed after the August cycle begins. Deferral of the August 15 batching cycle will permit review of Certificate of Need applications based upon current and relevant planning data.

Any inquiries should be addressed to:
 John A. Calabria, Coordinator
 Health Planning Services
 New Jersey Department of Health
 CN 360, Room 604
 Trenton, New Jersey 08625

HUMAN SERVICES

(c)

DIVISION OF PUBLIC WELFARE

Assistance Standards Handbook Child Care

Notice of Correction: N.J.A.C. 10:82-5.3

Take notice that an error appears in the New Jersey Administrative Code at N.J.A.C. 10:82-5.3(d)3 concerning child care. The proposal for this rule was published in the March 5, 1981 New Jersey Register at 13 N.J.R. 134(c) and the adoption notice was published in the July 9, 1981 Register at 13 N.J.R. 432(c). N.J.A.C. 10:82-5.3 should have appeared as follows:

- 10:82-5.3 Child care
 - (a)-(c) (No change.)
 - (d) Day care center rules are:
 - 1.-2. (No change.)
 - 3. In addition to (d)2 above, when transportation or the cost of transportation is not available from any other source, the

TREASURY-GENERAL

CWA may allow the actual cost up to **\$8.00** per week maximum per child.
 (e)-(h) (No change.)

(a)

DIVISION OF PUBLIC WELFARE

**General Assistance Manual
 Emergency Grants**

Notice of Correction: N.J.A.C. 10:85-4.6

Take notice that errors appear in the New Jersey Administrative Code at N.J.A.C. 10:85-4.6(a)3 and 10:85-4.6(b)5 concerning emergency grants. These rules were deleted in an adoption notice appearing in the November 5, 1984 issue of the New Jersey Register at 16 N.J.R. 3031(c) and should not have appeared in the Code. The proposed rules were published in the August 20, 1984 Register at 16 N.J.R. 2219(b).

TREASURY-GENERAL

(b)

**DIVISION OF BUILDING AND
 CONSTRUCTION**

**Architect-Engineer Selection
 Notice of Assignments: June 17, 1985**

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, prequalified New Jersey consulting firms. For information on DBC's prequalification and assignment procedures, call (609) 984-6979.

Last list dated May 15, 1985.

The following assignments have been made:

DBC No.	PROJECT	A/E	CCE
M586 Reassignment	Renovations to New Park School and Wayside Inn Greystone Park, NJ	Leslie M. Dennis & Son	\$ 60,000.
M598 Reassignment	Repair Roof, Parapets & Flashings Medical Services Building Greystone Park Psychiatric Hospital Greystone Park, NJ	Leslie M. Dennis & Son	\$145,000.
H813	Reroofing Cromwell Hall Trenton State College Trenton, NJ	Matthew L. Rue, AIA	\$150,000.
P289	Construction Cost Estimate Landfill & Walkways Liberty State Park Jersey City, NJ	Freeman and Roberts Associates	\$ 7,500. Services

MISCELLANEOUS NOTICES

C283	Replacement of Four Locking Doors North & South Halls Clinton Correctional Institution for Women Clinton, NJ	Vincent E. Paolicelli & Associates	\$ 30,000.
A488	Feasibility Study Office Space Conversion Capitol Plaza Hotel Trenton, NJ	Eggers Group, PC	\$ 15,000. Services
A488	Structural Evaluation Office Space Conversion Capitol Plaza Hotel Trenton, NJ	Paulus, Sokolowski & Sartor	\$ 5,000. Services
P464	New Pre-Engineered Building Forked River State Marina Ocean County, NJ	Lammey & Giorgio, PA	\$100,000.
M626	New Maintenance Building N.J. Memorial Home Vineland, NJ	Cooper Partnership	\$ 75,000.
P445	Historic Structure Report Bakery Building Allaire State Park	Robert E. Meadows, PC	\$ 34,461. Services
C284	Structural Investigation of Gym Guidance Unit-Training School for Boys Jamesburg, NJ	Maitra Associates, Inc.	\$ 5,000.
T176	New Ventilation & Exhaust System Silkscreen Operations-Building #21 DOT Fernwood Complex Trenton, NJ	Kallen & Lemelson Engineers	\$ 35,000.
C285	Replacement of Roof Superintendents' House Rahway State Prison Rahway, NJ	Lovrek Associates	\$ 35,000.
C286	Renovation of Conover Cottage Bathrooms Correctional Institution for Women Clinton, NJ	Vincent E. Paolicelli & Associates	\$ 45,000.
P463	Hydrographic Surveys of Absecon Inlet and Atlantic City Beach & Ocean Shorefront	Alpine Ocean Seismic Survey, Inc.	\$ 37,025. Services
Competitive Proposals			
	Alpine Ocean Seismic Survey, Inc.	\$37,025.00 Lump Sum	
	GEOD Corporation	\$37,972.00 Lump Sum	
	Menlo Engineering Associates	\$82,600.00 Lump Sum	
M421	Critical Path Method Services Forensic Hospital Facility Trenton Psychiatric Hospital Trenton, NJ	Wagner-Hohns-Inglis, Inc.	\$ 69,725. Services
Competitive Proposals			
	Wagner-Hohns-Inglis, Inc.	\$69,725 Lump Sum	
	Gaudet Associates, Inc.	\$80,060. Lump Sum	
	Tri-Tech Planning Consultants	\$103,350. Lump Sum	
T173	New DOT Maintenance Facilities Riverside & Totowa	The Lisiewski Group, PA	\$,200,000.
Competitive Proposals			
	The Lisiewski Group, PA	3.25%	
	Tarquini Organization	4.95%	
H818	Re-Roofing Maintenance Building & Kendall Hall Trenton State College Trenton, NJ	Matthew L. Rue, AIA	\$310,000.
Competitive Proposals			
	Matthew L. Rue, AIA	5.39%	
	Eugene F. O'Connor, AIA	6.92%	
	Richard M. Horowitz, AIA	12.48%	
M511-01	Fire Alarm System Improvements Vineland Developmental Center	Borda Engineers	\$ 20,100. Services

Competitive Proposals

	Borda Engineers	\$20,100.00 Lump Sum	
	John C. Morris Associates, Inc.	\$27,500.00 Lump Sum	
E134-01	Survey of Electrical Systems	Frank R. Holtaway & Son, Inc.	\$ 34,500. Services
	Marie H. Katzenbach School for the Deaf		
	West Trenton, NJ		

Competitive Proposals

Frank R. Holtaway & Son	\$34,500.
Henkels & McCoy, Inc.	\$74,900.
H. V. Weeks, Inc.	\$115,000.

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

**Average Wholesale Price of Cigarettes
Cigarette Surtax Rate**

Notice

For the purpose of complying with the requirements of Chapter 40, P.L. 1982, Sec. 4 (N.J.S.A. 54:40A-8.2), John R. Baldwin, Director of the Division of Taxation, hereby gives notice that, based upon the best available current data, the average wholesale price of cigarettes in this State during the succeeding six months commencing July 1, 1985 is \$0.4625 for each 10 cigarettes or fraction thereof.

Therefore, the cigarette surtax due for such six months, pursuant to Sec. 302 of P.L. 1948, c.65 (C. 54:40A-8), as amended, shall remain at \$0.03 for each 10 cigarettes or fraction thereof.

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 changes proposed in this issue will be entered in the Index of the next 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 date of the latest 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 May 6, 1985 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 timely adopt a proposed rule 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.1985 d.300 means the three hundredth rule adopted in 1985.

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 verifying 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 quickly find the issue of publication of a rule proposal or adoption.

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
16 N.J.R. 1635 and 1832	July 2, 1984	17 N.J.R. 237 and 338	February 4, 1985
16 N.J.R. 1833 and 2026	July 16, 1984	17 N.J.R. 339 and 502	February 19, 1985
16 N.J.R. 2027 and 2184	August 6, 1984	17 N.J.R. 503 and 634	March 4, 1985
16 N.J.R. 2185 and 2318	August 20, 1984	17 N.J.R. 635 and 762	March 18, 1985
16 N.J.R. 2319 and 2390	September 4, 1984	17 N.J.R. 763 and 858	April 1, 1985
16 N.J.R. 2391 and 2474	September 17, 1984	17 N.J.R. 859 and 1006	April 15, 1985
16 N.J.R. 2475 and 2708	October 1, 1984	17 N.J.R. 1007 and 1158	May 6, 1985
16 N.J.R. 2709 and 2864	October 15, 1984	17 N.J.R. 1159 and 1358	May 20, 1985
16 N.J.R. 2865 and 3066	November 5, 1984	17 N.J.R. 1359 and 1460	June 3, 1985
16 N.J.R. 3067 and 3240	November 19, 1984	17 N.J.R. 1461 and 1608	June 17, 1985
16 N.J.R. 3241 and 3336	December 3, 1984	17 N.J.R. 1609 and 1700	July 1, 1985
16 N.J.R. 3337 and 3518	December 17, 1984	17 N.J.R. 1701 and 1818	July 15, 1985
17 N.J.R. 1 and 140	January 7, 1985		
17 N.J.R. 141 and 236	January 21, 1985		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:1, 1:2	Readopt General Hearing and Summary Proceedings rules	17 N.J.R. 2(a)	R.1985 d.292	17 N.J.R. 1403(a)
1:1-11.2, 11.3	Discovery and countervailing factors	17 N.J.R. 1008(a)	R.1985 d.368	17 N.J.R. 1754(a)
1:7	Emergency Water Supply Allocation Plan cases	Emergency	R.1985 d.347	17 N.J.R. 1674(a)
1:10A	Inmate discipline cases	17 N.J.R. 1610(a)		
1:21	Trade secret claims	17 N.J.R. 1009(a)	R.1985 d.367	17 N.J.R. 1754(b)

(TRANSMITTAL 11, dated March 18, 1985)

AGRICULTURE—TITLE 2				
2:1-2.3, 3.1, 3.2, 3.4, 3.7, 3.8	Department organization	17 N.J.R. 1614(a)		
2:6-1	Control of veterinary biologicals	17 N.J.R. 1617(a)		
2:16-2	Seed certification standards	17 N.J.R. 636(a)	R.1985 d.278	17 N.J.R. 1403(b)
2:16-4	Field corn standards (commercial hybrids)	17 N.J.R. 638(a)	R.1985 d. 277	17 N.J.R. 1404(a)
2:16-5	Sweetcorn standards (inbred lines)	17 N.J.R. 639(a)	R.1985 d.276	17 N.J.R. 1404(b)
2:16-6	Sweetcorn standards (single cross hybrids)	17 N.J.R. 639(b)	R.1985 d.275	17 N.J.R. 1404(c)
2:16-7	Small grain standards	17 N.J.R. 640(a)	R.1985 d.274	17 N.J.R. 1405(a)
2:16-9	Soybean standards	17 N.J.R. 641(a)	R.1985 d.273	17 N.J.R. 1405(b)
2:16-10	Vegetable standards	17 N.J.R. 641(b)	R.1985 d.272	17 N.J.R. 1405(c)
2:16-13	Turfgrass sod standards	17 N.J.R. 642(a)	R.1985 d.271	17 N.J.R. 1405(d)
2:16-15	Vegetatively propagated grass standards	17 N.J.R. 643(a)	R.1985 d.269	17 N.J.R. 1406(a)
2:16-16	Asparagus seed standards	17 N.J.R. 643(b)	R.1985 d.270	17 N.J.R. 1406(b)
2:16-17	Asparagus crown standards	17 N.J.R. 644(a)	R.1985 d.268	17 N.J.R. 1406(c)
2:16-19	Flatpea certification standards	17 N.J.R. 644(b)	R.1985 d.267	17 N.J.R. 1407(a)
2:24-1.1, 1.2	Disease of bees: repeal Acarine mite quarantine	17 N.J.R. 860(a)	R.1985 d.304	17 N.J.R. 1542(a)
2:24-1.3, 1.4, 1.5	Bee diseases: Tracheal mite quarantine	17 N.J.R. 985(a)	R.1985 d.301	17 N.J.R. 1542(b)
2:24-1.6	Honeybee tracheal mite quarantine	Emergency	R.1985 d.322	17 N.J.R. 1589(a)
2:52-2, 3, 4.1, 7	Readopt rules concerning milk processors, dealers and subdealers	17 N.J.R. 1011(a)	R.1985 d.336	17 N.J.R. 1645(a)
2:52-2.1, 3.1	Sale of yogurt	17 N.J.R. 1012(a)	R.1985 d.335	17 N.J.R. 1645(b)
2:53-4	Milk processors, dealers and subdealers	17 N.J.R. 1011(a)	R.1985 d.336	17 N.J.R. 1645(a)
2:53-4.1	Sale of yogurt	17 N.J.R. 1012(a)	R.1985 d.335	17 N.J.R. 1645(b)
2:69-1.11	Commercial values of fertilizers and soil conditioners	17 N.J.R. 764(a)	R.1985 d.266	17 N.J.R. 1407(b)
2:70-1	Liming materials: readopt fineness classification	17 N.J.R. 765(a)	R.1985 d.265	17 N.J.R. 1407(c)
2:71-2.2—2.7	Jersey Fresh Logo program	17 N.J.R. 765(b)	R.1985 d.282	17 N.J.R. 1407(d)
2:90-1	State Soil Conservation Committee: readopt General Provisions	17 N.J.R. 1160(a)	R.1985 d.370	17 N.J.R. 1756(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
2:90-2.24	Cost share rates for soil and water conservation projects	17 N.J.R. 861(a)	R.1985 d.303	17 N.J.R. 1542(c)
2:90-3.6	Soil and water conservation management problems	17 N.J.R. 861(b)	R.1985 d.302	17 N.J.R. 1543(a)

(TRANSMITTAL 30, dated April 15, 1985)

BANKING—TITLE 3

3:27-4.5, 4.6	Savings and loan associations: asset limitation; service corporations	17 N.J.R. 1619(a)		
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(TRANSMITTAL 27, dated April 15, 1984)

CIVIL SERVICE—TITLE 4

4:1-6.8	Nondiscriminatory titles	17 N.J.R. 1012(b)		
4:1-12.12	Restorations to promotional lists	17 N.J.R. 645(a)		
4:1-12.15	Appointment of eligible certified	17 N.J.R. 10(a)	R.1985 d.227	17 N.J.R. 1257(a)
4:1-16.7	Suspension, fine and demotion for disciplinary purposes	17 N.J.R. 1360(a)		
4:1-18.3	Compensation for holidays	16 N.J.R. 1421(a)	Expired	
4:1-21.3	Prohibition against political activity	17 N.J.R. 1013(a)		
4:2-6.1, 6.2	Nondiscriminatory titles	17 N.J.R. 1012(b)		
4:2-7.13	Ninth step salary maximum	17 N.J.R. 1014(a)	R.1985 d.345	17 N.J.R. 1645(c)
4:2-18.1, 18.2, 18.3	Compensation for holidays	16 N.J.R. 1421(a)	Expired	
4:3-6.2, 6.3	Nondiscriminatory titles	17 N.J.R. 1012(b)		
4:3-14.1	Seasonal positions	17 N.J.R. 1015(a)		

(TRANSMITTAL 24, dated March 18, 1985)

COMMUNITY AFFAIRS—TITLE 5

5:18-1.1, 1.3, 1.4, 1.5, 2.4, 2.5, 2.7, 2.8, 2.12, 3.1, 3.2	Uniform Fire Code	17 N.J.R. 1015(b)		
5:18-1.1, 1.4, 1.5, 1.6, 2.3, 4	Uniform Fire Code, Fire Safety Code	17 N.J.R. 1161(a)		
5:18A-2.1—2.4, 2.6, 3.2, 3.3, 4.1, 4.3, 4.4	Fire Code Enforcement	17 N.J.R. 1015(b)		
5:18B-3.2	High Level Alarms	17 N.J.R. 1015(b)		
5:23-1.4, 2.14, 4.18, 4.20	Uniform Construction Code: annual permits	17 N.J.R. 1029(a)	R.1985 d.351	17 N.J.R. 1756(b)
5:23-2.15	Uniform Construction Code: contractor seals	17 N.J.R. 1462(a)		
5:23-2.15, 2.21	UCC: engineers and architects	17 N.J.R. 645(b)		
5:23-2.15, 2.21	UCC: engineers and architects	17 N.J.R. 1033(a)		
5:23-2.15, 5.7	UCC: applying for construction permit; renewal of enforcement license	17 N.J.R. 1031(a)	R.1985 d.352	17 N.J.R. 1758(a)
5:23-3.11, 4.22, 4.24, 4.25	Uniform Construction Code: premanufactured construction	17 N.J.R. 1169(a)		
5:23-3.14, 3.21	One and two-family dwelling construction subcode	17 N.J.R. 861(c)	R.1985 d.324	17 N.J.R. 1646(a)
5:23-4.5	UCC: duties of construction officials	17 N.J.R. 340(a)	R.1985 d.232	17 N.J.R. 1257(b)
5:23-4.21, 5.4	UCC: private enforcing agency fees; trainees	17 N.J.R. 1032(a)	R.1985 d.353	17 N.J.R. 1758(b)
5:23-5.4	UCC: private enforcing agencies and trainee positions	17 N.J.R. 341(a)	R.1985 d.231	17 N.J.R. 1258(a)
5:23-8	Asbestos Hazard Abatement Subcode	Emergency	R.1985 d.362	17 N.J.R. 1782(a)
5:27	Readopt rules on Rooming and Boarding Houses	17 N.J.R. 341(b)	R.1985 d.350	17 N.J.R. 1759(a)
5:27-1.6	Rooming and boarding houses: owner and operator training	17 N.J.R. 777(a)	R.1985 d.300	17 N.J.R. 1543(b)
5:28	Readopt State Housing Code	17 N.J.R. 1174(a)		
5:31-7.5	Local authorities: audit reports	17 N.J.R. 504(a)	R.1985 d.283	17 N.J.R. 1409(b)
5:51-1.4, 1.5	Local provision of recreational services for handicapped persons	17 N.J.R. 1463(a)		
5:80	Rules of the Housing and Mortgage Finance Agency	17 N.J.R. 505(a)	R.1985 d.241	17 N.J.R. 1258(b)
5:80-4	Housing and Mortgage Finance	17 N.J.R. 1174(b)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
5:80-8	Housing and Mortgage Finance Agency: housing project occupancy requirements	17 N.J.R. 1620(a)		
5:80-17, 18	Housing and Mortgage Finance: prevailing wages; debarment from contracting	17 N.J.R. 1174(b)		

(TRANSMITTAL 29, dated April 15, 1985)

DEFENSE—TITLE 5A

5A:2	Leaves of absence for members of National Guard	17 N.J.R. 646(a)	R.1985 d.242	17 N.J.R. 1267(a)
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EDUCATION—TITLE 6

6:3-1.10	Standards for determining seniority	17 N.J.R. 1033(b)		
6:3-1.17, 1.23	School facility planning services	17 N.J.R. 650(a)		
6:20-2	Readopt Local Bookkeeping and Accounting rules	17 N.J.R. 1361(a)		
6:20-5.3, 5.4	State facility pupil assignments: district of residence	17 N.J.R. 344(a)	R.1985 d.208	17 N.J.R. 1076(a)
6:20-5.5	Asbestos removal and encapsulation reimbursement	17 N.J.R. 863(a)	R.1985 d.340	17 N.J.R. 1648(a)
6:21-1	Readopt Pupil Transportation Standards	17 N.J.R. 1365(a)		
6:21-5	Standards for school buses	17 N.J.R. 1035(a)		
6:22	School facility planning services	17 N.J.R. 650(a)		
6:28-3.2, 3.6, 6.1, 6.3, 8.3	Special Education	17 N.J.R. 345(a)	R.1985 d.209	17 N.J.R. 1077(a)
6:29-6.4	Athletics procedures	17 N.J.R. 659(a)	R.1985 d.281	17 N.J.R. 1410(a)
6:30-1.4	Fees for GED test	17 N.J.R. 1367(a)		
6:68-2	Library assistance: readopt Incentive Grant Program rules	17 N.J.R. 346(a)	R.1985 d.207	17 N.J.R. 1078(a)

(TRANSMITTAL 30, dated April 15, 1985)

ENVIRONMENTAL PROTECTION—TITLE 7

7:1-4	Fee schedule for Environmental Cleanup Responsibility Act	17 N.J.R. 1622(a)		
7:1C-1	90-day construction permits	16 N.J.R. 3243(a)	R.1985 d.316	17 N.J.R. 1544(a)
7:1E	Readopt rules on Discharges of Petroleum and Other Hazardous Substances	17 N.J.R. 865(a)	R.1985 d.377	17 N.J.R. 1759(b)
7:1F	Industrial Survey Project rules: waiver of Executive Order No. 66	17 N.J.R. 866(a)		
7:1F	Industrial Survey Project rules: new expiration date			17 N.J.R. 1139(b)
7:1G	Right to Know Act: Federal district court ruling			17 N.J.R. 1139(c)
7:1H	Readopt County Environmental Health administrative rules	17 N.J.R. 1463(b)		
7:2-2.14, 3.4, 3.5	Use of State Park lands	17 N.J.R. 778(a)		
7:2-12	Open lands management	17 N.J.R. 866(b)		
7:7E	Readopt Coastal Resource and Development Policies	17 N.J.R. 1465(a)		
7:7E	Revisions to Coastal Resources and Development rules	17 N.J.R. 1466(a)		
7:7E-7.2	Correction to Administrative Code: Coastal Resource and Development Policies			17 N.J.R. 1140(a)
7:9-4, Index D	Surface water classifications: Hackensack and Hudson rivers	17 N.J.R. 1625(a)		
7:9-4, 5	Surface water quality and treatment of wastewater discharges	16 N.J.R. 3080(a)	R.1985 d.249	17 N.J.R. 1270(a)
7:9-5.4	Correction: Surface water quality and treatment of wastewater discharges	16 N.J.R. 3080(a)	R.1985 d.249	17 N.J.R. 1759(c)
7:11-2.3, 2.5, 2.8—2.12	Delaware and Raritan Canal water supply system	17 N.J.R. 11(a)		
7:12-1.3, 1.4	Shellfish-growing water classifications	17 N.J.R. 661(a)	R.1985 d.290	17 N.J.R. 1412(a)
7:13-1.11(c)27	Floodways along Pequest River in Sussex and Warren counties	16 N.J.R. 1306(a)	R.1985 d.218	17 N.J.R. 1080(a)
7:13-7.1(c)17	Redelineation of Delaware River in Harmony Township, Warren County	17 N.J.R. 151(a)	R.1985 d.319	17 N.J.R. 1550(a)
7:13-7.1(c)30	Floodway delineation along Paulins Kill	16 N.J.R. 2397(a)	R.1985 d.217	17 N.J.R. 1080(b)
7:13-7.1	Paulins Kill floodway delineation: public hearing	16 N.J.R. 2885(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:13-7.1(d)50	Floodway delineation along North Branch Foulerton's Brook	16 N.J.R. 2398(a)	R.1985 d.320	17 N.J.R. 1551(a)
7:13-7.1(d)51	Floodways along North Branch Raritan (Project U)	16 N.J.R. 1307(a)	R.1985 d.329	17 N.J.R. 1648(b)
7:13-7.1(h)	Floodway delineations in Hackensack Basin	17 N.J.R. 1175(a)		
7:13-7.1(i)	Floodway delineations in Central Passaic Basin (Projects G and R)	17 N.J.R. 1176(a)		
7:14A-1.8	Fee schedule for NJPDES permits and applicants	17 N.J.R. 13(a)	R.1985 d.315	17 N.J.R. 1551(b)
7:19-5.11	Correction: Acquisition costs			17 N.J.R. 1559(a)
7:20	Dam Safety Standards	16 N.J.R. 790(a)	R.1985 d.214	17 N.J.R. 1081(a)
7:25-4.2, 4.14, 4.17	Possession of endangered and nongame species	17 N.J.R. 516(a)	R.1985 d.251	17 N.J.R. 1289(a)
7:25-4.13, 4.17	Status of the osprey	17 N.J.R. 350(a)	R.1985 d.215	17 N.J.R. 1091(a)
7:25-5	1985-86 Game Code	17 N.J.R. 1177(a)		
7:25-7.10, 7.11	Taking of oysters and mussels	16 N.J.R. 3385(a)		
7:25-12.1	Close of sea clam season			17 N.J.R. 1142(a)
7:25-16.1	Readopt freshwater fishing license lines	16 N.J.R. 2044(a)		
7:25-18	Readopt Marine Fisheries rules	17 N.J.R. 1188(a)		
7:25-18.5	Marine fisheries: general net rules	Emergency	R.1985 d.240	17 N.J.R. 1334(a)
7:25-22.2	Purse seine fishing of menhaden	16 N.J.R. 1668(a)		
7:25-23	Permit to kill wild deer	17 N.J.R. 350(b)	R.1985 d.250	17 N.J.R. 1289(b)
7:25A	Oyster management	17 N.J.R. 352(a)	R.1985 d.216	17 N.J.R. 1092(a)
7:26-1.4, 9.3	Above-ground tank storage of hazardous waste	17 N.J.R. 1501(a)		
7:26-1.7	Waste management: on-site disposal of construction debris	17 N.J.R. 1040(a)		
7:26-1.7	Solid waste disposal: exemption from registration	17 N.J.R. 1368(a)		
7:26-3	Waste management: readopt Collection and Haulage rules	17 N.J.R. 1041(a)		
7:26-6.5	Solid waste flow: Atlantic County	17 N.J.R. 517(b)	R.1985 d.317	17 N.J.R. 1560(a)
7:26-6.5	Solid waste flow: Hunterdon County	17 N.J.R. 517(a)		
7:26-7.4, 8.3, 8.15, 9.2, 10.6, 10.8	Restriction of land disposal of hazardous waste	17 N.J.R. 779(a)		
7:26-8.13, 8.16	Hazardous waste from non-specific sources; hazardous constituents	17 N.J.R. 354(a)	R.1985 d.248	17 N.J.R. 1290(a)
7:26-8.15	Hazardous waste management: warfarin and zinc phosphide	17 N.J.R. 356(a)	R.1985 d.375	17 N.J.R. 1760(a)
7:26-9.10, 9.11, App. A.	Hazardous waste facilities: closure letters of credit	17 N.J.R. 241(a)	R.1985 d.247	17 N.J.R. 1291(a)
7:26-10.5	Tank storage containment requirements	17 N.J.R. 152(a)	R.1985 d.318	17 N.J.R. 1560(b)
7:26-14	Resource Recovery grants and loans	16 N.J.R. 3385(b)		
7:26-14	Resource Recovery grants and loans: extension of comment period	17 N.J.R. 242(a)		
7:26-16.4	Solid and hazardous waste: transporters and facilities	17 N.J.R. 518(a)		
7:27	Air quality standards: State Implementation Plan for lead	16 N.J.R. 1669(a)		
7:27-13.1, 13.2, 13.5-13.8	Ambient air quality standards	16 N.J.R. 1676(a)	R.1985 d.252	17 N.J.R. 1292(a)
7:27-14.3	Diesel-powered motor vehicles: idle standard	16 N.J.R. 2887		
7:27-15.4	Air pollution and gas-fueled motor vehicles	17 N.J.R. 781(a)	R.1985 d.331	17 N.J.R. 1649(a)
7:27-15.6	Gas-fueled motor vehicle: idle standard	16 N.J.R. 2889		
7:27B-4.6	Lead test paper procedure	17 N.J.R. 781(a)		
7:27B-4.6, 4.7	Air pollution and gas-fueled motor vehicles	17 N.J.R. 781(a)	R.1985 d.331	17 N.J.R. 1649(a)
7:28-1.4, 17	Industrial and nonmedical radiology	17 N.J.R. 1626(a)		
7:28-12	Transportation of radioactive material	17 N.J.R. 1369(a)		
7:28-19.2, 19.3, 19.4, 19.6, 19.9, 19.10	Podiatric x-ray technology	17 N.J.R. 1632(a)		
7:29-1.1—1.5	Noise control: extension of comment period	16 N.J.R. 2405(a)		
7:30	Pesticide Control Code	17 N.J.R. 242(b)		
7:36	Green Acres Program	16 N.J.R. 2405(b)		

(TRANSMITTAL 30, dated April 15, 1985)

HEALTH—TITLE 8

8:7-1 Licensure of persons for public health positions 17 N.J.R. 1503(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
8:13-2.1, 2.4, 2.6—2.11, 2.13, 2.14	Depuration of soft shell clams	17 N.J.R. 1370(a)		
8:19	Readopt Newborn Hearing Screening rules	17 N.J.R. 869(a)		
8:21A-2.55	Drug manufacturing: medical gas lot or control numbers	16 N.J.R. 1685(a)		
8:31-26.3, 26.4	Health care facilities: employee physicals; child abuse	16 N.J.R. 3249(a)		
8:31-26.5	Health care facilities: licensure fees	17 N.J.R. 664(a)	R.1985 d.372	17 N.J.R. 1760(b)
8:31B-2, 3, 4	Hospital Rate Setting rules: temporary waiver of expiration	16 N.J.R. 2733(a)		
8:31B-3.19	RIM methodology for nursing cost allocation: implementation date	16 N.J.R. 2848(b)		
8:31B-3.23	Correction: Hospital reimbursement	16 N.J.R. 2733(b)		
8:31B-3.72	Hospital reimbursement: periodic rate adjustments	17 N.J.R. 872(a)	R.1985 d.349	17 N.J.R. 1652(a)
8:31B-3.79	Hospital reimbursement: post-acute care patients	17 N.J.R. 873(a)	R.1985 d.359	17 N.J.R. 1761(a)
8:33	Certificate of Need application and review process	17 N.J.R. 1190(a)		
8:33A-1.1	New and expanded surgical services: deferral of need applications	16 N.J.R. 2734(a)		
8:33E-2.1—2.5, 2.10, 2.12, 2.13	Cardiac surgical centers: need review	16 N.J.R. 2196(a)		
8:33F-1.4	Renal disease services: acute hemodialysis standards	17 N.J.R. 874(a)	R.1985 d.360	17 N.J.R. 1762(a)
8:33G-1	Computerized tomography services	17 N.J.R. 1214(a)		
8:33H	Long-Term Care Facilities and Services: readopt Certificate of Need rules	17 N.J.R. 1216(a)		
8:43-4	Residential Health Care Facilities: readopt Administration rules	17 N.J.R. 1231(a)		
8:43A	Licensure of ambulatory care facilities	16 N.J.R. 3254(a)		
8:43B-1.14	Hospital facilities: psychiatric patient rights	17 N.J.R. 665(a)		
8:43B-8.33—8.44	Newborn care services: physical plant standards	17 N.J.R. 519(a)		
8:43E-1	Hospital Policy Manual: Certificate of Need rules	17 N.J.R. 1220(a)		
8:45	Clinical laboratory services	17 N.J.R. 268(a)	R.1985 d.243	17 N.J.R. 1294(a)
8:51-1-6	Local boards: recognized public health activities and minimum standards	17 N.J.R. 1633(a)		
8:57-1	Readopt Reportable Diseases rules	17 N.J.R. 784(a)	R.1985 d.363	17 N.J.R. 1764(a)
8:57-4.15	Immunization of school children: mumps vaccine	17 N.J.R. 358(a)	R.1985 d.264	17 N.J.R. 1414(a)
8:60-1	Asbestos licenses and permits	Emergency	R.1985 d.361	17 N.J.R. 1676(a)
8:60-2, 6	Asbestos training courses	17 N.J.R. 741(a)	R.1985 d.262	17 N.J.R. 1417(b)
8:65-1	Controlled Dangerous Substances: readopt Registration rules	17 N.J.R. 1508(a)		
8:65-5	Controlled dangerous substances: records and reports of registrants	17 N.J.R. 524(a)		
8:65-6	Controlled dangerous substances: Federally-required order forms	17 N.J.R. 528(a)		
8:65-7.3	Controlled dangerous substances: issuing of prescriptions	17 N.J.R. 876(a)		
8:65-10.1	Add 3-Methylfentanyl to Schedule I	17 N.J.R. 1511(a)		
8:65-10.5	Reschedule Buphenorphine to Schedule V	17 N.J.R. 1234(a)		
8:65-11.2	Narcotic treatment programs: registration fee	17 N.J.R. 359(a)		
8:71	Generic drug list additions (see 16 N.J.R. 2672(b), 17 N.J.R. 200(b), 957(b), 1296(a))	16 N.J.R. 1436(a)	R.1985 d.295	17 N.J.R. 1561(a)
8:71	Generic drug list additions (see 17 N.J.R. 201(a), 957(c), 1296(b))	16 N.J.R. 2483(a)	R.1985 d.297	17 N.J.R. 1562(b)
8:71	Additions to generic drug list (see 17 N.J.R. 1295(a))	17 N.J.R. 158(a)	R.1985 d.296	17 N.J.R. 1562(a)
8:71	Generic drug list additions	17 N.J.R. 1043(a)		

(TRANSMITTAL 27, dated April 15, 1985)

HIGHER EDUCATION—TITLE 9

9:2-1	Minority Faculty Advancement Loan Program	17 N.J.R. 1512(a)		
9:2-1, 2, 3, 8, 9	Repeal (See 9:6)	16 N.J.R. 2209(a)	R.1985 d.244	17 N.J.R. 1296(c)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
9:2-4, 6, 7, 12, 13	Readopt Administrative Policies for colleges and universities	16 N.J.R. 2216(a)	R.1985 d.309	17 N.J.R. 1563(a)
9:2-4.1	Eligibility for Alternate Benefit Program	17 N.J.R. 1635(a)		
9:2-11	Recodify as 9:7-7	16 N.J.R. 2218(a)		
9:2-12.1, 12.2	Teacher education: degree standards	17 N.J.R. 1515(a)		
9:2-12.2	Teacher education: curriculum	17 N.J.R. 22(b)		
9:6	State College: policies and standards	16 N.J.R. 2209(a)	R.1985 d.244	17 N.J.R. 1296(c)
9:6-1.2, 3.1, 3.4, 3.5, 3.6, 3.11, 4.4, 4.7, 5.2, 5.13	State Colleges: policies and standards	17 N.J.R. 160(a)	R.1985 d.244	17 N.J.R. 1296(c)
9:7-2.4, 2.9	Student assistance programs: eligibility; award combinations	17 N.J.R. 787(a)	R.1985 d.338	17 N.J.R. 1653(a)
9:7-4.1, 4.7, 4.8	Distinguished Scholars Program	17 N.J.R. 787(b)	R.1985 d.339	17 N.J.R. 1654(a)
9:7-7	Readopt Veteran's Tuition Credit Program	16 N.J.R. 2218(a)		
9:8	Jobs, Science and Technology Bond Act: policies and procedures	17 N.J.R. 1516(a)		
9:9-1.2	Guaranteed Student Loan Program: second borrowing	17 N.J.R. 1518(a)		
9:9-1.6	Student loan applications: prohibited fee	16 N.J.R. 3281(b)	R.1985 d.311	17 N.J.R. 1564(a)
9:14	Readopt Independent College and University Assistance rules	17 N.J.R. 25(a)	R.1985 d.245	17 N.J.R. 1303(a)

(TRANSMITTAL 25, dated April 15, 1985)

HUMAN SERVICES—TITLE 10

10:44A-1.1—1.5, 2.2, 2.4, 3.1, 3.3, 4.3, 5.2, 9	Community residences for developmentally disabled; Supportive Living Programs	16 N.J.R. 1438(a)	R.1985 d.258	17 N.J.R. 1304(a)
10:47	Private Licensed Facilities for Developmentally Disabled	16 N.J.R. 2902(a)		
10:48	Division of Mental Retardation: appeal procedures	17 N.J.R. 876(b)		
10:49-1	Administration Manual: readopt General Provisions	17 N.J.R. 532(a)	R.1985 d.246	17 N.J.R. 1307(a)
10:49-1.1	Medicaid eligibility	16 N.J.R. 2219(a)		
10:49-1.4	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:49-7	Reinstatement of Medicaid provider	17 N.J.R. 1519(a)		
10:50	Transportation Services: HCFA Common Procedure Coding System	17 N.J.R. 1519(b)		
10:50-1.2, 1.5, 1.6	Invalid coach services: oxygen equipment; carrier charges	17 N.J.R. 1373(a)		
10:50-1.5, 1.6	Reimbursement for ambulance and invalid coach services	17 N.J.R. 1637(a)		
10:51-1.13, 1.14, 3.12, App. A	Pharmaceutical services: "vaccine" reimbursement	17 N.J.R. 1237(a)		
10:51-1.17, 3.15	Pharmaceutical services: dispensing fee and capitation rates	17 N.J.R. 1044(a)	R.1985 d.369	17 N.J.R. 1766(a)
10:51-5.1, 5.16	PAAD: diabetic testing material	17 N.J.R. 1521(a)		
10:52-1.1, 1.20	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:52-1.16	Termination of pregnancy in licensed health care facilities	17 N.J.R. 1375(a)		
10:52-1.21	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:53-1.1, 1.16	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:53-1.14	Termination of pregnancy	17 N.J.R. 1375(a)		
10:53-2	Special Hospital Services: admission and billing	17 N.J.R. 544(a)	R.1985 d.257	17 N.J.R. 1317(a)
10:54	Physician's Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:54-1.23	Termination of pregnancy	17 N.J.R. 1375(a)		
10:54-3	Procedure Code Manual: immunizations	17 N.J.R. 546(a)	R.1985 d.211	17 N.J.R. 1094(a)
10:54-3	Procedure Code Manual: fees for laboratory services	17 N.J.R. 1376(a)		
10:55	Prosthetic-Orthotic Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:55-3.1	Fee increases for shoe appliances	17 N.J.R. 1522(a)		
10:57	Podiatry Services: Common Procedure Coding System	17 N.J.R. 1519(b)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10:58	Nurse Midwifery Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:59	Medical Supplier Manual: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:59-1.2, 1.4, 1.9, 1.12	Medical Supplier Manual: recycling of durable medical equipment	16 N.J.R. 2048(a)		
10:59-1.7, 1.13, 1.14, 3.2	Fee increases for shoe appliances	17 N.J.R. 1522(a)		
10:60	Readopt Home Care Services Manual	17 N.J.R. 28(a)		
10:60-4	Community Care Waiver Program for Elderly and Disabled	16 N.J.R. 3161(a)	R.1985 d.263	17 N.J.R. 1415(a)
10:61	Independent Laboratory Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:61-1.2	Medicaid participation by State, county and municipal labs	16 N.J.R. 3162(a)	R.1985 d.237	17 N.J.R. 1318(a)
10:62	Vision Care: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:63-1.6	Changes in level of long-term care	16 N.J.R. 2049(a)		
10:64	Hearing Aid Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:66	Independent Clinic Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:66-1.1, 1.2, 1.3, 1.6, 1.7, 1.9	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:66-1.2, 1.6, 3.3	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:66-1.5	Independent Clinic Manual: mental health services	17 N.J.R. 1377(a)		
10:66-1.6	Termination of pregnancy	17 N.J.R. 1375(a)		
10:67	Psychological Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:69A-1.2, 2.1, 5.3, 5.6, 6.1, 6.4, 6.6, 6.10, 6.11	Pharmaceutical Assistance for Aged and Disabled	17 N.J.R. 367(a)	R.1985 d.259	17 N.J.R. 1318(b)
10:81-3.27	PAM: transmission of data to receiving county	17 N.J.R. 878(a)	R.1985 d.344	17 N.J.R. 1655(a)
10:81-3.34	PAM: temporary absence of children from home	17 N.J.R. 163(a)	R.1985 d.312	17 N.J.R. 1565(a)
10:81-11.1, 11.4, 11.12	PAM: continuing IV-D services for families that lose AFDC	17 N.J.R. 164(a)	R.1985 d.210	17 N.J.R. 1094(b)
10:81-11.7, 11.9	PAM: child support and health benefits	17 N.J.R. 165(a)	R.1985 d.219	17 N.J.R. 1095(a)
10:81-11.9	PAM: reimbursement by counties to State	17 N.J.R. 369(a)		
10:81-11.9	Public Hearing: County reimbursement to State for Tax Setoff Program for child support enforcement	17 N.J.R. 1526(a)		
10:81-11.18	PAM: weekly second family adjustment	17 N.J.R. 879(a)	R.1985 d.343	17 N.J.R. 1655(b)
10:81-11.19	PAM: distribution of arrearage payments for child support	17 N.J.R. 1238(a)		
10:82-1.2, 2.13, 3.11, 5.11	ASH: AFDC payment standards	17 N.J.R. 880(a)	R.1985 d.341	17 N.J.R. 1656(a)
10:82-2.2	ASH: initial grant computation	17 N.J.R. 546(b)	R.1985 d.299	17 N.J.R. 1566(a)
10:82-2.19	ASH: recovery of overpayments	16 N.J.R. 2055(a)		
10:82-2.19, 3.2	Correction to Administrative Code: Assistance Standards Handbook			17 N.J.R. 1143(b)
10:82-3.13	ASH: eligibility of sponsored alien and sponsor's income	17 N.J.R. 1523(a)		
10:82-4.11, 4.12	ASH: income from apartments, rooms, or housekeeping units	17 N.J.R. 1045(a)		
10:85-3.2	GAM: determination of unemployability	17 N.J.R. 547(a)		
10:85-3.2, 10.6	GAM: willingness to work and penalty period	16 N.J.R. 2741(a)		
10:85-3.3	GAM: monthly assistance payment for residential health care	16 N.J.R. 2742(a)		
10:85-3.3	General Assistance rate in residential health care facilities			17 N.J.R. 485(c)
10:85-3.4	GAM: suits and claims	17 N.J.R. 548(a)	R.1985 d.298	17 N.J.R. 1566(b)
10:85-4.1, 9.4	General Assistance payment levels	17 N.J.R. 882(a)	R.1985 d.342	17 N.J.R. 1658(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10:85-5.2	Correction to Administrative Code: General Assistance Manual	17 N.J.R. 1339(b)		
10:87-1.14	Food Stamp Program: disclosure of information	17 N.J.R. 1377(b)		
10:87-2.21, 2.24, 2.28, 2.31, 2.35, 9.7, 11.29	Food Stamp Program revisions	17 N.J.R. 883(a)	R.1985 d.346	17 N.J.R. 1659(a)
10:87-5.7	Food Stamp Program: treatment of moneys used to repay overpayments	17 N.J.R. 986(a)	R.1985 d.313	17 N.J.R. 1567(a)
10:87-12.3, 12.4, 12.7	Food Stamp Program: Revised maximum eligibility limits	Emergency	R.1985 d.371	17 N.J.R. 1793(a)
10:89-2.3	Correction to Administrative Code: Home Energy Assistance Handbook			17 N.J.R. 1444(b)
10:90-4.8	Correction to Administrative Code: Monthly Reporting Policy Handbook			17 N.J.R. 1143(c)
10:94-3.16	Medicaid district offices	17 N.J.R. 38(a)	R.1985 d.291	17 N.J.R. 1416(a)
10:94-4.5, 4.6, 4.7	Medicaid Only: resource eligibility and limits	17 N.J.R. 1525(a)		
10:122-2.3, 2.6, 3.2, 3.3, 4.1, 4.3, 4.6, 6.8, 6.9	Child care centers	17 N.J.R. 548(b)	R.1985 d.314	17 N.J.R. 1568(a)
10:123-3	Residential health care and boarding homes: readopt Personal Needs Allowance rules	17 N.J.R. 1526(b)		
10:129-2	Confidentiality of child abuse records	17 N.J.R. 885(a)	R.1985 d.373	17 N.J.R. 1766(b)

(TRANSMITTAL 28, dated April 15, 1985)

CORRECTIONS—TITLE 10A

10A:71	State Parole Board rules	16 N.J.R. 3391(a)	R.1985 d.213	17 N.J.R. 1096(a)
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(TRANSMITTAL 10, dated March 18, 1985)

INSURANCE—TITLE 11

11:1-2.52.8	Property-liability: rate counsel participation	16 N.J.R. 2918(a)		
11:1-16	Request for rate decrease	16 N.J.R. 3169(a)		
11:1-18	Approval of business names	17 N.J.R. 41(a)		
11:1-19	Uniform registration of branch offices	17 N.J.R. 42(a)		
11:2-19	Approval of insurance schools and company training programs	16 N.J.R. 2920(b)		
11:2-20	License renewal: continuing education requirement	16 N.J.R. 2922(a)		
11:2-21	Property and casualty coverage: underwriting guidelines	16 N.J.R. 2924(a)		
11:2-23	Advertisement of life insurance and annuities	16 N.J.R. 2926(a)		
11:3-7	Automobile Reparation Reform Act rules: 90-day waiver of expiration	16 N.J.R. 2414(a)		
11:3-7	Automobile Reparation Reform Act rules	16 N.J.R. 3417(a)		
11:3-8	Nonrenewal of auto insurance policies	16 N.J.R. 2930(a)		
11:3-10	Auto physical damage claims	16 N.J.R. 3170(a)		
11:3-16	Private passenger automobile rate filings	16 N.J.R. 2934(a)		
11:3-17	Automobile rate filings	16 N.J.R. 2936(a)		
11:3-18	Filing review procedures	16 N.J.R. 2937(a)		
11:3-20	Reporting excess profits	17 N.J.R. 370(a)		
11:3-21	Reduced PIP premium charges	16 N.J.R. 3286(a)		
11:4-2	Replacement of life insurance and annuities	17 N.J.R. 887(a)		
11:4-9	Annuity and deposit fund disclosure	16 N.J.R. 2939(a)		
11:4-16, 17, 18	Readopt health insurance standards	17 N.J.R. 554(a)	R.1985 d.221	17 N.J.R. 1129(a)
11:4-21	Readopt Limited Death Benefit Forms	17 N.J.R. 891(a)	R.1985 d.325	17 N.J.R. 1660(a)
11:4-25	Social security disability offset	16 N.J.R. 3287(a)		
11:5-1.15, 1.25	Advertising of real estate; sale of interstate property	17 N.J.R. 666(a)		
11:5-1.28	Approved real estate schools: requirements	17 N.J.R. 376(a)		
11:10-1	Dental plan organizations	16 N.J.R. 2230(a)	R.1985 d.374	17 N.J.R. 1768(a)
11:10-2	Employees' dental benefit plans	17 N.J.R. 45(a)	R.1985 d.220	17 N.J.R. 1129(b)
11:14-1.3, 2.1, 2.4, 3.1, 3.3, 4.1, 4.2	Auto body repair facilities	16 N.J.R. 2235(a)		
11:16	Provider verification of services	17 N.J.R. 47(a)		
11:17-1	Surplus lines insurance guaranty fund surcharge	17 N.J.R. 1045(b)		

(TRANSMITTAL 28, dated April 15, 1985)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
LABOR—TITLE 12				
12:15-1.1	Unemployment Compensation: contributions, records and reports	16 N.J.R. 2488(b)		
12:15-1.1, 1.2	Unemployment and Temporary Disability benefits programs: purpose and scope	17 N.J.R. 1378(a)		
12:35	Readopt Workfare rules	17 N.J.R. 1048(a)		
12:120	Asbestos licenses and permits	Emergency	R.1985 d.361	17 N.J.R. 1676(a)
12:120-2, 6	Asbestos training courses	17 N.J.R. 741(a)	R.1985 d.262	17 N.J.R. 1417(b)
12:200	Readopt Liquefied Petroleum Gas rules	17 N.J.R. 1379(a)		
(TRANSMITTAL 20, dated April 15, 1985)				
COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A				
12A	Departmental rules; small business set-aside contracts	16 N.J.R. 1955(a)	R.1984 d.421	16 N.J.R. 2683(a)
LAW AND PUBLIC SAFETY—TITLE 13				
13:1-4.6	Police Training Commission: radar instructor certification	17 N.J.R. 377(a)	R.1985 d.226	17 N.J.R. 1130(a)
13:1-5.1, 6.1, 8.1	Police officer training and certification	17 N.J.R. 1239(a)		
13:2-4	ABC: readopt rules on Issuance or Transfer of Municipal Retail Licenses	17 N.J.R. 1052(a)	R.1985 d.332	17 N.J.R. 1661(a)
13:2-20	ABC: readopt rules on Transportation by Licensees; Transit Insignia	17 N.J.R. 1054(a)	R.1985 d.333	17 N.J.R. 1662(a)
13:2-23.16, -24, -35	ABC preproposal: industry marketing and sales practices	16 N.J.R. 3292(a)		
13:2-33	ABC: readopt Brand Registration rules	17 N.J.R. 794(a)	R.1985 d.279	17 N.J.R. 1423(a)
13:2-40	ABC: readopt rules on Issuances of IDs by County Clerks	17 N.J.R. 1380(a)		
13:3-3.5, 3.6, 7.9	Amusement games control	17 N.J.R. 1058(a)	R.1985 d.334	17 N.J.R. 1664(a)
13:13	Discrimination against handicapped persons	17 N.J.R. 671(a)	R.1985 d.305	17 N.J.R. 1574(a)
13:13-1.3, 2.2, 2.3	Correction: Discrimination against handicapped persons	17 N.J.R. 671(a)	R.1985 d.305	17 N.J.R. 1773(a)
13:19-13.1, 13.2, 13.3	Motor vehicle insurance surcharges	17 N.J.R. 893(a)		
13:20-28	Readopt rules on Inspection of New Motor Vehicles	17 N.J.R. 1059(a)		
13:20-32.16	Motor vehicle reinspection centers	17 N.J.R. 676(a)		
13:20-33.6	Glazing inspection standards for motor vehicles	17 N.J.R. 894(a)		
13:21-1.3, 1.4, 1.5	Driver licenses and social security numbers	16 N.J.R. 2746(a)	R.1985 d.307	17 N.J.R. 1579(a)
13:21-4	Readopt rules on Motor Vehicle Titles	17 N.J.R. 377(b)	R.1985 d.200	17 N.J.R. 1131(a)
13:21-14	Readopt rules on licensing of bus drivers	17 N.J.R. 556(a)	R.1985 d.205	17 N.J.R. 1131(b)
13:21-15.6	Auto dealers: acceptance of altered title documents	17 N.J.R. 169(a)		
13:28-4.1	Board of Beauty Culture Control fee schedule	17 N.J.R. 1638(a)		
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