

NEW JERSEY



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IN THIS ISSUE— “INDEX OF PROPOSED RULES”

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(Includes rules filed through September 3, 1982)

The New Jersey Register supplements the New Jersey Administrative Code. See the Index of Adopted Rules on Page 992 of the September 7 issue for the Registers that should be retained as an update to the Administrative Code.

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RULE PROPOSALS

EDUCATION

(a)

STATE BOARD OF EDUCATION

Certification School Nurse and Athletic Coach Substitutes

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

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

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1982-369.

The agency proposal follows:

Summary

The proposed amendments to the county substitute certificate requirements are separate and discrete changes, but are proposed simultaneously since both the school nurse (subsection (h)) and athletic coach (subsection (i)) additions will be a part of N.J.A.C. 6:11-4.7. The addition of subsections (f) in N.J.A.C. 6:11-3.12

(athletic coaches) and N.J.A.C. 6:29-6.3 (athletics personnel) are necessary for the implementation of N.J.A.C. 6:11-4.7(i).

The proposal to allow a licensed New Jersey registered nurse to serve as a substitute for a certified school nurse is one that removes an impediment to the hiring of an R.N. by a local district as a substitute for an absent school nurse. The requirement for an applicant for the county substitute certificate to present 60 credits from an accredited college generally cannot be met by an R.N., since most schools of nursing are affiliated with hospitals, not colleges. This change will, when possible, allow districts to replace any absent school nurse with a person who possesses a nursing background.

The proposal to allow the holder of a county substitute certificate to be employed as an athletic coach is a one-year pilot program that is an attempt to alleviate the shortage of coaches being experienced by local districts. In this instance, the 20-day limitation on a substitute's service is waived since athletic seasons exceed 20 days. Pursuant to Executive Order No. 66, 1968, subchapter 4 shall expire on November 1, 1983. The date coincides with the directive of the State Board of Education that this rule be applicable for a period of one year. Corresponding expiration dates will be assigned to N.J.A.C. 6:11-3 and 6:29-6.

The proposal to amend N.J.A.C. 6:11-3.12 and 6:29-6.3 sets forth the conditions under which the holder of a county substitute certificate is authorized to serve as an athletic coach.

Social Impact

The social impact of the registered nurse proposal would be that local districts would be able to employ an R.N. to replace a certified school nurse who might be absent for a period of time. Normally a district would not replace an absent school nurse with a substitute who had no nursing background.

The coaching proposal is designed to increase the number of people eligible to serve as coaches. With more emphasis and attention on girls' sports, many schools have had the number of athletic teams virtually doubled. For a variety of reasons, the supply of persons eligible and available to coach has not kept up with the demand.

Economic Impact

The fee for a county substitute certificate is \$20.00 and the Department does not anticipate a multitude of registered nurses applying for this certificate.

The demand for the certificate by persons desirous of coaching could be greater because districts are aware in advance of particular coaching shortages and thus are able to advertise these vacancies.

NEW JERSEY REGISTER

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

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

6:11-4.7 County substitute certificate

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

(h) The holder of a valid New Jersey registered nurse license may be issued a county substitute certificate to serve as a substitute for a school nurse.

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

6:11-3.12 Athletic coaches

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

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

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

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

6:29-6.3 Athletics personnel

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

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

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

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

(a)

STATE BOARD OF EDUCATION

**Teacher Education and Academic
Credentials
Temporary, Provisional
and Emergency Certificates**

**Proposed Amendments: N.J.A.C. 6:11-4.3
and 4.4**

Proposed Repeal: N.J.A.C. 6:11-4.2

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

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1982-371.

The agency proposal follows:

Summary

This proposal sets forth three certification changes. The first is the repeal of the temporary certificate. This one-year certificate is issued to applicants who come from other states with which New Jersey does not have reciprocal agreement and who present (a) official transcripts showing the completion of an approved teacher education program, but which does not meet current New Jersey standards or (b) a regular certificate from another state and one year of teaching, but whose preparation does not meet current New Jersey certification standards. In addition, there is needless duplication because the emergency certificate covers the same function.

The second and third changes would place into code language the requirement of the acquisition of six credits during the school year by holders of emergency or provisional certification. At present, such a requirement is informal. A provisional certification is a substandard one-year certificate that is issued to applicants after July 1 upon approval of the county superintendent of schools. An emergency certification is a substandard one-year certificate that is issued after August 1 upon the approval of the county superintendent of schools. At present, the requirement of six credits is done on an informal basis by the county office of education.

Social Impact

Deleting dates of issuance for the emergency and provisional certificates will provide great relief in the vocational areas.

In addition, evaluations by examiners in the Bureau of Teacher Certification will provide consistency of evaluation and also create a centralization of data regarding issuances and names of persons eligible for renewal of emergency or provisional certification. These proposed changes in no way impinge on standards for seniority.

Economic Impact

An economic impact will occur if persons who hold emergency or provisional certificates do not take the appropriate courses, or take improper courses in that they would be ineligible for re-issuance of the substandard certificate.

There will be no economic impact for holders of emergency or provisional certificates properly seeking the regular certificate.

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

6:11-4.2 [Temporary certificate] **(Reserved)**

[A] (a) temporary certificate is a one-year certificate issued to applicants who come from other states with which New Jersey does not have a reciprocal agreement and who present either of the following:

- 1. Official transcripts containing completion of an approved teacher education program, but it does not meet all current New Jersey standards;
- 2. A regular (not substandard) certificate in another state and one full year of successful teaching experience in the appropriate field, but the preparation does not meet all current New Jersey standards.

(b) For renewal of a temporary certificate, the teacher must complete a prescribed number of credits during the school year for which the certificate was issued. The courses will be specified by the Bureau of Teacher Education and Academic Credentials after an evaluation of the applicant's credentials.]

6:11-4.3 Provisional certificate

[(a) A provisional certificate is a substandard one-year certificate. It may be issued under certain circumstances to an applicant whose preparation does not meet completely the New Jersey requirements for standard certification. It is issued on application of a public school district, submitted after July 1, in which the local board states that the applicant is being offered a contract of employment for which the certificate is required.

(b) A provisional certificate is issued only in fields of teacher shortage, as certified annually by the Commissioner of Education. A list of currently designated fields of shortage for provisional certification is available from the Bureau of Teacher Education and Academic Credentials or the county superintendent of schools.]

(a) A provisional certificate is a substandard one-year certificate issued only in fields of teacher shortage as certified annually by the Commissioner of Education, or in special situations approved by the county superintendent of schools. It may be issued when an applicant lacks no more than 12 semester-hour credits for a regular certificate in the field for which the certificate is required, provided a public school district documents its inability to locate a suitable certificated candidate for the position and the issuance of a certificate is recommended by the county superintendent of schools.

(b) A provisional certificate is valid until June 30 of the school year in which it is issued. For renewal, the holder of a provisional certificate must present evidence of successful completion of six credits each year, chosen from the requirements for the regular certificate. An applicant who begins service after October 1 will be required to present three credits for the first renewal. An applicant who begins service after February 1 will not be required to present credit for the first renewal.

(c) The Bureau of Teacher Certification will be responsible for renewal of provisional certificates. Renewal requests must be submitted through the office of the county superintendent of schools. An application for renewal must include:

1. An official transcript showing completion of the required credits;
2. A request from the employing school district, certifying continued inability to locate a suitable certificated candidate for the position;
3. A recommendation from the county superintendent of schools.

6:11-4.4 Emergency certificate

[(a) An emergency certificate is a substandard one-year certificate issued only in fields of teacher shortage as certified annually by the Commissioner of Education.

(b) It is issued only on application of a public school district, submitted after August 1, in which the local board of education declares its inability to locate a suitable certificated teacher.

(c) A current list of fields designated for emergency certification is available from the Bureau of Teacher Education and Academic Credentials or the county superintendent of schools.]

(a) An emergency certificate is a substandard one-year certificate issued only in fields of teacher shortage as certified annually by the Commissioner of Education, or in special situations approved by the county superintendent of schools. It may be issued when an applicant's deficiency exceeds 12 semester-hour credits for a regular certificate in the field for which the certificate is required, provided a public school district documents its inability to locate a suitable certificated candidate for the position and the issuance of a certificate is recommended by the county superintendent of schools.

(b) An emergency certificate is valid until June 30 of the school year in which it is issued. For renewal, the holder of an emergency certificate must present evidence of successful completion of six credits each year, chosen from the requirements for the regular certificate. An applicant who begins service after October 1 will be required to present three credits for the first renewal. An applicant who begins service after February 1 will not be required to present credit for the first renewal.

(c) The Bureau of Teacher Certification will be responsible for renewal of emergency certificates. Renewal requests must be submitted through the office of the county superintendent of schools. An application for renewal must include:

1. An official transcript showing completion of the required credits;
2. A request from the employing school district, certifying continued inability to locate a suitable certificated candidate for the position;
3. A recommendation from the county superintendent of schools.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Water Supply Bond Loan Regulations
Interconnection of Water Supply Systems

Proposed New Rules: N.J.A.C. 7:1G
(Emergency drought rules which formerly appeared in Chapter 1G were repealed by Executive Order No. 5, sec. 6 on April 27, 1982.)

Authorized By: Robert E. Hughey, Commissioner,
Department of Environmental Protection.
Authority: Water Supply Bond Act of 1981, P.L. 1981,
c. 261, section 4.
DEP Docket No.: 039-82-08

Three public hearings concerning this rule will be held at the following times and locations:

October 6, 1982
1:00 P.M.
Wayne Municipal Building
475 Valley Road
Wayne, NJ

October 7, 1982
1:00 P.M.
Hammonton Municipal Building
Central and Third Avenue
Hammonton, NJ

October 14, 1982
1:00 P.M.
Trenton State College Student Center, Room 211
Pennington Road
Ewing, NJ

Interested persons may submit in writing, data, views or

arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1982-384.

The agency proposal follows:

Summary

The proposed rule establishes procedures governing loans for State or local projects for the interconnection of water supply systems pursuant to the Water Supply Bond Act of 1981, and as recommended by the New Jersey Statewide Water Supply Master Plan. The rules prescribe procedures, minimum standards of conduct for borrowers, and standards for the interconnection of water supply systems. The proposed procedures are similar to the procedures for the other existing bond regulations administered by the Department.

Social Impact

A major positive social impact will result from the proposed rule. More efficient operation of the water supply systems in the State will result from the completion of interconnection projects financed by water supply bond loan funds. The interconnection of water supply systems will help conserve our vital water resources by providing for mutual assistance between adjacent purveyors in times of drought or other emergency.

Economic Impact

The economic impact of the proposed rule will be realized by the provision of bond fund loans for the interconnection of unconnected or inadequately connected water supplies. While the expenditure of such funds will require repayment in accordance with the Water Supply Bond Act of 1981, and these proposed regulations, economic benefits will be realized by the early improvement of such eligible water supply facilities and avoidance of adverse effects of interruption of service during droughts or other emergency situations.

Full text of the proposed new rule follows.

**CHAPTER 1G
 WATER SUPPLY BOND LOAN
 REGULATIONS FOR THE INTER-
 CONNECTION OF WATER SUPPLY SYSTEMS**

SUBCHAPTER 1. GENERAL PROVISIONS

7:1G-1.1 Scope and construction of rules

(a) The following shall constitute the rules governing disposition of appropriations for the purposes of providing loans for local projects for the rehabilitation, repair or consolidation of antiquated, damaged or inadequately operating water supply interconnections pursuant to the Water Supply Bond Act of 1981, P.L. 1981, c. 261, and as recommended by the New Jersey Statewide Water Supply Master Plan. These rules prescribe procedures, minimum standards of conduct for borrowers, and standards for the rehabilitation of interconnections between water supply systems.

(b) These rules shall be liberally construed to permit the Department to effectuate the purposes of the law.

7:1G-1.2 Purpose of rules

(a) These rules are promulgated for the following purposes:

1. To implement the purposes and objectives of the Water Supply Bond Act of 1981, P.L. 1981, c. 261 and the New Jersey Statewide Water Supply Plan;
2. To establish policies and procedures for administration of funds appropriated pursuant to the Act for the purpose of making State loans for local projects for the interconnection of inadequately connected water supply systems;
3. To protect the public and the State of New Jersey by insuring that funds appropriated are spent in a proper manner and for the intended purposes;
4. To assure that the distribution and use of funds are consistent with the laws and policies of the State of New Jersey;
5. To establish minimum standards of conduct to prevent conflicts of interest and insure proper administration of loans;
6. To establish accounting procedures for the administration of loans.

7:1G-1.3 Practice where rules do not govern

The Commissioner may rescind, amend, or expand these rules from time to time in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

7:1G-1.4 Annual budget request

(a) The Commissioner shall submit to the State Treasurer and the New Jersey Commission on Capital Budgeting and Planning with the Department's annual budget request, a plan for the expenditure of funds from the "Water Supply Fund" for the upcoming fiscal year.

(b) The plan shall include the following information:

1. A performance evaluation of the expenditures of the fund to date;
2. A description of programs planned during the upcoming fiscal year;
3. A copy of these rules governing the purposes conducted pursuant to P.L. 1981, c. 261;
4. An estimate of expenditures under these rules for the upcoming fiscal year.

7:1G-1.5 Request for legislative appropriations

The Department shall periodically request that the Legislature appropriate funds under the Water Supply Fund pursuant to section 14 of the Water Supply Bond Act of 1981, P.L. 1981, c. 261.

7:1G-1.6 Procedure for obtaining a water supply bond loan

(a) Each potential applicant for a water supply bond loan shall:

1. Determine if it meets the eligibility criteria of N.J.A.C. 7:1G-2.3;
2. Arrange for a preapplication conference as provided for in N.J.A.C. 7:1G-2.4;
3. Complete the application procedures required by N.J.A.C. 7:1G-2.5.

7:1G-1.7 Severability

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

SUBCHAPTER 2. LOAN PROCEDURES AND REQUIREMENTS

7:1G-2.1 Scope

This subchapter shall prescribe procedures and requirements for the award of State loans for the rehabilitation of interconnection between water supply systems pursuant to section 4 of the Water Supply Bond Act of 1981, P.L. 1981, c. 261, and as recommended by the New Jersey Statewide Water Supply Master Plan. Loan

procedures include an application for a loan, the determination by the Department of priority and notification of intent to award a loan, the submission by the applicant of all permits, final designs and cost estimates, and the confirmation of final award by the Department, or, alternatively, determination that the cost estimate must be revised, and the priority reconsidered accordingly.

7:1G-2.2 Definitions

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

"Act" means the Water Supply Bond Act of 1981, P.L. 1981, c. 261.

"Administrator" means the Administrator of the Water Supply and Watershed Management Administration of the Division of Water Resources of the Department of Environmental Protection.

"Applicant" means any political subdivision of the State or agency thereof that applies for a loan pursuant to the provisions of these rules and regulations. The applicant will be one of the interconnected purveyors, but joint applications may be submitted.

"Bonds" means the bonds authorized to be issued, or issued under the Water Supply Bond Act of 1981, P.L. 1981, c. 261.

"Borrower" means an applicant which has received a loan pursuant to the Water Supply Bond Act, P.L. 1981, c. 261 and these rules, and which has executed a loan award document.

"Commission" means the New Jersey Commission on Capital Budgeting and Planning.

"Commissioner" means the Commissioner of the New Jersey Department of Environmental Protection or his designated representative.

"Construct" and "Construction" mean, in addition to the usual meaning thereof, acts of construction, reconstruction, replacement, improvement and betterment.

"Department" means the Department of Environmental Protection.

"Division" means the Division of Water Resources of the Department of Environmental Protection.

"Eligible Project Cost" means the costs which are determined by the Department under this chapter to be eligible for a water supply bond loan.

"Eligible Project Scope" means the construction, repair, replacement or reconstruction of parts of an inadequate water supply system interconnection, the costs of which are eligible project costs. The applicant's project scope must conform to this definition to be funded pursuant to this chapter.

"Interconnection" means a water supply system connection with another water supply system or with more than one.

"Project" means any work relating to the rehabilitation of interconnection between water supply systems.

"Water supply facilities" means and refers to the plants, structures, interconnections between existing water supply facilities, machinery and equipment and other property, personal and mixed, constructed or operated, or to be constructed or operated, in whole or in part by or on behalf of the State, or of a political subdivision of the State or any agency thereof, for the purpose of augmenting the natural water resources of the State and making available an increased supply of water for all uses, and any and all appurtenances necessary, useful or convenient for the collecting, impounding, storing, improving, treating, filtering or transmitting of water, and for the preservation and protection of these resources and facilities and providing for the conservation and development of future water supply resources, and facilitating incidental recreational uses thereof.

7:1G-2.3 Eligibility and criteria

(a) Any applicant whose system includes an antiquated, damaged, or inadequate water supply interconnection in need of rehabilitation, or repair or consolidation, or whose system has interconnections which fail to qualify either as Class A or as Class

B interconnections, as further defined in N.J.A.C. 7:1G-2.12, is eligible for a loan in any year where it satisfactorily completes the loan application process in a timely manner, meets the eligibility criteria set forth in this subchapter, receives the minimum priority score, and ranks high enough on the priority list to be funded. An applicant may apply for interconnections with privately owned as well as publicly owned systems. To receive a loan the project shall meet the following criteria to the satisfaction of the Department:

1. The minimum priority score set out in N.J.A.C. 7:1G-2.12;

2. The project shall be an independent and complete water supply interconnection project. An independent and complete project is one which by its implementation alone will accomplish the purpose set forth in the application and raise at least one of the systems interconnected closer to the status of Class A or B interconnections;

3. The project shall have as its basic purpose the rehabilitation of interconnections between water supply systems. It shall not be excessively expensive or cause unacceptably high environmental damage;

4. The project shall not conflict with any other State projects;

5. The application shall be accompanied by adequate explanation of how the applicant plans to repay the loan and pay any other expenses necessary to fully complete and implement the project, the steps it has taken to implement this plan, and the steps it plans to take before receiving the loan that will guarantee that at the time of the signing of the loan award document it will be irrevocably committed to repay the loan and pay any other expenses necessary to fully complete and implement the project. The applicant shall comply with all standard loan provisions of the State of New Jersey;

6. The application documents shall clearly state and document how the loan will accomplish the goal set out in the application; and

7. No water supply interconnection project is eligible for a loan if construction on the project has commenced prior to filing of the loan application with the Department.

7:1G-2.4 Preapplication procedures

(a) Every applicant may request an informal conference prior to making a formal application for a loan. During the conference the Division shall identify and explain all loan application documents. It shall also identify and answer questions concerning any other Departmental permits the applicant must obtain prior to being awarded a loan. This conference is not part of the application procedure and verbal statements made during the conference shall not bind the Department.

(b) Questions concerning the program and requests for a preapplication conference should be directed to:

Division of Water Resources
Water Supply and Watershed Management
Administration
CN 029
1474 Prospect Street
Trenton, NJ 08625

7:1G-2.5 Application procedures

(a) To apply for a water supply interconnection loan, an applicant shall comply with all the pertinent requirements of this section. The application shall be submitted to the Division on the forms provided for that purpose.

(b) An applicant for a water supply interconnection loan shall submit:

1. A completed loan application;

2. A description of how it plans to repay the loan and pay any other expenses necessary to fully complete and implement the project, and the steps it has taken or plans to take before receiving the loan that will guarantee that at the time of the signing of the loan award document it will be irrevocably committed to repay the loan and pay any other expenses necessary to fully complete and implement, operate and maintain the project;

3. Evidence that all Federal, State, regional and local agencies with jurisdiction over the area have been notified of the project,

PROPOSALS

including but not limited to the applicable municipal planning board and environmental commission; county planning board and environmental commission; Division of Planning, Department of Community Affairs; any areawide or regional agencies concerned; and any interconnected water systems that may be affected.

4. A written explanation of the need for the project;
5. A complete proposal outlining the problem, cause and effect of this problem, the proposed solution, along with a discussion of alternatives to the proposed solution;
6. A proposed construction schedule for the project;
7. Proposed financial arrangements for both construction of the interconnection and sale of water between the purveyors concerned, and written confirmation that the proposed arrangements are acceptable to both purveyors and the New Jersey Board of Public Utilities, if applicable;
8. An estimate of preliminary, developmental, and construction costs for the project. Costs of labor, equipment materials, supplies, overhead and contractor's and consultant's profit shall be included. Total project costs and those project costs that the applicant anticipates to be eligible for a bond loan shall be separately summarized;
9. A brief description of the environmental impact of the proposed project, including brief identifications of environmental impacts of the proposed project on water quality, plant and animal life, project site land characteristics, historical sites and other environmental factors;
10. Proof of ownership of the interconnection, and the real property on which it is located, or the right to use that property for interconnection purposes;
11. All documentation and other information as may be necessary for the Division to adequately determine the applicant's priority point total pursuant to N.J.A.C. 7:1G-2.12.1; and
12. All other forms, agreements and subagreements the Department may require.

(c) Applications shall be signed for the applicant by a person authorized by resolution or ordinance to file an application for a State loan and to obligate the applicant to the terms and conditions of the loan.

1. Each application shall constitute an undertaking to accept the requirements of this subchapter and the terms and conditions of the loan award document.

(d) Applications should be submitted in advance of the application closing date for the year in which the applicant wishes to be awarded a loan. The application closing date for the year 1983 shall be 90 days after the effective date of this chapter. For all subsequent application years, the application closing date shall be the same month and day as the 1983 application closing date.

(e) Generally, processing of a completed application by the Department will be completed 90 calendar days after the application closing date. However, no loan shall be awarded until a State appropriation is made.

(f) Applications shall be sent to:

Division of Water Resources
Water Supply and Watershed Management
Administration
CN 029
1474 Prospect Street
Trenton, NJ 08625

7:1G-2.6 Use and disclosure of information

All loan applications, preapplications, and other submittals, when received by the Department, constitute public records. The Department shall make them available to persons who request their release, to the extent provided for by New Jersey and Federal law.

7:1G-2.7 Evaluation of application

(a) The Division shall notify the applicant that it has received the application and is evaluating it pursuant to this section. Each application shall be subjected to:

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1. Preliminary administrative review to determine the completeness of the application;

2. Program, technical, scientific and environmental evaluation to determine the merit and relevance of the project to the Department's program objectives, especially those recommendations included in the New Jersey Statewide Water Supply Plan;

3. Budget evaluation to determine whether proposed project costs are eligible, reasonable, applicable, and allowable; and

4. Final administrative evaluation.

7:1G-2.8 Department approval or disapproval

(a) After a full review and evaluation of an application, the Division shall take one of the following actions:

1. Approve for priority ranking and possible loan;
2. Disapprove the application.

(b) The applicant shall be promptly notified in writing of any approval or disapproval. A disapproval of an application shall not preclude its reconsideration or resubmittal in the next application year.

7:1G-2.9 Amount and terms of loan

(a) The amount of the loan, determined by the Department, shall be based upon eligible project costs as set forth in this chapter.

(b) The interest rate, term, and repayment schedules for water supply interconnection loans shall be established by the State Treasurer at a rate no greater than the State's interest cost on its most recent sale of General Obligation Bonds.

(c) The 10 percent withholding requirement of N.J.A.C. 7:1G-2.21 shall not be considered as the last loan advance for the purpose of determining the time for repaying the loan.

(d) When applicable, a New Jersey Board of Public Utilities approved rate schedule setting forth the amounts charged for the sale of water by the borrower shall be established. A percentage of these receipts, as stipulated by the loan award document, shall be dedicated to a specific fund for the purpose of assuring repayment of the loan by the borrower. The Department may require additional collateral to secure the loan when deemed necessary.

7:1G-2.10 Loan award document

(a) The Division of Water Resources of the Department shall prepare and transmit four copies of the loan award document to the applicant.

1. The applicant shall execute the loan award document and return it within 30 calendar days after receipt. The Department may, in its discretion, extend the time for execution. The loan award document shall be signed by a person authorized by resolution or ordinance to obligate the applicant to the terms and conditions of the loan award document.

2. The loan award document shall set forth the terms and conditions of the loan, approved project scope, budget, approved project costs, and the approved commencement and completion dates for the project or major phases thereof.

3. The loan award document shall be deemed to incorporate all requirements, provisions, and information in documents or papers submitted to the Department in the application process.

4. After the Department has completed its internal processing of the loan award document it shall transmit a copy of the executed loan award document to the borrower.

7:1G-2.11 Effect of loan award

(a) The loan award document shall become effective immediately after its execution by the Department and the applicant, and shall constitute an obligation of the Water Supply Fund in the amount and for the purposes stated in the loan award document.

(b) The award of the loan shall not commit or obligate the Department to award any continuation loan to cover cost overruns for any project. The Department's policy is that cost overruns for any project or portion thereof are solely the responsibility of the borrower. However, if the award covers testing of an

interconnection, the costs of subsequent repair, replacement or rebuilding of that interconnection may be allowed as an addition to the contract amount, if approved by the Department.

7:1G-2.12 Priority determination

(a) Each project shall be assigned priority points in accordance with the provisions outlined in this section. A project shall be ranked by the number of priority points it receives.

1. A water supply system serving 10,000 or fewer residents shall be eligible for a loan if it receives at least eight priority points.

2. A water supply system serving between 10,001 and 75,000 residents shall be eligible for a loan if it receives at least 12 priority points.

3. A water supply system serving more than 75,000 residents shall be eligible for a loan if it receives at least 20 points.

4. In the instance of systems with a large seasonal variation in the number of residents, the residential population figure utilized for the purpose of this section shall be the mean of the greater and twice the lower residential population as determined by data deemed acceptable to the Department for the most recent year.

(b) All applications must meet the criteria set forth in N.J.A.C. 7:1G-2.3 to be eligible for a loan.

(c) Three separate priority lists shall be established in each program year according to the size of the water supply system as set forth in (a) above. Appropriations for each of the priority lists shall be determined as a percentage of the total periodic appropriations by the Legislature to the Department for the purpose of implementing this chapter. An interconnection shall be placed into its appropriate category according to the size of the smaller of the systems interconnected.

1. Forty percent of the total Departmental appropriation for the purposes of implementing this regulation shall be appropriated for those eligible water supply systems that serve less than or equal to 10,000 residents;

2. Thirty percent of the total Department appropriation for the purposes of implementing this regulation shall be appropriated for those eligible water supply systems that serve between 10,001 through 75,000 residents; and

3. Thirty percent of the total Departmental appropriation for the purposes of implementing this chapter shall be appropriated for those eligible water supply systems that serve greater than 75,000 residents.

(d) If in any program year there are an insufficient number of eligible projects on any of the priority lists, the excess of funds designated for that category shall be disbursed to eligible projects on the other priority lists in the same proportions as set forth in (c) above.

(e) A maximum loan amount for each project shall be set for each of the three categories of projects as follows:

1. A water supply system serving 10,000 or fewer residents may receive a loan of up to \$150,000 maximum;

2. A water supply system serving between 10,001 and 75,000 residents may receive a loan of up to \$300,000 maximum;

3. A water supply system serving greater than 75,000 residents may receive a loan of up to \$600,000 maximum;

4. Any loan funds appropriated for a project in excess of the actual costs spent for the completed project shall be returned to the Water Supply Fund pursuant to the act within 30 days of final inspection of the project by the Department.

(f) The specific goal of interconnections is to bring all purveyor systems as far as practicable into either Condition A or Condition B, as specified below. In Condition A, a system shall have interconnection capacity from adjacent systems sufficient to maintain its water supply at 75 percent of average water supply usage while relying on no one adjacent system for more than 25 percent of the average water supply of that system. In Condition B, when Condition A is impracticable to achieve, the system shall have sufficient interconnection capacity from adjacent systems to maintain its water supply at 50 percent of average water supply

usage, while relying on no one adjacent system for more than 35 percent of the average water supply of that system.

(g) An interconnection shall be deemed to add to the water supply of either system when it is physically capable of providing an amount of additional flow under conditions of pressure and flow expected to prevail at such times, at points where it may be distributed to points of use. An interconnection may be deemed to benefit both systems, if that will actually be the case under failure of either system.

(h) Priority points will be governed by the following:

1. The percentage of the average water supply of a system which the interconnection can provide, up to the specified target level of 75 percent under Condition A and up to 50 percent under Condition B, computed for the two systems separately, will equal points allowed.

2. For each interconnection not used or tested during the previous years, which is proposed to be under the loan and which will have a capacity greater than one percent of the total system demand, two points will be allowed.

3. Priority points shall be awarded in the amount of 10 priority points for any administrative order issued by the Department to the applicant requiring an interconnection, provided that the applicant's project scope provides for the implementation of the actions ordered by the Department in such relevant administrative order. Priority points shall also be awarded in the amount of five priority points for any directive or recommendation to provide and improve an interconnection provided that the applicant's project scope provides for the implementation of the actions directed by the Department in such relevant directive or recommendation letter.

4. A ratio will be estimated of the maximum amount allowable for that category of interconnection divided by the amount of the proposed loan.

5. A second ratio will be estimated of the residents served divided by 10,000 for small systems, 75,000 for intermediate systems, and 500,000 for the largest systems.

6. The product of these two ratios, times the sum of the points allowed under 1, 2 and 3 above, will equal the priority number allowed, for determination of priorities within each of the categories.

(i) The Department shall send a Notice of Intent to Award a loan to those approved applicants ranking high enough on the appropriate priority list to receive funds.

(j) The applicant receiving a Notice of Intent to Award a loan shall proceed with the Project Development phase as set forth in N.J.A.C. 7:1G-2.13 prior to award of a loan. Failure to complete the Project Development phase within the required time period shall make the project ineligible for a grant for that year unless prior approval for an extension has been granted by the Department pursuant to N.J.A.C. 7:1G-2.13(g).

(k) Any applicant receiving a Notice of Intent to Award a Loan who decides not to proceed with a project shall notify the Department within 30 days of the date of the notice. Failure to notify the Department within this time period will result in the applicant being removed from consideration for a loan in the subsequent year.

(l) Applicants with approved projects on a priority list that are not awarded loans in a given year, but who wish to apply for a position on the priority list in any subsequent year, may apply by a timely filing of a new Water Supply Interconnection Loan Application Form and by updating the other application documents required by N.J.A.C. 7:1G-2.5. This application will be treated as a new application for a Water Supply Interconnection Loan and evaluated and approved in accordance with this chapter.

7:1G-2.13 Project development phase of water supply bond loan program

(a) Each applicant receiving a Notice of Intent to Award a loan shall, within 30 days after receipt of the notice arrange to have a pre-design conference with personnel of the Division and shall

submit all materials required by this section to the Division within six months after receipt of the notice or within the time limits of any extension granted pursuant to (g) below.

(b) During the pre-design conference the Division personnel shall identify and explain the requirements of this section, including design criteria and review of the requirements of the Environmental Assessment specified in (d) below. Based on the information furnished by the applicant, Division personnel shall also determine if an approval is required for the project or any portion thereof pursuant to the Standards for Construction of Public Community Water Systems, N.J.A.C. 7:10-11.1 et seq., or applicable sections related to testing in the Standards for the Construction of Public Non-Community and Non-Public Water Systems, N.J.A.C. 7:10-12.1 et seq.

1. If an approval is not required pursuant to the construction standards referred to in (b) above, the applicant shall still be required to comply with the requirements of the construction standards.

2. The Division shall provide reasonable assistance to the applicant to insure compliance with the requirements of the construction standards as applicable.

3. The Department reserves the right to require approval in accordance with the construction standards referenced in (b) above at a later date, should revised or additional information so indicate.

(c) The applicant shall submit the following materials, prepared in accordance with accepted engineering practice within the time period specified in (f), (g) or (h) below:

1. A complete engineer's report prepared by a New Jersey licensed professional engineer experienced in the field of water supply covering the proposed work. Depending on the project scope, the design report shall address the distribution network, topographic conditions, geotechnical consideration, pump station performance, and operating characteristics of the distribution storage system capacity, adequacy, and condition, and any changes in estimated priority points. Upon the request by the Administrator the applicant shall furnish the engineering assumptions, references, calculations and conclusions relative to the structural and the hydraulic design of specified elements within the project scope including all information, narrative, data, and computations necessary to support and describe the design developed;

2. The complete engineering plans for the water supply interconnection project prepared by an engineer licensed by the State of New Jersey;

3. The construction specifications for the water supply interconnection project, including but not limited to:

i. The general provisions, which shall specify the rights, duties, and responsibilities of the owner, applicant, engineer, builder and the prescribed order of work;

ii. The technical provisions, which shall describe carefully and in detail the approved work methods, testing procedures, equipment, materials to be used, the results to be obtained and the project and payment schedule;

4. The operation, maintenance and water sale pricing provisions for the proposed interconnection, covering the responsibilities of the two purveyors interconnected;

5. A detailed cost estimate of engineering, design, construction and testing of the interconnection and appurtenances thereto. The breakdown of the cost estimates shall be by unit prices covering estimated labor, equipment, materials, supplies and contractor overhead and profit. Background sheets will be furnished detailing the computation of the unit prices. A summary form showing item no., description, estimated quality, unit, unit price, and estimated amount is required;

6. A report from the applicant's governing body detailing its plans to repay the loan and pay any other expenses necessary to fully complete and implement the project, a rate schedule setting forth the amounts charged for the sale of water by the borrower, the steps it has taken to implement this plan and, the steps it plans to take before receiving the loan guaranteeing that at the time of signing

of the loan award document it will be irrevocably committed to repay the loan and pay any other expenses necessary to fully complete and implement the project; and

7. Documents assuring performance of responsibilities of the other purveyor.

(d) All applicants whose projects are determined by the Department to involve significant environmental impacts shall submit with the materials required by this section an Environmental Assessment which shall include but not be limited to:

1. A written explanation of the need for the project;

2. A map showing the location and boundaries of the system service area;

3. A statement describing and analyzing possible direct and indirect effects of the proposed activity on the system itself as well as on adjacent and non-contiguous areas with particular reference to the effect of the project on public safety, health and welfare, public and private property, water quality and quantity, the preservation of areas, sites, structures and objects determined to have significant historical, archaeological, architectural or cultural value, the public trust in wetlands and wildlife and fisheries; and the protection, preservation and enhancement of the natural environment. This Assessment shall describe and analyze:

i. The reasons why this plan and design are the most appropriate for the project;

ii. Temporary and permanent physical changes which would be caused by the proposed activity and the impact of these changes on the activity area and immediate environs;

iii. Alternatives to the proposed projects which would reduce or avoid environmental damage;

iv. All measures to be taken during and after the completion of the project to reduce detrimental onsite and offsite effects;

v. Adverse environmental impacts which cannot be avoided and why they cannot be avoided;

vi. The specific benefits of the project.

(e) At the pre-design conference, the Department will specify for each project whether or not an Environmental Assessment will be necessary and those aspects of the Environmental Assessment it wants emphasized.

(f) The Department shall award, subject to available appropriations a loan to those applicants receiving a Notice of Intent to Award a loan, subject to the provisions of N.J.A.C. 7:1G-2.12(k), who obtain and submit all required permits and all materials, prepared to the satisfaction of the Department, within six months after the Notice of Intent to Award a loan or within the time limits of any extension granted pursuant to (h) below.

(g) Any applicant who fails to submit the required materials prepared in a proper manner and the required permits within the specified period shall lose its eligibility for a loan during that year unless the time period is extended by the Department.

(h) The Department may extend the time for submission of the required materials and/or permits for up to three months if the applicant justifies the need for such extension to the satisfaction of the Department. The Department may grant an additional three months extension for the submission of the required permits if the applicant demonstrates to the satisfaction of the Department that the permits are delayed through no fault of its own and that the delay is due to extremely unusual circumstances.

7:1G-2.14 Eligible projects costs

(a) Project costs shall be allowed to the extent permitted by this subchapter and the loan award document. Eligible project costs shall be those costs set forth below:

1. Repair, replacement, or reconstruction of all or part of any obsolete or antiquated water supply interconnection or construction of new parts of already existing interconnections that is deemed by the Department to be necessary or useful and convenient therefor or in connection therewith;

2. Geological and hydraulic services;

3. Interconnection testing;

4. Engineering and inspection costs;

5. Legal expenses;

6. Financial, professional, and other estimates and advice;

7. Organization, operating and other expenses prior to or during such repair, replacement, reconstruction, or construction, and all such other expenses as may be necessary or incident to the financing, construction, reconstruction and completion of the project, or part thereof and the placing of same in operation except as excluded by N.J.A.C. 7:1G-2.14(b) below.

(b) Ineligible project costs shall be those costs set forth below:

1. Land acquisition costs;

2. Project design and development costs incurred prior to November 3, 1981;

3. Any costs associated with a project for which construction commenced prior to the filing of a loan application with the Department; and

4. Salaries of regular water purveyor employees, expenses for governmentally owned or purveyor owned equipment, and other such force account expenses.

(c) Development and construction project contracts shall be awarded in accordance with Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. and the rules and regulations adopted pursuant thereto, N.J.A.C. 5:30-14.1 et seq.

(d) Borrowers shall be reimbursed for the actual costs incurred and properly documented for the project up to the maximum specified in the loan award document.

(e) Project design and development costs shall not be reimbursed until construction contracts have been awarded.

7:1G-2.15 Unused loan funds

Funds saved from projects whose actual eligible implementation costs are less than the estimated eligible costs, shall be retained by the State and deposited in the Water Supply Fund to be applied to new water supply interconnection projects pursuant to the Act and this chapter.

7:1G-2.16 Recycling of funds

Funds from repayment of principal on the loans issued under the authority of the Act and this chapter shall be deposited in the Water Supply Fund created pursuant to the Act and shall remain available for further disbursements as new loans to be awarded pursuant to these regulations.

7:1G-2.17 Fraud and other unlawful or corrupt practices

(a) The borrower shall administer loans, award contracts and subcontracts pursuant to the loan free from bribery, graft, and other corrupt practices. The borrower bears the primary responsibility for the prevention, detection and cooperation in the prosecution of any such conduct.

(b) The borrower shall pursue available judicial and administrative remedies, and take appropriate remedial action with respect to any allegations or evidence of such illegality or corrupt practices. The borrower shall notify the Administrator immediately after such allegation or evidence comes to its attention, and shall periodically advise the Administrator of the status and ultimate disposition of any matter.

7:1G-2.18 Loan conditions

(a) The following requirements, in addition to such other statutes, rules, terms and conditions as may be applicable to particular loans, are conditions of each loan and conditions precedent to each payment under a loan award document:

1. The project or phase of the project must have been initiated and completed in accordance with the time schedule specified in the loan award document;

2. The borrower shall submit proof of its and its contractors and subcontractors compliance with all hazard insurance requirements of the loan award document and shall certify that the insurance is in full force and effect and that the premiums have been paid;

3. The borrower shall certify that it and its contractors and

subcontractors are maintaining their financial records in accordance with generally accepted accounting principles;

4. The borrower shall certify that it and its contractors and their subcontractors are in compliance with the discrimination and affirmative action provisions of N.J.S.A. 10:2-1 through 10:2-4, the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq., and the rules and regulations promulgated pursuant thereto;

5. The borrower shall include in all its construction or development contracts for the projects a requirement that the contractor post a performance bond or other performance guarantee in an amount equal to the full cost of the project. This performance bond or guarantee shall remain in effect until the Department's final inspection of the project and determination in writing that the project is satisfactorily completed. The performance bond or performance guarantee shall be both nondiscriminatory and financially satisfactory to the Department;

6. The borrower shall certify that it is in compliance with all other requirements and conditions of the loan award documents;

7. The borrower shall certify that in the construction of the project, including letting of contracts in connection therewith, it has conformed to all applicable requirements of Federal, State and local laws, ordinances, rules, and regulations.

7:1G-2.19 Administration and performance of loan

The borrower bears primary responsibility for the administration and success of the project, including any subagreements made by the borrower for accomplishing loan objectives. Although borrowers are encouraged to seek the advice and opinion of the Department on problems that may arise, the giving of such advice shall not shift the responsibility for final decisions to the Department. The primary concern of the Department is that loan funds awarded be used in conformance with these rules and the loan agreements to achieve loan objectives and to insure that the purposes set forth in the Water Supply Bond Act of 1981 and the recommendations of the New Jersey Statewide Water Supply Plan are fully executed.

7:1G-2.20 Access

The borrower and its contractor and subcontractors shall provide access to Department personnel and any authorized representative of the Department to the facilities, premises and records related to the project. The borrower shall submit to the Department such documents and information as requested by the Department. All borrowers, contractors and subcontractors may be subject to a financial audit. Records shall be retained and available to the Department for a minimum of one year after the receipt of the final repayment by the Department.

7:1G-2.21 State payment

State funds shall be released to the borrower upon completion of the entire project to the satisfaction of the Department, or, on an interim basis. If interim payments are made they will be equal to the loan amount times the percent of the total project completed. Ten percent of all payments shall be withheld until the whole project has been completed to the satisfaction of the Department. No payments shall be made until the Department receives satisfactory cost documentation, which shall include all forms and information required by the Department and completed in a manner satisfactory to the Department.

7:1G-2.22 Assignment

The right to receive payment from the State under a loan may not be assigned, nor may payments due under a loan be similarly encumbered.

7:1G-2.23 Publicity and signs

(a) Press releases and other public dissemination of information by the borrower concerning the project work shall acknowledge State loan support.

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(b) A project identification sign, at least eight feet long and four feet high, bearing the emblem of the New Jersey Department of Environmental Protection, shall be displayed in a prominent location at each publicly visible project site and facility. The sign shall identify the project, State loan support, and other information as required by the Division.

7:1G-2.24 Debarment

(a) No borrower shall enter into a contract for work on a Water Supply Interconnection loan project with any person debarred, suspended or disqualified from Department contracting pursuant to N.J.A.C. 7:1-5.

(b) Borrowers shall insert in every contract for work on a Water Supply Interconnection Loan Project a clause stating that the contractor may be debarred, suspended or disqualified from contracting with the State and the Department if the contractor commits any of the acts listed in N.J.A.C. 7:1-5.2.

(c) Bid specifications prepared by the borrower shall require bidders to submit a sworn statement of the bidder, or an officer or partner of the bidder, indicating whether or not the bidder is, at the time of the bid, included on the State Treasurer's List of Debarred, Suspended and Disqualified bidders. Bid specifications shall also state that the borrower will immediately notify the Department whenever it appears that a bidder is on the Treasurer's list. The Department reserves the right, in such circumstances, to immediately suspend such bidder from Department contracting, and to take such other action pursuant to N.J.A.C. 7:1-5 as is appropriate.

(d) Whenever a bidder is debarred, suspended or disqualified from Department contracting pursuant to N.J.A.C. 7:1-5, the borrower may take into account the loss of Department loan funds under these regulations which would result from awarding a contract to such bidder, in determining whether such bidder is the lowest responsible bidder pursuant to law, and the borrower may advise prospective bidders that this procedure will be followed.

(e) Any person included on the Treasurer's List as a result of action by a State agency other than the Department, who is or may become a bidder on any contract which is or will be funded by a loan under this chapter may present information to the Department why this section should not apply to such person. If the Commissioner of the Department determines that it is essential to the public interest and files a finding thereof with the Attorney General, the Commissioner may make an exception from the application of this section with respect to a particular contract, in keeping with N.J.A.C. 7:1-5.9. In the alternative, the Department may suspend or debar any such person, or take such other action as may be appropriate, pursuant to N.J.A.C. 7:1-5.

7:1G-2.25 Project changes and loan modifications

(a) A loan modification means any written alteration of the loan terms or conditions, budget or project method or other administrative, technical or financial agreements.

(b) Due to the limited amount of funds available for water supply interconnection projects there shall be no loan modification increasing the loan amount, except as provided in section 2.11(b) above. Increased costs resulting from a loan modification shall be the responsibility of the borrower.

(c) The borrower shall promptly notify the Administrator in writing (certified mail, return receipt requested) of events or proposed changes which may require a loan modification including but not limited to:

1. Rebudgeting;
2. Changes in approved technical plans or specifications for the project;
3. Changes which may affect the approved scope or objective of a project;
4. Significant, changed conditions at the project site;
5. Deceleration in the time for the performance of the project or any major phase thereof;

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6. Changes which may increase or substantially decrease the total cost of a project; and

7. Changes in key personnel identified in the loan award document or a reduction in time or effort devoted to the project by such personnel.

(d) If the Department decides a formal loan amendment is necessary, it shall notify the borrower and a formal loan amendment shall be prepared in accordance with N.J.A.C. 7:1G-2.26. If the Department decides a formal loan amendment is not necessary, it shall follow the procedures of N.J.A.C. 7:1G-2.28.

7:1G-2.26 Formal loan award amendments

(a) The Department shall require a formal loan award amendment to change principal provisions of a loan where project changes substantially alter the cost or time of performance of the project or any major phase thereof.

(b) The Department and borrower shall effect a formal loan award amendment only by a written amendment to the loan award document.

7:1G-2.27 Administrative loan changes

Administrative changes by the Department, such as a change in the designation of key Department personnel or of the office to which a report is to be transmitted by the borrower, or a change in the payment schedule for loans for planning, design, and construction of water supply interconnection projects, constitute changes to the loan award document (but not necessarily to the project work) and do not affect the substantive rights of the Department or the borrower. The Department may issue such changes unilaterally. Such changes shall be in writing and shall generally be effected by a letter (certified mail, return receipt requested) to the borrower.

7:1G-2.28 Other changes

All other project changes, which do not require a formal loan award amendment, require written approval of the Administrator.

7:G1-2.29 Noncompliance

(a) In addition to any other rights or remedies available to the Department pursuant to law, in the event of noncompliance with any loan condition, requirement of this subchapter, or loan award document requirement or specification, the Department may take any of the following actions or combinations thereof:

1. Issue a notice of noncompliance pursuant to N.J.A.C. 7:1G-2.30;
2. Withhold loan funds pursuant to N.J.A.C. 7:1G-2.31;
3. Order suspension of the project work pursuant to N.J.A.C. 7:1G-2.32;
4. Terminate or annul a loan pursuant to N.J.A.C. 7:1G-2.33 and 2.34.

7:1G-2.30 Notice of noncompliance

When the Department determines that the borrower is in noncompliance with any condition or requirement of these rules or with any loan award document specification or requirement, it shall notify the borrower of the noncompliance. The Department may require the borrower, its engineer, and/or contractor to take and complete corrective action within 10 working days of receipt of notice. If the borrower, its engineer, and/or contractor do not take corrective action or if it is not adequate, then the Department may issue a stop work order or withhold payment. The Department may, however, withhold payment pursuant to N.J.A.C. 7:1G-2.31 or issue a stop work order pursuant to N.J.A.C. 7:1G-2.32 without issuing a notice pursuant to this section.

7:1G-2.31 Withholding of funds

The Department may withhold a loan payment or any portion thereof when it determines in writing that a borrower has failed to comply with any loan condition, provision of this chapter, or loan award document specification or requirement.

7:1G-2.32 Stop work orders

(a) The Department may order work to be stopped for good cause. Good cause shall include, but not be limited to, default by the borrower or noncompliance with the terms and conditions of the loan. The Department shall limit use of a stop work order to those situations where it is advisable to suspend work on the project or portion or phase of the project for important program or Department considerations.

(b) Prior to issuance, the Department shall afford the borrower an opportunity to discuss the stop work order with Department personnel. The Department shall consider such discussions in preparing the order. Stop work orders shall contain:

1. The reasons for issuance of the stop work order;
2. A clear description of the work to be suspended;
3. Instructions as to the issuance of further orders by the borrower for materials or services;
4. Guidance as to action being taken on subagreements;
5. Other suggestions to the borrower for minimizing costs.

(c) The Department may, by written order to the borrower (certified mail, return receipt requested) require the borrower to stop all, or any part of, the project work for a period of not more than 45 days after the borrower receives the order, and for any further period to which the parties may agree.

(d) Effect of stop work order:

1. Upon receipt of a stop work order, the borrower shall immediately comply with the terms thereof and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within the suspension period or within any extension of that period to which the parties shall have agreed, the Department shall either:

- i. Rescind the stop work order, in full or in part;
- ii. Terminate the work covered by such order;
- iii. Authorize resumption of work.

2. If a stop work order is cancelled or the period of the order or any extension thereof expires, the borrower shall promptly resume the previously suspended work. An equitable adjustment shall be made in the loan period, the project, or both of these, and the loan award document shall be modified accordingly within the discretion of the Department.

7:1G-2.33 Termination of loans

(a) The Department may terminate a loan in whole or in part for good cause subject to negotiation and payment of appropriate termination settlement costs. The term "good cause" shall include but not be limited to substantial failure to comply with the terms and conditions of the loan, or default by the borrower.

1. The Department shall give written notice to the borrower (certified mail, return receipt requested) of intent to terminate a loan in whole or in part at least 10 days prior to the intended date of termination stating the reasons for the proposed termination.

2. The Department shall afford the borrower an opportunity for consultation prior to any termination. After such opportunity for consultation, the Department may, in writing (certified mail, return receipt requested) terminate the loan in whole or in part.

(b) A borrower shall not unilaterally terminate the project work for which a loan has been awarded, except for good cause and subject to negotiation and payment of appropriate termination settlement costs. The borrower shall promptly give written notice to the Administrator of any complete or partial termination of the project work by the borrower. If the Department determines that there is good cause for the termination of all or any portion of a project for which the loan has been awarded, the Department may enter into a termination agreement or unilaterally terminate the loan effective with the date of cessation of the project work by the borrower. If the Department determines that a borrower has ceased work on a project without good cause, the Department may unilaterally terminate the loan pursuant to this section or annul the loan pursuant to N.J.A.C. 7:1G-2.34.

(c) The Department and borrower may enter into an agreement to

terminate the loan at any time pursuant to terms which are consistent with this subchapter. The agreement shall establish the effective date of termination of the project and loan, basis for settlement of loan termination costs, and the amount and date of payment of any sums due either party.

(d) Upon termination, the borrower shall refund or credit to the State of New Jersey that portion of loan funds paid to the borrower and allocable to the terminated project work, except such portion thereof as may be required to meet legal obligations incurred prior to the effective date of termination and as may be otherwise allowable. The borrower shall make no new commitments without Department approval.

1. The borrower shall reduce the amount of outstanding commitments insofar as possible and report to the Administrator the uncommitted balance of funds awarded under the loan. The Department shall make the final determination of the allowability of termination costs.

7:1G-2.34 Annulment of loan

(a) The Department may, in writing, annul the loan if it determines that:

1. Without good cause therefor substantial performance of the project work has not occurred;
2. The loan was obtained by fraud; or
3. Gross abuse or corrupt practices in the administration of the project have occurred.

(b) At least 10 days prior to the intended date of annulment, the Department shall give written notice to the borrower (certified mail, return receipt requested) of intent to annul the loan. The Department shall afford the borrower an opportunity for consultation prior to annulment of the loan. Upon annulment of the loan, the borrower shall return all loan funds previously paid to the borrower. The Department shall make no further payments to the borrower. In addition, the Department shall pursue such remedies as may be available under Federal, State and local law.

7:1G-2.35 Administrative hearings

(a) The Director of the Division shall make the initial decision regarding all disputes arising under a loan. When a borrower so requests, the Division shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the borrower.

(b) A borrower may request a hearing within 15 days of a decision by the Director of the Division. Where required by law the Department shall hold a hearing based upon such request.

(c) The Commissioner shall grant and conduct such hearings in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. and any rules promulgated pursuant to those Acts.

(a)

DIVISION OF WASTE MANAGEMENT

Guidelines Governing County Fees for Solid Waste Enforcement Activities

Rule Pre-Proposals: N.J.A.C. 7:1H-3.4 and 7:26-4.10

TAKE NOTICE that Robert E. Hughey, Commissioner of the Department of Environmental Protection, pursuant to his authority to regulate in accordance with the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and his authority to delegate the administration of various aspects of the environmental health laws pursuant to the County Environmental Health Act, N.J.S.A.

26:3A2-28b, the rules adopted thereto, and his rulemaking authority pursuant to N.J.S.A. 13:1E-6, will receive preliminary comments with respect to the initiation of subsequent rulemaking proceedings covering the standards which the department will apply in the review of all county fees for solid waste enforcement activities submitted to it for review pursuant to N.J.S.A. 13:1E-9.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Gail Gutmann
Office of Regulatory Affairs
Department of Environmental Protection
Labor and Industry Building, Room 803
CN 402
Trenton, NJ 08625

This is a notice of pre-proposal for a rule (see N.J.A.C. 1:30-32). Any rule concerning the subject of this pre-proposal must still comply with the rulemaking provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., as implemented by the Office of Administrative Law's Rules for Agency Rulemaking, N.J.A.C. 1:30.

The pre-proposal is known as PRN 1982-9.

A set of guidelines which will be the basis for comment are as follows:

Summary

The purpose of the proposed rules is to provide a basis by which any county health department may charge and collect fees from an owner or operator of a sanitary landfill facility within its jurisdiction to fund county enforcement and monitoring activities related to all rules adopted by the Department concerning solid waste collection and disposal.

These rules also provide that the subject fees are to be collected during the course of the facility's operation and are to be based on the amount of waste received as reflected in the data currently submitted to the Director of the Division of Taxation in the Department of the Treasury pursuant to the following Acts: the "Sanitary Landfill Facility Closure and Contingency Fund Act", P.L. 1981, c.306, and the "Recycling Act", P.L. 1981, c.278.

In addition, the fees generated by these rules are to be utilized exclusively to fund county solid waste enforcement and monitoring activities.

Social Impact

In view of the county fees which will be charged, the practical result of these proposed rules will be to increase county enforcement responsibility for the sanitary landfill facilities located in each respective county. The proposed rules are a Departmental effort to insure that the host county, which physically houses a facility and therefore has the most to gain by monitoring compliance with the law, is given the financial incentive and ability to do so. Thereby, each county will have the increased ability to maintain the aesthetic environment within its jurisdiction, as well as property values therein.

Economic Impact

This pre-proposal provides a monetary incentive to counties to prepare and implement a solid waste control program, thereby lessening the burden upon the State in this area. Although the legal authority for county enforcement activities in this area already existed within the statute, P.L. 1970, c. 39, section 9 (C.13:1E-9), until the effective date of the current Act, P.L. 1981, c.438, there was no provision for reimbursement to a county for such activities.

In addition, the rules restrict use of the funds generated to solid waste enforcement and monitoring exclusively. This will result in an added incentive for the county to continue to develop and

improve its solid waste control program should surplus fees remain from the prior year's program.

Although these rules provide that fees charged during the initial year's program be limited to \$0.01 per cubic yard, further provision has been made for the county to charge a higher fee in a subsequent year, based on sufficient documentation.

The law also provides that any additional expenditures for solid waste collection or disposal made by any county or municipality as a result of any fee imposed pursuant to that Act shall, for the purposes of P.L. 1976, c.68 (C.40A:4-45.1 et seq.) be considered an expenditure mandated by State law and therefore exempted from the "cap".

Full text of the pre-proposal follows (additions indicated in boldface **thus**) Note: 7:26-4.10 is all new.

7:1H-3.4 Performance standards for conducting a solid waste control program

(a)-(u) (No change.)

(v) Fees for enforcement activities may be charged and collected from the owner or operator of any sanitary landfill facility in accordance with N.J.A.C. 7:26-4.10.

7:26-4.10 County enforcement activity fees for solid waste control program

(a) General provisions.

1. Scope: Unless otherwise provided by rule or statute, the following shall constitute the rules of the Department of Environmental Protection concerning fees to be charged for enforcement activities undertaken by county health departments pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and the County Environmental Health Standards of Administrative Procedure and Performance, N.J.A.C. 7:1H-1.

2. Construction: This chapter shall be liberally construed to permit the Department and its component divisions to effectuate the purposes of the above referenced laws.

3. Purpose: This chapter is promulgated for the following purposes:

i. To aid counties in the planning and implementation of a solid waste control program;

ii. To provide a basis for the Department to review county department fees for enforcement activities related to their solid waste control program based upon the objectives in N.J.S.A. 13:1E-1 et seq. and N.J.A.C. 7:26-1.

4. Definitions: The following words and terms, when used in this chapter, shall have the following meanings. Where words and terms are used which are not defined herein, the definitions of those words and terms will be the same as the definitions found in the Department rules, N.J.A.C. 7:26.

"County department" means a county department of health established pursuant to P.L. 1975, c. 329 (N.J.S.A. 26:3A2-1 et seq.) as amended and supplemented.

"Department" means the Department of Environmental Protection.

"Owner or operator" means and includes, in addition to the usual meanings thereof, every owner of record of any interest in land whereon a sanitary landfill facility is located, and any person or corporation which owns a majority interest in any other corporation which owns a majority interest in any sanitary landfill facility.

"Program" means a solid waste control program prepared by the county department pursuant to this chapter and the procedures and standards authorized by the "County Environmental Health Standards of Administrative Procedure and Performance", N.J.A.C. 7:1H, and which has been submitted to the Department for review.

(b) Enforcement activity fee schedule established: In accordance with N.J.S.A. 13:1E-9, there is hereby established a fee schedule which shall apply to all sanitary landfill facilities requiring registration with the Department.

1. Duties and powers of the county department.

i. Any county department may charge and collect from the owner or operator of any sanitary landfill facility fees for monitoring and enforcement activities as may be established by ordinance or resolution adopted by the county governing body. Such fees shall be established in accordance with this chapter for the purpose of enforcing the rules and regulations adopted by the Department related to solid waste collection and disposal, and in conformance with all applicable County Environmental Health Standards of Administrative Procedure and Performance, N.J.A.C. 7:1H, adopted pursuant to the "County Environmental Health Act", N.J.S.A. 26:3A2-21 et seq.

ii. Within six months of the effective date of these regulations and by September 1 of each succeeding year as part of its annual work program, pursuant to the "County Environmental Health Act", N.J.S.A. 26:3A2-21 et seq., a county department shall submit to the department a Solid Waste Control Program (Program). The Program shall be submitted to each municipality located in the county for review and comment prior to its submittal to the department and shall contain monitoring and enforcement activities at least equivalent to those set forth in N.J.A.C. 7:1H-3.4(a) through (u) and shall also include the following:

(1) Identification and number of operating facilities to be inspected;

(2) Projection of the number of inspections to be conducted by facility name (minimum twice per month);

(3) Purpose of inspections;

(4) A description of the procedures for:

(A) determining inspection frequency;

(B) accounting for activities performed;

(C) actions to be taken after inspections have been performed; and

(D) methods of taking legal action.

(5) In each succeeding year, a report on the previous year's activities, including a detailed financial statement of the previous year's expenditures, actual amount of fees collected and any surplus which can be credited to the next year's costs.

iii. The Program shall include certain county budgetary costs as follows, provided they are both reasonable and necessary. The Department may consider additional costs based upon particular local needs and abilities provided the Department is satisfied that those additional costs are both reasonable and necessary.

(1) Personnel (identify type, number, and salary required, including benefits therefor);

(2) Local training (in addition to county department training costs, personnel performing solid waste inspections shall also be trained by the Department through the arrangement of joint inspections with departmental inspectors experienced in sanitary landfill facility inspections. It shall be the responsibility of the county department to arrange such joint training inspections);

(3) Protective equipment;

(4) Vehicles and maintenance;

(5) Test equipment;

(6) Laboratory analysis;

(7) Office equipment and supplies;

(8) Secretarial, office and general administrative support; and

(9) Costs based on 7:26-4.10(b)ii.(1) through (5) as set forth above.

2. Fees for Program.

i. After review and approval by the Department of its Program, and pursuant to a resolution or ordinance adopted by the county governing body, any county department may charge and collect fees from the owner or operator of any sanitary landfill facility within its jurisdiction, as follows:

(1) At the maximum rate of \$0.01 per cubic yard of solid waste accepted per month for disposal at a facility.

(2) In the event that any solid waste is measured, upon acceptance for disposal, by other than cubic yards, the fee shall be assessed on the equivalents utilized pursuant to the "Sanitary Landfill Closure and Contingency Fund Act", P.L. 1981, c. 306, and the "Recycling Act", P.L. 1981, c. 278.

(3) Fees shall be assessed and collected by a county department on or before the 20th day of each month in the manner in which taxes are levied and collected by the Director of the Division of Taxation in the Department of Treasury under the "Sanitary Landfill Facility Closure and Contingency Fund Act", P.L. 1981, c. 306;

(4) In order to determine the amount of solid waste disposed of at a facility, the county department shall utilize the data submitted to the Director of the Division of Taxation in the Department of Treasury pursuant to the "Sanitary Landfill Facility Closure and Contingency Fund Act", P.L. 1981, c. 306.

ii. A higher fee may be assessed in the event that the county department documents the need for a greater amount in a succeeding year's program.

3. Utilization of fees: Fees provided for herein shall be utilized exclusively to fund county solid waste monitoring and enforcement activities as identified in the program.

(a)

DIVISION OF WATER RESOURCES

Storm Water Management Regulations

Proposed New Rule: N.J.A.C. 7:8

Authorized By: Robert Hughey, Commissioner,
Department of Environmental Protection.

Authority: N.J.S.A. 40:55D-1 et seq. and P.L. 1981,
c. 32.

DEP Docket No.: 040-82-08

A public hearing concerning the proposed new rules will be held on October 12, 1982 at 1:00 P.M. at:

Labor Education Center

Rutgers University

New Brunswick, NJ

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

William Whipple, Administrator

Water Supply and Watershed
Management Adm.

Division of Water Resources

1474 Prospect Street

CN 029

Trenton, NJ 08625

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

This proposal is known as PRN 1982-383.

The agency proposal follows:

Summary

The proposed rule was made necessary by the recent passage of the New Jersey Storm Water Management Act, P.L. 1981, c. 32, which amends and supplements the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. The most feasible programs of stormwater management so far developed are preventative in nature and must be applied during the site plan review process necessary to obtain a permit for development. The Storm Water Management Regulations will provide requirements and controls designed to reflect these policy objectives.

These rules apply to the development of all storm water management plans and ordinances in the State of New Jersey. Municipalities are required to develop such plans and ordinances provided that a grant for the preparation of such a plan has been made for 90 percent of the costs incurred. Funds for 90 percent grants have not been appropriated. However, the department is exploring other funding avenues. Appropriate agencies are encouraged to develop such plans and ordinances in accordance with these standards.

The Storm Water Management Act provides that a municipality receiving a grant shall prepare a storm water management plan within one year from the promulgation of these regulations, or by the next reexamination of the municipality's master plan whichever is later, as required by the Municipal Land Use Law, N.J.S.A. 40:55D-89.

Planning for storm water management shall be divided into two phases: Phase I provides such general planning as is necessary to prepare a storm water management control ordinance, and Phase II provides for long term comprehensive planning of alternative preventive and remedial storm water management measures and programs. Each municipality shall also prepare a storm water management control ordinance which implements Phase I. Both storm water management plans and ordinances must be submitted to the designated county planning agency or county/water resources association, as appropriate, for approval. The implementing ordinance shall not take effect without county approval, although their failure to approve or disapprove the ordinance within 60 days will be deemed an approval.

The original proposal was published on December 21, 1981 at 13 N.J.R. 916(a). After receiving numerous comments, both in writing and at the public hearings, a committee was appointed by Commissioner Hughey to evaluate the comments. This reproposal reflects the changes made by the Storm Water Advisory Committee to the regulations.

Social Impact

The proposed rule will have a positive effect upon those persons living in areas under an adopted storm water management plan and approved implementing ordinance, particularly in non-rural areas. Where development occurs, flooding and excess storm water runoff may pose a threat to public health, life and property. These standards have been designed to: (1) offset potential flooding and non-point pollutions problems; (2) encourage water recharge; (3) protect the integrity of stream channels for their biological functions as well as for drainage; (4) reduce soil erosion from any new area of construction; and (5) to protect the adequacy of bridges and culverts. Additionally, these rules will assure the adequacy of flood plain management protections under conditions of increased development in the future.

Economic Impact

The proposed rule will have only a minor economic impact on municipalities since the development of storm water management plans and ordinances are contingent upon a 90 percent State grant for their preparation. Municipalities will only have to contribute 10 percent of the total cost of preparation of the plan and ordinance. Other agencies preparing plans will have to meet various funding requirements depending on available State funds.

Compliance with approved storm water management ordinances may result indirectly in slightly higher costs for future development. However, the end result is expected to be a reduction in losses from flood damages that will far exceed this cost.

Full text of the proposed new rule follows:

CHAPTER 8
STORM WATER MANAGEMENT
REGULATIONS

SUBCHAPTER 1. GENERAL PROVISIONS

7:8-1.1 Purpose and authority

This chapter shall implement the provisions of the New Jersey Storm Water Management Act, P.L. 1981, c. 32, which amends and supplements the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.. These Storm Water Management Regulations establish minimum requirements and controls to compensate for the differences in the hydrologic response of the watershed from the undeveloped to the developed condition. The Storm Water Management Act further creates a State grant program for these purposes, however, no funds have been appropriated for this purpose as of this time. Nothing in this chapter shall change the assigned duties of counties and municipalities responsible for approval of storm water management provisions, submitted as part of site plans, and subdivisions as established by the Municipal Land Use Law.

7:8-1.2 Construction

(a) This chapter shall be liberally construed to permit the Department to discharge its statutory function under the New Jersey Storm Water Management Act, P.L. 1981, c. 32.
(b) The Commissioner may amend, repeal or rescind this chapter from time to time in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

7:8-1.3 Definitions

"Agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. For purposes of this chapter, such uses shall not include the development of land for the processing or sale of food and the manufacture of agriculturally related products.

"Commissioner" means the Commissioner of the Department of Environmental Protection, or his appointed designee.

"Department" means the Department of Environmental Protection.

"Flood hazard areas" means the floodway and flood fringe areas determined by the Department under section 3 of the Flood Hazard Areas Control Act (P.L. 1979, c. 359).

"Flood plain" means the flood hazard areas of delineated streams and areas inundated by the 100-year flood in non-delineated areas.

"Floodway" means the channel of a natural stream and portions of the flood hazard areas adjoining the channel, which are reasonably required to carry and discharge the flood water or flood flow of any natural stream.

"Impervious surface" means any natural or man-made surface which does not permit infiltration of water and causes surface runoff.

"Major development" means, in addition to the definition of development in the Municipal Land Use Law N.J.S.A. 40:55D-4:

1. Any site plan or subdivision plan that will ultimately cover one or more acres of land with additional impervious surfaces;
2. Any construction of one or more of the following uses:
 - i. Feeding and holding areas that provide for more than 100 head of cattle or 15,000 hens, 500 swine, 4,000 turkeys, 10,000 ducks; this section shall also apply to all other equivalent numbers of animal units as determined by the SCS Agricultural Waste Management Field Manual for measuring BOD producing potential;
 - ii. Pipelines, storage, or distribution systems for petroleum products or chemicals;
 - iii. Storage, distribution or treatment facilities (excluding individual on-site sewage disposal systems) for liquid waste;
 - iv. Solid waste storage, disposition, incineration or landfill;
 - v. Quarries, mines or borrow pits;
 - vi. Land application of sludge or effluents;

vii. Storage, distribution or treatment facilities for radioactive waste.

"MLUL" means the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

"Non-point source pollution" means pollution from any source other than from any discernible, confined and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

"Ordinance" means the same as "development regulation" under the MLUL.

"Recharge" means the replenishment of underground water reserves.

"Storm water runoff" means flow on the surface of the ground, resulting from precipitation.

7:8-1.4 Applicability

(a) Any storm water management plans or ordinances hereafter adopted in New Jersey shall comply with this chapter.

(b) Phase I is applicable only to new developments, and not to the remedy of existing runoff pollution situations. Specifically, as regards animal feeding and holding areas, it applies only to new agricultural facilities or additions to facilities involving additional animals in amounts sufficient to constitute a major development.

7:8-1.5 Program information

Unless otherwise specified, any questions concerning the requirements of this chapter shall be directed to the Water Supply and Watershed Management Administration, Division of Water Resources, New Jersey Department of Environmental Protection, CN 029, Trenton, New Jersey 08625.

7:8-1.6 Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this chapter.

SUBCHAPTER 2. PROCEDURES FOR PREPARATION OF PLANS AND ORDINANCES

7:8-2.1 Objectives

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

1. To reduce artificially induced flood damage to public health, life, and property;
2. To minimize increased storm water runoff from any new land development;
3. To maintain the adequacy of existing and proposed culverts and bridges, dams and other structures;
4. To induce water recharge where natural storage and geologically favorable conditions exist where practical;
5. To prevent, to the greatest extent feasible, an increase in non-point source pollution;
6. To maintain the integrity of stream channels for their biological functions, as well as for drainage and other purposes;
7. To reduce the impact of development upon stream erosion;
8. To reduce erosion from any development or construction project;
9. To minimize the increase in runoff pollution due to land development, which otherwise would degrade the quality of water and may render it both unfit for human consumption and detrimental to biological life; and
10. To preserve and protect water supply facilities and water resources by means of controlling increased flood discharges, stream erosion, and runoff pollution.

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

(a) If a grant for 90 percent of the costs for the preparation of the plan is provided by the Department pursuant to section 6 of the Act, the storm water management plan shall be completed by the municipality within one year from the date of promulgation of storm water management regulations by the Commissioner, or by the next reexamination of the municipality's master plan required pursuant to section 89 of the MLUL whichever is later. The storm water management plan shall be an integral part of each municipal master plan as provided by section 28 of the MLUL. Each storm water management ordinance or ordinances prepared under such a grant shall be adopted by the municipality within one year of the completion of the storm water management plan and shall be revised thereafter as needed. If no such grant is provided, the decision as to whether or not to prepare storm water management plans and ordinances or resolutions shall be at the option of the municipality or county involved. However, if such a storm water management plan, control ordinance or resolution is prepared by counties, municipalities or designated regional agencies it shall be prepared in accordance with this chapter.

7:8-2.3 County review process

(a) Each municipality shall submit its storm water management plan and implementing ordinance adopted pursuant to this Act to the designated county planning agency or county water resources association, as appropriate, for approval. The implementing ordinance shall not take effect without county approval.

(b) The agency or association shall approve, conditionally approve, or disapprove said plan and/or ordinance. It shall review its compatibility with applicable municipal, county, regional or State storm water management and flood control plans. It shall consult the appropriate Soil Conservation District and verify that the coordination by the municipality and the District has been satisfactorily accomplished, as specified in N.J.A.C. 7:8-3.3. No storm water management plan or ordinance shall be approved which fails to meet the State storm water management standards, established by this chapter. The agency or association shall set forth in writing its reasons for disapproval of any plan or ordinance, or in the case of the issuance of a conditional approval, the agency or association shall specify the necessary amendments to the plan or ordinance to the municipality. Once conditions, if any, are met by the municipality the plan and/or ordinance shall be deemed approved.

7:8-2.4 Failure of county to act

Where the agency or association fails to approve, conditionally approve, or disapprove a plan or ordinance within 60 days of receipt of the plan or ordinance, the plan or ordinance shall be considered approved. Counties may enter into a mutual agreement with the municipality to extend the review period.

7:8-2.5 Notification to the State

Upon receipt of each completed municipal storm water management plan and ordinance, the designated county agency shall notify the Department of its receipt and keep an up-to-date accounting of its standing in the approval process. The county agency shall submit copies of the approved plans and ordinances to the Department and shall provide access to all other relevant records to Department personnel.

7:8-2.6 Exceptions

The Commissioner may upon application by any appropriate agency grant an exception from any of the objectives listed in N.J.A.C. 7:8-2.1(a)1 through 8 above, as provided for in sections 3 and 4 of the Act provided that the Commissioner shall determine that such exception will not materially increase flood damage, non-point source pollution, or erosion within or without the municipality. Any municipal request for such exemptions shall be

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accompanied by proof of notice to all affected municipalities of such request and the request shall be submitted to the State through the appropriate county planning agency.

7:8-2.7 Enforcement

No building permit shall be issued in violation of an adopted ordinance. Any such issuance shall be in violation of the MLUL and subject to the enforcement provisions thereunder.

7:8-2.8 Periodic reexamination

In accordance with the MLUL, storm water management plans and storm water control ordinances shall be included in the reexamination of the master plan and development regulations.

7:8-2.9 Technical assistance

Counties, county planning agencies and county water resources associations are authorized and encouraged to provide technical assistance and planning grants to municipalities to assist in the preparation and revision of municipal storm water management plans and implementing ordinances.

SUBCHAPTER 3. ELEMENTS OF PLAN AND ORDINANCE

7:8-3.1 Planning phases

(a) Planning for storm water management is designed in two phases. The Phase I plan is targeted at preventive measures to be applied to the site plan and subdivision review process. It shall identify existing control requirements and establish plans and ordinances in order to meet the standards in these regulations for at least the short term. The Phase II plan shall provide for the long term comprehensive planning of alternative preventive storm water management measures in conjunction with remedial storm water management measures.

1. Phase I:

i. A Phase I storm water management plan shall consist of the following elements:

(1) A statement concerning how the plan will achieve the goals of the Act.

(2) A delineation of jurisdictional authority and responsibility in the Phase I plan area. This may include a fee schedule for implementation.

(3) An evaluation of existing county and local storm water management plans and ordinances. This evaluation shall examine the consistency of the existing ordinances with regard to the water quantity/quality objectives and minimum standards discussed in this chapter.

(4) An evaluation of needs. This evaluation shall consist of two parts:

(A) A general assessment of those items necessary for the county and/or local ordinances to achieve full compliance with this chapter including but not limited to soil surveys, natural resource inventories and pertinent elements of local and county master plans;

(B) An estimate of the technical (personnel and physical resources) and institutional needs necessary to undertake implementation of the Phase I plan.

(5) Develop a recommended storm water management ordinance.

ii. Following the completion of the Phase I plan, municipalities shall adopt ordinances which are to be consistent with the policies and principles of the Phase I plan. These ordinances shall be amended, as required, following the adoption of the Phase II plan. Such ordinances must be adopted if the Department provides a grant pursuant to section 6 of the Act.

2. Phase II:

i. A Phase II storm water management plan will be based upon a detailed analysis of alternative storm water management approaches on an integrated or regional basis. The plan will consist of a system of non-structural and/or structural storm water management programs to mitigate flooding and non-point source

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pollution. The need for master detention basins to supplement or replace individual detention basins or other facilities otherwise required at each site of development shall be considered. The need for expanded protection of environmentally critical areas including flood plains and wetlands shall be reviewed. Plans shall also be developed to address appropriate remedial storm water control measures. A survey of any institutional issues involved and of the social, environmental and economic implications of the proposed actions shall be included.

7:8-3.2 Flexibility of approach

Each storm water management plan shall be cognizant of the unique character and limitation of the environment in the planning area. A main purpose is to distinguish those special conditions where an exception to the standards detailed in this document may be required to best manage storm water runoff. Unless circumstances justify exception or variance, the standards will be applicable to all development as specified in the remaining sections of this chapter.

7:8-3.3 Plan conformity

(a) Each municipality shall coordinate storm water management plans and ordinances prepared under this chapter with soil and water conservation plans and regulations under the New Jersey Soil Conservation Act of 1937 as amended, N.J.S.A. 4:24-1 et seq., and with the appropriate soil conservation districts. Storm water management plans shall refer to and be in compliance with and not duplicate Soil Conservation District requirements for control of soil erosion. Additionally, such plans shall be coordinated with any storm water management plans prepared by the county and any other municipality in the basin, and in full compliance with the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and with any areawide plans for water quality relating to the river basins in the municipality. The storm water management plan and the storm water management ordinance or ordinances shall also be consistent with relevant Federal and State statutes, rules and regulations concerning storm water management, dam safety and flood control, and with the Water Supply Management Act, P.L. 1981, c. 262, and the County Environmental Health Act, N.J.S.A. 26:3A2-21 et seq..

(b) Municipal plans should be prepared so as to minimize propagation of insects, particularly mosquitoes.

7:8-3.4 General standards

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

1. Flood and erosion control: The flood and erosion control standard for detention will require that volumes and rates be controlled so that after development the site will generate no greater peak runoff from the site than prior to development, for a two-year, 10-year, and 100-year storm considered individually. Such storms may be computed either as a Type II 24-hour storm under U.S. Soil Conservation Service procedures, (such as U.S. Soil Conservation Service, "Urban Hydrology for Small Watersheds," Technical Release No. 55.) or as the estimated maximum rainfall for the estimated time of concentration of runoff at the site when using the Modified Rational Method. Tabulations of estimated maximum rainfall are available from the Department. 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.

i. Any agricultural development as defined in this chapter shall be submitted to the local Soil Conservation District for review and comment in accordance with this chapter and any Soil Conservation District guidelines. A delegated agency may condition approval of such storm water control measures upon a positive recommendation of the appropriate Soil Conservation District.

2. Water quality control:

i. The water quality requirement for detention will require prolonged retention of a small design storm which shall be either a one-year frequency Type II storm or a storm of 1 1/4 inches of rainfall in two hours. Provisions shall be made for it to be retained and released so as to evacuate 90 percent in approximately 18 hours in the case of residential developments and 36 hours in the case of other developments. This is usually accomplished by a small outlet at the lowest level of detention storage, with a larger outlet or outlets above the level sufficient to control the small design storm. If the above requirement would result in a pipe smaller than three inches in diameter, the period of retention shall be waived so that three inches will be the minimum pipe size used.

ii. Where soils have sufficient permeability, the production of zero runoff from the site will be considered sufficient to meet the water quality requirement for residential developments, provided that the groundwater does not rise to within two feet of the bottom of the detention basin. For other than residential developments, approvals will be on a case-by-case basis after technical review by the designated authority. The object of this review will be to avoid pollution of groundwater. Other technology may be substituted pursuant to (a)4i below.

3. Detention basins in flood plains:

i. There will be no detention basins in the floodway except for those on-stream.

ii. New development, including construction of detention basins, should be avoided in flood plains, but where this is unavoidable, the plan and the ordinance must require a special examination to determine adequacy of proposed detention measures during the 100-year flood. One acceptable method is to apply the 100-year design storm to both the site and to the entire watershed contributing to the flood plain, assuming that the two peak simultaneously at the point in question. The time of concentration assumed for the entire watershed should be that appropriate to the larger area, rather than the shorter period applicable to the site.

iii. In addition such development must be in compliance with all applicable regulations under the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.

iv. In default of an analysis such as described above, detention storage provided by construction of dikes or embankments below the elevation of the 100-year flood (either specially calculated or taken from an official flood plain delineation map.) will be credited as effective storage at a reduced proportion as indicated in the table below:

TABLE 1

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

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

v. This effective detention storage plus any other supplementary measures, will be required to provide for storm water detention, in

accordance with established standards. However, the gross storage considered for this evaluation will not exceed that which would be filled by runoff of a 100-year storm at the site.

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

4. Alternatives to detention basins:

i. It is not necessary that basic requirements for water quantity and quality control be satisfied by means of detention basins. Measures including but not limited to rooftop storage, tanks, infiltration pits, dry wells, gravel layers underneath paving, or sheet flow through vegetated areas may be used for the purpose, with appropriate consideration for length of life and feasibility of continued maintenance in accordance with technical guidance from the Department. Vacuum street sweeping may be substituted for the water quality requirement, in cases in which continuity of the service can be assured, and where the pollution in question originates on the pavement.

ii. Non-structural management practices, including but not limited to cluster land use development, open space acquisition, stream encroachment and flood hazard controls, protection of wetlands, steep slopes and vegetation should be coordinated with detention requirements. Changes in land use can often reduce the scope and cost of detention provisions required by means of appropriate changes in runoff coefficients.

iii. Municipalities should consider waiving or amending local requirements for extensive impervious pavement, curbing and storm sewers where smaller pavement areas could be used or where grassed swales could be substituted.

5. Maintenance and repair:

i. Maintenance of detention basins and infiltration means, or of other alternatives, is a very important aspect of a storm water management program. Control measures shall be designed so as to provide for mechanical maintenance operations. Whenever responsibility for continuing maintenance is not to be assumed by a public body, it shall be the responsibility of the owner of the developed property. In cases where lots or parcels of a development are to be sold, and a public body has not assumed the responsibility for maintenance of the storm water control measure, the ordinance shall require as a condition of approval the creation of a homeowners association or equivalent body to assure continued maintenance. Arrangements shall be made by deed restriction or covenant, passing with the land to subsequent owners, with provision for collecting funds for these such purposes.

ii. A schedule of maintenance inspections shall be incorporated into the local ordinance. Ordinances shall also provide that in cases where maintenance or repair is neglected, the municipality or the county has the authority to perform the work and to back-charge the owner.

6. Control measures: Ordinances and plans shall be designed to allow for flexibility in the development of control measures. In Phase II planning, the use of regional basin or watershed systems and the consideration of economies of scale shall be investigated wherever practical. In addition, the economic advantage of non-structural measures (i.e. changes in land use, densities, site configuration, and use of natural topography) should be considered. Combinations of remedial measures for existing systems and preventative measures for new developments shall also be investigated.

7:8-3.5 Variance or exemption from the standards

If a municipality grants a variance or exemption from the

standards set forth in their storm water management plan and control ordinance, a written report shall be made to the county detailing the nature of the variance, the change(s) requested, and an explanation of the decision. An exemption from the county ordinance or regulations or resolution shall be reported in the same fashion to the Administrator, Water Supply and Watershed Management Administration, Division of Water Resources, Department of Environmental Protection.

7:8-3.6 Storm water control ordinance

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

(a)

DIVISION OF WATER RESOURCES

Flood Hazard Area Delineations
Flood Delineation of Foulerton Brook

Proposed Amendment: N.J.A.C. 7:13-1.11

Authorized By: Robert E. Hughey, Commissioner,
Department of Environmental Protection.
Authority: N.J.S.A. 58:16A-50 et seq..
DEP Docket No.: 038-82-08

A public hearing concerning this rule will be held on October 14, 1982 at 2:00 P.M. at:
Roseland Borough Municipal Building
Eagle Rock and Harrison Avenues
Roseland, NJ

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Clark Gilman
Bureau of Flood Plain Management
Division of Water Resources
CN 029
1911 Princeton Avenue
Trenton, NJ 08625

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

This proposal is known as PRN 1982-382.

The agency proposal follows:

Summary

Engineering data for a proposed development project, including associated channel and impoundment work, made available to and reviewed by the Department of Environmental Protection necessitates the amendment and revision of the existing flood delineation of Foulerton Brook within the Borough of Roseland, Essex County, New Jersey. This proposed amendment would allow for the development and use of land in the previously designated floodways along a portion of the Foulerton Brook in the Borough of Roseland, Essex County, New Jersey.

Social Impact

This proposed amended delineation applies flood protection to the following areas within the Passaic River Basin: Borough of Roseland, Essex County.

Economic Impact

This proposed amended flood delineation will have a relatively positive economic impact by allowing development in a previously designated floodway while still preserving the flood carrying capacity. This proposed amended delineation would more accurately define the flood hazard area to coincide with the proposed development after completion of the development project. The public safety, health and general welfare shall continue to be adequately protected if the amended flood delineation should be adopted by the Department.

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

7:13-1.11 Delineated Floodways

- (a)-(c) (No change.)
- (d) A list of delineated streams in the Passaic-Hackensack Basin and a list of delineated streams in the Raritan Basin follow:

The flood hazard area of Foulerton Brook from a location 500 feet downstream of Eisenhower Parkway upstream to Eisenhower Parkway in the Borough of Roseland, Essex County.

- (e)-(i) (No change.)

OFFICE OF ADMINISTRATIVE LAW NOTE: A map delineating the flood hazard area described in this notice was submitted as part of the Department's notice of proposed rule. This map can be inspected at:

Bureau of Flood Plain Management
Division of Water Resources
1911 Princeton Avenue
CN 029
Trenton, NJ 08625

or

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

(b)

DIVISION OF WASTE MANAGEMENT
BOARD OF PUBLIC UTILITIES,
DEPARTMENT OF ENERGY

Joint Proposal: Interdistrict and Intradistrict
Solid Waste Flow

Proposed New Rule: N.J.A.C. 7:26-6
Proposed Repeal: N.J.A.C. 7:26-6

Authorized By: Robert E. Hughey, Commissioner,
Department of Environmental Protection, and Barbara
Curran, President, Board of Public Utilities.
Authority: N.J.S.A. 13:1E-1 et seq. and 48:13A-1 et seq.
DEP Docket No.: 037-82-08.

A public hearing on this rule will be held on October 5, 1982,

10:00 A.M., at the Assembly Chamber, State House, West State Street, Trenton, New Jersey, and will run until the conclusion of comments or testimony thereon. If necessary to accommodate the public, the hearing will be continued on October 6, 1982, at the same time and location.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Lino Pereira, Deputy Director
Division of Waste Management
32 E. Hanover Street
Trenton, NJ 08625

and

Eugene J. Byrne, Esq.
Regulatory Officer
Board of Public Utilities
1100 Raymond Boulevard
Newark, NJ 07102

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

This proposal is known as PRN 1982-381.

The agency proposal follows:

Summary

Pursuant to the New Jersey Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.), every county and the Hackensack Meadowlands District were designated as Solid Waste Districts (District) for the purpose of development and adoption of District Solid Waste Management Plans in accordance with the provisions of that Act. The Department of Environmental Protection was charged with coordination and supervision of the District planning, including review and approval of the adopted District plans. The Board of Public Utilities (Board), pursuant to the Solid Waste Utility Control Act (N.J.S.A. 48:13A-1 to 13), regulates the economic aspects of solid waste collection and disposal.

During the development of the District plans the Department found that disposal capacity in certain districts was rapidly diminishing and, in some cases, had become nonexistent. The Department also found that many of the proposed District Solid Waste Management Plans failed to provide an integrated statewide approach for the disposal of solid waste. In order to facilitate the necessary interdistrict flow of solid waste, the Department adopted various rules and regulations, codified at N.J.A.C. 7:26-6. The waste flow rules established interdistrict solid waste disposal strategies by modification of certain District Solid Waste Management Plans to ensure the availability of adequate solid waste disposal sites.

While the interdistrict waste flow rules addressed this problem in certain districts, other districts were also faced with similar disparities in disposal capacity. Upon review of those district plans the Department required their modification in accordance with the applicable provisions of the Solid Waste Management Act. Thereafter, the Department approved those plans which contained the required modifications and, pursuant to N.J.S.A. 13:1E-24(f), adopted necessary modifications to other District plans. In all of these cases, the final promulgated plans provided for waste flows from every geographic area (municipalities or groups of municipalities) to specific disposal facilities. Thus, throughout the State, these plans now provide for both interdistrict and intradistrict waste flows to specific disposal facilities.

While on August 11, 1982, the Supreme Court of the State of New Jersey, in *A. A. Mastrangelo, Inc., et al. vs. Commissioner of the Department of Environmental Protection*, held that the Department has the authority generally to direct the interdistrict

flow of waste, the court found that sections of the existing regulation exceeded that authority. The Court held that the Solid Waste Management Act does not provide the Department of Environmental Protection with the authority to specify the particular solid waste disposal sites which particular collector-haulers throughout the State must utilize. The Supreme Court decision required a remand to the Department of Environmental Protection for the purpose of developing an interdistrict waste flow order and further required that the Board of Public Utilities, if the public interest requires, designate solid waste collectors and disposal facilities that will be required to collect, transport and receive the solid waste that has been redirected as a result of the Department of Environmental Protection order.

In accordance with the Supreme Court decision, the proposed rule will include the interdistrict waste flows contained in approved District Solid Waste Management Plans, and the waste flows contained in N.J.A.C. 7:26-6 as modified or amended by departmental directives or orders in response to exigent situations; additionally, the proposed rule will include all intradistrict waste flows similarly developed.

This proposal initiates the process required as a result of the decision cited above. The text of the proposed rule has not been reproduced herein due to the need to bring this matter before the public immediately for review and comment. The existing text found at N.J.A.C. 7:26-6 will be repealed and replaced by this proposed new rule.

Copies of the full text of this proposed new rule may be obtained from any of the 22 Solid Waste Management Planning District offices (each county and the Hackensack Meadowlands District) and from:

Lino Pereira, Deputy Director
Deputy Director
Division of Waste Management
32 East Hanover Street
Trenton, NJ 08625

and

Eugene J. Byrne, Esq.
Regulatory Officer
Board of Public Utilities
1100 Raymond Boulevard
Newark, NJ 07102

Social Impact

The proposed amendment will result in a social impact inasmuch as the adopted rules will establish interdistrict and intradistrict waste flows throughout the State. The designation of specific disposal sites by the Board of Public Utilities will impose requirements upon the public, solid waste haulers and solid waste disposal site operators to ensure the integrity of the statewide solid waste disposal program.

A positive social impact will derive from imposition of interdistrict and intradistrict solid waste flow requirements in that solid waste flows will be directed to solid waste facilities with the capability to accept such wastes with minimal adverse environmental impact, and because solid waste will be allocated in furtherance of planning requirements for the development of new facilities where necessary.

Economic Impact

The economic impact of the proposed amendment is twofold. First, transportation costs for the disposal of solid waste may increase or decrease because the designation of specific sites for the ultimate disposal of solid waste may result in additional or lesser transportation time and costs. These impacts will vary on a site-by-site basis. Second, the designation of solid waste facilities with adequate capacity for the disposal of solid wastes will forestall the adverse economic impact which would result if districts with limited capacity are forced to develop additional solid waste facilities in the near future. Through rational planning, it is

expected that the economic dislocation caused when existing capacity is exhausted, prior to the development of new facilities, will be avoided. The statutory intent is for this process to lead to greater resource recovery of solid wastes throughout the State, and the development of the facilities required for resource recovery.

HEALTH

(a)

CONSUMER HEALTH SERVICES

Food and Drug List of Ingredients for Human Self-Defense Sprays

Proposed New Rule: N.J.A.C. 8:21-3.24

Authorized By: Allen N. Koplin, M.D., M.P.H., Acting
Commissioner, Department of Health.
Authority: N.J.S.A. 24:2-1 and 2C:39-6(i).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Lucius A. Bowser, Chief
Drug Control Program
New Jersey State Department of Health
Division of Community Health Services
CN 364
Trenton, NJ 08625

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

This proposal is known as PRN 1982-380.

The agency proposal follows:

Summary

The amendments to Title 2C, Criminal Justice Code allows any person 18 years of age or over to possess devices for personal self protection which contain or release chemical substances causing temporary physical discomfort.

Social Impact

This regulation, if adopted, would exempt persons 18 years or older from carrying gas weapons covered by the Criminal Code and which would ensure a person's self protection such as against muggings and street attacks.

Economic Impact

This regulation, if adopted would not create any financial burden for the user or the community and may lessen injury or harm to the citizens within the community and may lessen the crime index.

Full text of the proposal follows.

8:21-3.24 List of ingredients for human self-defense sprays

(a) The following list of active and inactive ingredients can be used in devices which contain and release chemical substances which cause temporary physical discomfort covered by the exemptions pursuant to the provisions of N.J.S.A. 2C:39-6(i):

1. Active ingredients:
 - i. Chloroacetophenone

- ii. Ortho-chlorobenzalmalonitrile
2. Inactive ingredients:
 - i. 1,1,1-trichloroethane
 - ii. Trichlorotrifluoroethane
 - iii. Kerosene
 - iv. Mineral oil

OFFICE OF ADMINISTRATIVE LAW NOTE: The Department of Health will hold a public hearing concerning this new rule if sufficient comments are received by the comment date, October 20, 1982.

(b)

CONSUMER HEALTH SERVICES

Controlled Dangerous Substances Schedules Rescheduling of Methaqualone to Schedule I

Proposed Amendments: N.J.A.C. 8:65-10.1 and 10.2

Authorized By: Allen N. Koplin, M.D., M.P.H., Acting
Commissioner, Department of Health.
Authority: N.J.S.A. 24:21-3.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Lucius A. Bowser, R.P., M.P.H.
Chief, Drug Control Program
New Jersey State Department of Health
CN 364
Trenton, NJ 08625

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

This proposal is known as PRN 1982-379.

The agency proposal follows:

Summary

Methaqualone, notwithstanding the fact that it has a currently accepted medical use, is recognized by the Department as having current accepted limited medical uses in treatment in the State but has a high potential for abuse. Therefore, placement in Schedule I removes it from the practice of severe abuse.

Social Impact

The rescheduling of Methaqualone to Schedule I would remove it from the abusive patterns it has acquired and would not have any significant impact on any valid medical need.

Economic Impact

The resolution of this proposal to reschedule Methaqualone to Schedule I would not have any significant financial impact upon any user but would have a significant impact upon the amount of law enforcement measures required to control it in its present Schedule II status.

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

8:65-10.1 Controlled dangerous substances; Schedule I
(a) (No change.)

(b) The following is Schedule I listing of the controlled dangerous substances by generic, established or chemical name and the controlled dangerous substances code number.

1.-3. (No change.)

4. Depressants: Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (listed by generic/established or chemical name with CDS code):

- i. Mecloqualone 2572
- ii. Methaqualone 2565

8:65-10.2 Controlled dangerous substances; Schedule II

(a) (No change.)

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

1.-3. (No change.)

4. Depressants: Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (listed by generic/established or chemical name with CDS code):

[Methaqualone]	[2565]
.....
.....

5. (No change.)

(a)

DRUG UTILIZATION REVIEW COUNCIL

**Drug Evaluation and Acceptance Criteria
Manufacturer and Repackager Criteria**

Proposed Amendments: N.J.A.C. 8:70-1.4

Authorized By: Drug Utilization Review Council, Leroy Schwartz, M.D., Secretary.
Authority: N.J.S.A. 24:6E-6g.

A public hearing concerning this rule will be held on October 12, 1982 at 11:00 A.M. at:

Auditorium (Room 106)
1st Floor
Health-Agriculture Building
John Fitch Plaza
Trenton, NJ 08625

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Thomas T. Culkin, PharmD., MPH
Drug Utilization Review Council
Department of Health
CN 360
Trenton, NJ 08625

The Drug Utilization Review Council thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The

adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-377.

The agency proposal follows:

Summary

This proposed rule seeks to avoid the confusion caused by repeated reapplications for inclusion in the New Jersey List of Interchangeable Drug Products of products previously rejected by the Drug Utilization Review Council.

Social Impact

These additional criteria will have no discernible social impact on the public.

Economic Impact

No negative impact on consumers is expected, since this proposal will only prevent duplicative administrative work.

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

8:70-1.4 Manufacturer and repackager criteria

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

(h) Any product which has been rejected for admission to the Formulary by the Drug Utilization Review Council shall be reconsidered only if new evidence is submitted which addresses the specific deficiencies which formed the basis for that product's rejection.

(i) Any product which has been approved for admission to the Formulary shall be reconsidered only if new evidence indicates the existence of deficiencies which were not found at the time of the product's original consideration.

(b)

DRUG UTILIZATION REVIEW COUNCIL

Interchangeable Drug Products

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

Authorized By: Drug Utilization Review Council, Leroy Schwartz, M.D., Secretary.
Authority: N.J.S.A. 24:6E-6g.

A public hearing concerning this rule will be held on October 12, 1982 at 10:00 A.M. at:

Auditorium (Room 106)
1st Floor
Health-Agriculture Building
John Fitch Plaza
Trenton, NJ 08625

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Thomas T. Culkin, PharmD., MPH
Drug Utilization Review Council
Department of Health
CN 360
Trenton, NJ 08625

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

PROPOSALS

This proposal is known as PRN 1982-378.

The agency proposal follows:

Summary

These proposed deletions are medication which are no longer prescription drugs, thus they are inappropriately listed in the New Jersey List of Interchangeable Drug Products which is a Formulary of generic substitutes for prescription drugs.

Social Impact

According to the Drug Utilization Review Council there will be no discernible social impact of these minimal deletions.

Economic Impact

No negative impact on consumers is expected. Emphasis that these medications are now available without a prescription may lead to unquantifiable consumer savings.

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

[Brompheniramine maleate tabs 4 mg]	[Bolar, Cord, Chelsea, Danbury, Par, Robins]
[Chlorpheniramine maleate tabs 4 mg]	[Barr, Bolar, Chelsea, Cord, Danbury, DePree, Generic, Halsey, Newtron, Panray, PRL, Purepac, Richlyn, Schering, Steri-Med, West-ward, Zenith]
[Chlorpheniramine maleate syrup 2 mg/5 ml]	[Bay, Bolar, NPC, Schering]
[Diphenhydramine HCl cough syrup]	[Bay, Halsey, Life, NPC]
[Hydrocortisone cream 0.5%]	[Ambix, Byk-Gulden, Clay-Park, Dermik, Life, Purepac, Syosset, Thames]
[Hydrocortisone ointment 0.5%]	[Ambix, Byk-Gulden, Clay-Park, Dermik]
[Hydrocortisone lotion 0.5%]	[Clay-Park, Rowell, Mericon]
[Pseudoephedrine HCl tabs 60 mg]	[B-W, Chelsea, Chromalloy, Danbury, Lemmon, Par, Premo, Richlyn, West-ward]

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Administration Manual and Long Term Care Services Manual Field Audits

Proposed Amendment: N.J.A.C. 10:49-1.27 Proposed New Rule: N.J.A.C. 10:63-1.22

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 30:4D-7, and 17(f).

HUMAN SERVICES

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1982-373.

The agency proposal follows:

Summary

This regulation is being promulgated to fulfill the statutory requirement of N.J.S.A. 30:4D-17(f) that the Division of Medical Assistance and Health Services define the term "field audit".

The statute provides for the imposition of a civil penalty on Medicaid providers who, without intent, obtain benefits or payments in excess of the amount to which they are entitled. The penalty is the assessment of interest on the excess benefit or payment. The interest accrues upon receipt of the overpayment. When a provider is subjected to a field audit, the Division must give notice within 180 days after completion of the field audit, or interest will toll until preliminary notification is given.

The regulation contains two definitions for "completion of the field audit". One pertains solely to long term care (LTC) facilities; the other governs all other providers. The regulation is designed to strike a balance between the provider's desire for a prompt completion of a field audit and early notification of the results of said audit, coupled with the Division's need to complete its audits in a thorough and efficient manner, including review by the Office of Program Integrity Administration.

This rule will impact mainly on long term care providers, who must be periodically audited pursuant to Federal regulation (42 CFR 447.265).

The definition of "final audit", which will now follow "field audit", remains the same. The rule defining "final audit" was adopted May 7, 1981 at 13 N.J.R. 273(a).

Social Impact

Since Medicaid recipients are exempt from the provisions of N.J.S.A. 30:4D-17(f), this proposal will not apply to them.

If there is any social impact, it would be that providers are required to maintain records, documents, etc., that are subject to audit.

Economic Impact

There is no economic impact on Medicaid recipients.

Since the Division analyzes each provider audited on a case-by-case basis, there is no general economic impact on the affected provider community. Rather, the economic impact varies considerably, depending on the maximum legal rate of interest in effect at the time of the overpayment, and the actual amount of the overpayment. If the audit reveals no overpayment, then there will be no economic impact on the provider.

The Division receives an economic benefit by being able to collect both overpayments and interest thereon. While the Division may lose the right to collect interest, this is out-weighted by the need to inform a provider of the results of a completed field audit.

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

10:49-1.27 [Final audit] Audits

[For purposes of N.J.S.A. 30:4D-7m only, a "final audit" means that point in the audit process when the Division issues to the provider an audit report specifically designated as the "final audit" for a specified period audited.]

(a) Field audits shall be subject to the following:

1. "Completion of the field audit" for long term care facility providers for purposes of N.J.S.A. 30:4D-17(f) shall be defined in the following manner:

i. For all such audits and audit recovery cases pending on the effective date of this subsection it shall mean the date that field work is completed, or the date information requested from the provider during the course of that field work is received, whichever is later;

ii. For all such audits initiated on or after the effective date of this subsection it shall mean the date the exit conference is completed or the date information requested from the provider during the course of the exit conference is received, whichever is later.

2. "Completion of the field audit" for all other providers for purposes of N.J.S.A. 30:4D-17(f) shall be defined in the following manner:

i. For all such audits and audit recovery cases pending on the effective date of this subsection, it shall mean the date of final screening of the case file by the Assistant Director, Office of Program Integrity Administration (OPIA) or, if the case is referred to the Legal Action Committee or the Division of Criminal Justice, the date OPIA receives authorization to take administrative action;

ii. For all such audits initiated on or after the effective date of this subsection it shall mean the date of final screening of the case file by the Assistant Director, OPIA.

3. Notwithstanding any of the previous subsections, if after the screening of any provider audit initiated on or after the effective date of this regulation the Assistant Director, OPIA, determines with reasonable justification that an act or omission on the part of the provider requires additional field work, the field audit shall be considered completed when the additional field work is completed.

4. Notwithstanding any of the previous subsections, if after the screening of any provider audit initiated on or after the effective date of this subsection the Assistant Director, OPIA, determines with reasonable justification that an act or omission on the part of the provider requires that additional information or documentation be obtained from the provider, then a completed field audit shall be considered reopened and interest shall again accrue for the period beginning 20 days from the date the request for such information or documentation is received by the provider and ending on the date that all of the requested information or documentation is received by the agency making the request.

5. Notwithstanding any of the previous subsections, if all or part of any provider audit initiated on or after the effective date of this subsection is referred to the Division of Criminal Justice or other agency for criminal investigation:

i. In the event no criminal action results from the referral the field audit shall be considered completed one year from the date the decision was made to refer the matter for criminal investigation;

ii. In the event criminal action does result from the referral, the field audit shall be considered completed on the date OPIA receives authorization to take administrative action.

(b) "Final audit" for purposes of N.J.S.A. 30:4D-7m only, means that point in the audit process when the division issues to the provider an audit report specifically designated as the "final audit" for a specified period audited.

10:63-1.22 Audits

(a) "Completion of the field audit" for long term care facility

providers for purposes of N.J.S.A. 30:4D-17(f) shall be defined in the following manner:

1. For all such audits and audit recovery cases pending on the effective date of this subsection it shall mean the date that field work is completed, or the date information requested from the provider during the course of that field work is received, whichever is later;

2. For all such audits initiated on or after the effective date of this subsection it shall mean the date the exit conference is completed or the date information requested from the provider during the course of the exit conference is received, whichever is later.

(b) Notwithstanding any of the previous subsections, if after the screening of any long term care facility provider audit initiated on or after the effective date of this regulation the Assistant Director, OPIA, determines with reasonable justification that an act or omission on the part of the provider requires additional field work, the field audit shall be considered completed when the additional field work is completed.

(c) Notwithstanding any of the previous subsections, if after the screening of any long term care facility provider audit initiated on or after the effective date of this subsection the Assistant Director, OPIA, determines with reasonable justification that an act or omission on the part of the provider requires that additional information or documentation be obtained from the provider, then a completed field audit shall be considered reopened and interest shall again accrue for the period beginning 20 days from the date the request for such information or documentation is received by the provider and ending on the date that all of the requested information or documentation is received by the agency making the request.

(d) Notwithstanding any of the previous subsections, if all or part of any long term care facility provider audit initiated on or after the effective date of this subsection is referred to the Division of Criminal Justice or other agency for criminal investigation:

1. In the event no criminal action results from the referral the field audit shall be considered completed one year from the date the decision was made to refer the matter for criminal investigation;

2. In the event criminal action does result from the referral, the field audit shall be considered completed on the date OPIA receives authorization to take administrative action.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Prosthetic and Orthotic Services Manual Approved Providers

Proposed Amendment: N.J.A.C. 10:55-1.1, 1.2, 1.7 and 1.9

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

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

PROPOSALS

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

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

This proposal is known as PRN 1982-376.

The agency proposal follows:

Summary

This proposal will modify the requirements for Medicaid approval of prosthetic and orthotic (P&O) providers. The current practice is to require certification by the American Board of Certification in Orthotics and Prosthetics, Inc. This proposal will allow a prosthetist, orthotist and/or facility which has been approved by the United States Veterans Administration (VA), to qualify for participation in the New Jersey Medicaid Program. The VA has a formalized authorization process for P&O providers and/or facilities, including on-site inspection of the shop. The Division believes it prudent to utilize both VA approval and certification by the American Board as a basis for accepting qualified P&O providers, who are still required to follow the usual Medicaid provider enrollment procedures.

Social Impact

There might be a positive social impact on Medicaid recipients, if there were more providers available to provide services.

There should be no social impact on P&O providers who are already certified by the American Board, because this requirement remains intact. There might be a positive impact on P&O providers who could qualify as Medicaid providers by virtue of their VA approval.

Economic Impact

There should be no additional cost to the Division as long as services remain constant. Since there is no change in Medicaid reimbursement, there should be no economic impact on P&O providers already participating in the Medicaid program. With respect to potential newly enrolled providers, the economic impact would vary, depending on the number of Medicaid patients for whom they provide services. There is no cost to the Medicaid recipient.

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

10:55-1.1 Definitions

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

"Approved": For purposes of the Health Services Program policies as they relate to prosthetic and orthotic services, the term "approved" means a prosthetist, orthotist and/or facility who (which) has met the standards of qualification as established by the United States Veterans Administration.

"Certification": For purposes of the Health Services Program policies as they relate to prosthetic and orthotic [appliances] services, the term "certification" means a prosthetist, orthotist and/or facility who (which) has met the standards of qualification as established by the American Board of Certification in Orthotics and Prosthetics, Incorporated.

"Custom-made": For purposes of the Health Services Program policies as they relate to prosthetic and orthotic appliances (excluding hearing aids, dentures and artificial eyes), the term "custom-made" means a device or appliance fabricated

HUMAN SERVICES

(constructed and/or assembled) in an approved **or certified** facility and designed to fit and perform a useful function solely for that specific single individual for whom it was ordered.

10:55-1.2 Eligible providers

(a) Reimbursement for custom-made prosthetic and orthotic appliances shall be made only to providers who are eligible to participate in the New Jersey Health Services Program and fall into one of the following categories:

1. A provider approved for program participation consists of the following:

i. Appliances fabricated in the facility and not jobbed out ("facility" means the area of operation of the [prosthetic/] **prosthetist/orthotist**);

ii. **Certified or approved** facility;

iii. **Certified or approved** personnel (owner and/or employee(s)) [.] **in each specialty; for example, [I]f the facility restricts its appliances to prosthetics, then only a certified or approved prosthetist is required; if orthotics, a certified or approved orthotist; however, if both prosthetic and orthotic appliances are dispensed a certified or approved prosthetist and orthotist is (are) required.**

2. A provider, **with certified personnel**, provisionally approved for program participation consists of the following (**provisional approval applies to "Certification" only**):

i.-iii. (No change.)

3. A provider, **with non-certified personnel**, provisionally approved for program participation consists of the following (**provisional approval applies to "Certification" only**):

i.-iii. (No change.)

(b) In situations covered by [paragraph 2, subparagraphs ii. and iii. and paragraph 3, subparagraphs ii. and iii., of this section,] **N.J.A.C. 10:55-1.2(a)2ii, iii and 3ii, iii**, provisional approval may be granted by the Division of Medical Assistance and Health Services to those facilities and personnel whose application for facility and/or personnel certification is pending.

[Note:] (c) "Provisional" status for categories [B and C] **N.J.A.C. 10:55-1.2(a) 2 and 3** will be approved for one year from the date that the application for admissibility to the certifying examination by the American Board for Certification in Orthotics and Prosthetics has been accepted by the Board and that all conditions for eligibility for the examination have been met. A copy of this acceptance letter with a request for "provisional" provider status with the Health Services Program must be submitted together with the provider application and agreement to:

Chief, [Medical Care Administration]

Provider Enrollment

Division of Medical Assistance

and Health Services

[P.O. Box 2486] **CN 712**

Trenton, NJ 08625

(d) "Provisional" status will automatically be dropped as will provider eligibility, **unless provider has met the standards of qualification as established by the United States Veterans Administration**, without further notification, after a one-year period if certification has not been obtained. Therefore, this will limit any "provisional" status (facility and/or personnel) to a 365-day period commencing with the date of the letter of acceptance by the designated board under the conditions noted above.

(e) If a certified facility loses its certified prosthetists and/or orthotists, whichever is applicable, the Chief, [Medical Care Administration] **Provider Enrollment**, Division of Medical Assistance and Health Services, must be notified within 48 hours of the loss. [A grace period of 180 days from the date of such loss will be granted for replacement before provider eligibility is withdrawn.] **Provider eligibility will be withdrawn after a grace period, granted for replacement, of 180 days from the date of**

such loss unless the provider has met the standards of qualification as established by the United States Veterans Administration. In the interval between loss and replacement of certified personnel, the minimum replacement(s) must be personnel whose board of eligibility is established.

10:55-1.7 Duties of provider; guarantee

(a) (No change.)

(b) For a new appliance, the provider shall submit a unit price for each complete item in the New Jersey prosthetic and orthotic nomenclature which shall include:

1.-4. (No change.)

5. Provision that all appliances furnished by the approved or certified facility will conform to the prescriber's prescription and the description of appliances set forth in the accepted nomenclature, will fit properly to the extent that the recipient's condition(s) permit, and will provide maximum efficiency and comfort consistent with the condition(s) of the recipient for whom the appliances are prescribed;

6.-10. (No change.)

10:55-1.9 Basis of payment

(a) Reimbursement shall be on the basis of the customary charge, not to exceed an [allowance] allowance determined reasonable by the Commissioner of the Department of [Institutions and Agencies,] Human Services, and further limited by Federal policy relative to reimbursement of practitioners and other individual providers.

(b) (No change.)

(a)

DIVISION OF PUBLIC WELFARE

**Public Assistance Manual
Voluntary Restricted Payments**

**Proposed Amendments: N.J.A.C. 10:81-4.5
through 4.11, 4.13, 4.14, 4.16, 4.18, and
4.19**

Authorized By: Walter E. Ulrich, Acting Commissioner,
Department of Human Services.

Authority: N.J.S.A. 44:7-6 and 10-3; and 45 CFR
234.60.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1982-344.

The agency proposal follows:

Summary

Vendor payments are those payments which are made to someone other than directly to the recipient of aid to families with dependent children. Such payments are given to a provider of services for the recipient's benefit instead of a cash or check payment directly to the recipient.

The proposed amendments allow for the issuance of vendor payments to day care centers/providers, when a recipient voluntarily chooses to have such a payment made. The amendments also remove the limitation on the number of AFDC cases in which protective, vendor, or two party payments may be made. Additionally, the proposed regulations contain nonsubstantive language and structural changes to clarify existing regulations, with no change to current policy, i.e., County Welfare Board (CWB) is being changed to County Welfare Agency (CWA).

Social Impact

The issuance of vendor payments to day care providers offers those clients receiving day care payments due to special circumstances an alternate method for payment of this expense. Clients who so elect may have a voluntary restricted payment made directly to their day care provider. Such method of direct payment to the provider will facilitate the accessibility of day care services to recipients of public assistance.

Economic Impact

It is expected that there will be no economic impact associated with this proposal. There is no change in the day care service provided, only an alternate method for payment.

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

10:81-4.5 Payees in AFDC[-C]

(a) Payees in AFDC are classified as follows:

1. **Designated payee:** Designated payee is a person signing the application to whom the check is issued (see N.J.A.C. 10:81-4.6).

2. **Temporary payee:** Temporary payee is a person designated temporarily by the CW[B]A to receive the assistance payment, usually in an emergency situation (see N.J.A.C. 10:81-4.7).

3. **Protective payee:** Protective payee is a person authorized by the CW[B]A to receive and administer assistance payments on behalf of an eligible family (see N.J.A.C. 10:81-4.9).

4. **Representative payee:** Representative payee is a person appointed by the court to receive and administer assistance payments on behalf of an eligible family (see N.J.A.C. 10:81-4.15 through 4.19).

(b) [Additionally,] **Vendor** payments may be made directly to [vendors. (See "vendor payments" in N.J.A.C. 10:81-9.1.)] **a person or facility for providing goods and services to or for the client representing payment for such goods or services. Vendor payments are limited to the following situations only:**

1. **Emergency assistance as provided in N.J.A.C. 10:81-4.22. See N.J.A.C. 10:82-5.10 for policy and procedures relative to authorization and issuance of vendor payments in emergency assistance.**

2. **Payments directly to day care providers when requested by the client as a voluntary restricted payment (see (c) below).**

(c) [The number of AFDC-C recipients for whom protective or vendor payments may be made during any month is limited to 10 percent of the total number of other AFDC-C recipients in the State during that month.] **Voluntary restricted payments may be made in the form of a vendor payment, at the request of the recipient, to day care providers only (see N.J.A.C. 10:82-5.3 regarding payment limitations). Such vendor payments shall not be extended to any other providers of goods or services.**

1. **Requests for voluntary restricted payments must be made in writing, via completion and submittal of Form PA- 59A, Request for Voluntary Restricted Payment, from the recipient to whom payment would otherwise be made in an unrestricted manner and that request retained in the case file.**

2. **The restricted payment will be discontinued promptly upon completion and submittal by recipient who initiated such NEW**

payment, of Form PA-59B, Request to Discontinue Voluntary Restricted Payment, which must be retained in the case file.

10:81-4.6 Designated payee in AFDC

(a) A person who is signatory to the application will be the designated payee (see N.J.A.C. 10:81-2.3(b)1). However, no person under official commitment in a mental institution, who has been adjudicated mentally incompetent, or whom the CW[B]A has determined is an alleged incompetent may be a designated payee.

(b) (No change.)

10:81-4.7 Temporary payee in an emergency situation

(a) In emergency situations that deprive the child of the care of the relative through whom he or she has been receiving aid, a person shall be designated to receive payments for a temporary period necessary to make and carry out plans for the child's continuing care and support. If such person qualifies as a parent-person, a new application will be taken in his or her name and such person will be a temporary payee only until the application is approved. This designation should be accomplished without interruption of the grant or action on a new application [(See also Assistance Standards Handbook, section 430.3-e.):] (see N.J.A.C. 10:82-5.10(c)5).

1. Designation of a temporary payee is subject to the following conditions:

i. The child is a recipient of AFD[S]C at the time the emergency occurs;

ii.-iii. (No change.)

(b) **Child placed temporarily in institution for sheltered care:** In such emergency (see (a) above) situation when there is no parent substitute available and the child must be placed temporarily in an institution for sheltered care, the temporary payee shall be the superintendent or other chief executive officer of the institution. Payments made pursuant to this paragraph are not subject to Federal matching (see also [Assistance Standards Handbook, Section 530.3-3-e] N.J.A.C. 10:82-5.10(c)5).

1.-6. (No change.)

(c) **Change of parent-person (transfer):** When a new permanent plan is necessary and a qualified parent-person in another county is willing to provide care on a continuing basis, a normal procedure calls for "transfer" of responsibility to the receiving county (see N.J.A.C. 10:81-3.27(b)1, (b)2, (b)3). Such transfer will be effected without interruption in aid. If it is necessary to provide assistance for the child's maintenance pending referral to and acceptance of responsibility by the receiving county, the qualified parent-person may be treated as a "temporary payee". It will be incumbent upon the receiving county to accept responsibility within the two-month limitation. Timely and adequate notice (see N.J.A.C. 10:81-7.1) is required.

(d) **Reporting temporary change:** When a temporary change in payee is made, it shall be reported to the Division of Public Welfare. In this situation there is no[t] change in case status or case name.

10:81-4.8 Permanent change in payee

(a) **When care arrangement is unchanged:** When it becomes necessary or is deemed advisable to change the payee from one to another qualified parent or parent-person who is already a member of the household, but there is otherwise no change in the care arrangement for the eligible child, the case shall remain in active status under the same case number.

(b) **When qualified parent or parent-person changes:** When the parent or parent-person under whose name the case is registered, and who has been payee, is no longer a member of the household, and another qualified parent or parent-person joins the household to care for the child, then the case shall be closed, and a new application shall be immediately accepted from the new qualified person(s). If the new situation includes two parents, the decision regarding which one shall be designated payee shall be made in accord with the policy in [section 5 of this subchapter] N.J.A.C. 10:81-4.6. Such change in payee will be effected without interruption in aid. Timely and adequate notice (see N.J.A.C.

10:81-7.1) is required, except when the change is temporary (see N.J.A.C. 10:81-4.7). The case action will be reported to the welfare board as for any new case closing and new application. Statistical accounting shall also follow the normal procedure.

(c) **When care arrangement changes:** When the child has been placed in another home situation with a different qualified parent or parent-person, the case shall be closed and a new application shall be accepted, unless the provisions of [this subchapter] N.J.A.C. 10:81-4.7 apply. There shall be no interruption in assistance. Entries in the board minutes and statistical accounting will follow the normal procedure for closing and for new applications.

(d) **When inadequate management is evident:** [When the welfare board decides, on the basis of available evidence, that an individual who has not been determined to be mentally incompetent is unable to manage funds to such an extent that the payments have not been or are not being used in the best interest of the child(ren), the welfare board may provide for payment through a third person rather than through unrestricted money payments. Such a decision should not be made unless there is substantial evidence to support such a finding. In such cases, procedures for appointment of a protective payee may be instituted provided that:

1. The client shall be given an opportunity (whenever practical) to participate in the selection of the third party; in any case protective payee will be a person who is interested in or concerned with the welfare of the child and relative; and

2. If, at a later date the recipient requests a change of or elimination of the third party, his or her request shall be granted if upon investigation the request is found to be reasonable and justified; or

3. If, at a subsequent review of the case, the worker recommends, on the basis of observation, reports of the third party concerned and/or other reliable reports, that the special payment arrangement be eliminated as no longer necessary to protect the best interests of the child, the welfare board may approve the recommendation.

4. In cases where the CWA can find no other protective payee, a member of the CWA staff who has not handled the assistance case may be protective payee on a temporary basis.]

When it is determined by the CWA that the use of funds by the parent or relative is not in the best interest of the child(ren), assistance shall be paid, whenever possible, to a protective payee. See N.J.A.C. 10:81-4.9 for policy and procedures used in determining the need for a protective payee and the selection of a protective payee.

10:81-4.9 Protective payee

(a) When it is determined by the CWA that the use of funds by the parent or relative is not in the best interest of the child(ren), assistance shall be paid, whenever possible, to a protective payee. A protective payee is not authorized to receive, hold or administer any other property, real or personal, of the recipient nor to act as representative of the recipient in any other manner whatsoever. [Money payments made by this method will be Federally matched as applicable.] **Such a decision shall be subject to the following criteria:**

1. **The CWA must decide, on the basis of available evidence, that an individual, who has not been determined to be mentally incompetent, has demonstrated such an inability to manage funds that payments to the individual have not been and are not currently used in the best interest of the child. This inability to manage funds means that the individual has misused funds to such an extent that allowing him or her to manage the AFDC grant is a threat to the health and safety of the child.**

2. **There should be substantial evidence to support such a finding.**

3. **Nonpayment of bills may be used as an indication that mismanagement may exist. However, a determination of such mismanagement shall not be made solely on the fact that bills**

are not paid on a timely basis. All relevant considerations shall be taken into account including, but not limited to the following:

i. Whether the family has experienced some emergency or extraordinary circumstances for which it was appropriate for available funds to be spent;

ii. Whether expenses for necessary bills exceed the recipient's grant and other income; and

iii. Whether the family has withheld the payment as a reasonable exercise of consumer rights when there is a legitimate dispute as to whether terms of an agreement have been met.

4. The case record shall be fully documented and shall contain a statement of the specific reasons that demonstrate the need for a protective payee.

5. In such cases, procedures for selection and appointment of a protective payee may be instituted in accordance with N.J.A.C. 10:81-4.10, 4.11, and 4.19.

6. The CWA will be responsible for assuring referral to social services for appropriate action to protect recipients where problems and needs for services are manifestly beyond the ability of the protective payee to handle

7. The CWA shall undertake and continue special efforts to develop greater ability on the part of the recipient to manage funds in such a manner as to protect the welfare of the family.

8. The CWA will review the case as frequently as indicated by the individual's circumstances, but at least every six months, relevant to the need for protective payments and the way in which the protective payee's responsibilities are carried out.

9. Provisions will be made for termination of protective payments, as follows:

i. When recipients are considered able to manage funds in the best interest of the child(ren), the protective payee arrangement shall be terminated and the case shall be returned to unrestricted payment status.

ii. When it appears that the need for protective payments will continue or is likely to continue beyond two years because all efforts have not resulted in sufficiently improved use of assistance in behalf of the child, judicial appointment of a guardian or other legal representative will be sought and such payments will terminate when the appointment has been made (see N.J.A.C. 10:81-4.15 through 4.19).

10. See also N.J.A.C. 10:81-4.13 regarding actions requiring a change in protective payee.

10:81-4.10 Selection of a protective payee

(a) The CW[B]A director, subject to the approval of the welfare board as expressed in a special resolution recorded in the minutes, shall select an appropriate person to serve as protective payee to receive assistance payments and supervise their use for a client who is unable to manage money. See N.J.A.C. 10:81-4.19 for criteria and limitations on appointment.

(b) A protective payee shall be selected, so far as possible, with the participation and consent of the recipient or of someone responsible for acting on his or her behalf.

(c) In any case the protective payee shall be a person who is interested in or concerned with the welfare of the child and relative.

(d) If it is in the best interest of the recipient for a staff member of a private agency, of the county welfare agency, or of any other appropriate organization to serve as a protective payee, such selection shall be made preferably from the staff of an agency or that part of an agency providing protective services for families. The selection shall not include:

1. The Director of the CWA;
2. The income maintenance worker determining eligibility for the particular recipient;
3. Staff handling fiscal procedures related to the recipient;
4. Vendors of goods, services or items dealing directly with the recipient; or

5. Any person who has him/herself been determined by professional diagnostic procedures to be incompetent or "marginally incompetent".

10:81-4.11 Appointment of protective payee

(a) The CW[B]A director shall prepare a letter formally designating the person selected as protective payee to receive assistance payments and administer them on behalf of the named recipient. A copy of such letter shall be retained in the case record, and a copy given to the recipient concerned, with notice of his or her right to a fair hearing (see N.J.A.C. 10:81-4.14).

(b) The person designated as protective payee shall sign a statement in duplicate accepting the appointment. This statement shall contain an agreement to maintain a record of receipts and expenditures; to render an account when requested by the CW[B]A director or the recipient, but at least annually or upon termination of assistance payments or termination of service by the protective payee; and to assist in rendering services to the recipient which will enhance his or her ability to manage money and improve his or her capacity for self-care. A copy of this statement and a copy of all accounts rendered shall be filed in the case record.

10:81-4.13 Change in protective payee

(a) [CWA shall review the need for protective payments on behalf of children and the way in which a protective payee's responsibilities are carried out as frequently as is indicated by the individual's circumstances but at least every three months.]

If the recipient requests a change of or elimination of the protective payee, his or her request shall be granted if upon investigation the request is found to be reasonable and justified.

(b) Action to terminate protective payments for a recipient shall be promptly taken whenever the CWA determines that the client is able to manage funds in the best interest of the child(ren).]

(c) (b) A protective payee who wishes to be released from his or her responsibilities shall give the CW[B]A director at least 10 days notice in writing. In the event of an emergency which makes it impossible for him or her to fulfill his or her responsibilities for a period of time, he or she shall confer with the CW[B]A director or a duly designated representative immediately so that other arrangements can be made to assure continued assistance to the recipient.

(d) When it appears after consultation with the Social Service Unit that need for protective payments is likely to continue longer than two years, appointment of a representative payee shall be effected. (See Section 4550.)]

{(e)}(c)(No change in text.)

10:81-4.14 Recipient's right to a fair hearing

A recipient who has been determined to require protective payments shall be given written notice, and oral explanation of his or her right to fair hearing if dissatisfied with the decision to appoint, the choice of a protective payee, the continuation of protective payments or the manner in which the payee is functioning (see [subchapter 6 of this chapter] N.J.A.C. 10:81-6, COMPLAINTS AND FAIR HEARINGS). If the fair hearing issue is the decision to appoint a protective payee, a temporary payee will be designated by the county welfare agency pending the fair hearing decision.

10:81-4.16 Appointment of a representative payee

(a) In instances where it is determined that a representative payee must be appointed, the CW[B]A shall advise those acting on the client's behalf that such appointment is required, and shall refer the matter to counsel for appropriate action.

(b) The cost of the proceedings shall be assumed by the CW[B]A as a matchable administrative expense. If the client should be found ineligible for other cause, the proceedings shall be terminated immediately.

(c) In order to satisfy the requirements of the law regarding representative payees[.], the following shall apply:

(a)

- 1. (No change.)
- 2. In all other situations, the CW[B]A shall forward to the Medical Review Team all relative medical data as required for determining medical eligibility. The form PA-6, **Medical-Social Information Report**, should state that the purpose of submittal is for review as a basis for appointment of a representative payee.
- 3. (No change.)

10:81-4.18 Change of representative payee

- (a) (No change.)
- (b) Upon such notice from a representative payee, **the CW[B]A** shall take prompt action to locate another person willing to be appointed. If the present representative payee is unable to continue in that capacity until released by the court, **the CW[B]A** shall appoint a protective payee to receive assistance for the client until a new representative payee is appointed by the court.

10:81-4.19 Criteria for **and** limitations on appointments of representative payee

(a) The major personal criterion for selection of a [protective or] representative payee is an interest in being of service to the recipient. Appropriate sources of recruitment include: the immediate family and other relatives and friends; a person previously appointed to act on behalf of the client by another State or Federal benefit paying agency; and staff members voluntary agencies.

(b) Under no circumstances shall a person be selected as a [protective of] representative payee who has him or herself been determined by professional diagnostic procedures to be mentally incompetent or "marginally competent".

(c) No person shall be appointed a [protective or] representative payee when such appointment would raise questions of conflict of interest. This exclusion from appointment includes:

- 1. The Director of the CWA;**
- [1.] **2. The [IM] income maintenance worker determining eligibility for the particular recipient;**
- [2. Vendors of goods or services dealing directly with recipients such as landlord and grocers; and]
- 3. CWA staff handling fiscal procedures related to the recipient;**
- [3.] **4. Banks, trust companies and similar corporate bodies functioning in a ministerial rather than a decision making role[.]; and**
- 5. Vendors of goods, services, or items dealing with the recipient.**

(d) No person shall be proposed for appointment, nor accept appointment, as a [protective or] representative payee who is in the employ of the CW[B]A except in situations where such person has a close personal relationship with the client which makes him or her the most suitable person to serve as the client's representative. If an employee with such a relationship is so appointed, he or she shall not thereafter be involved in any agency decision relating to the client's payment or other official actions regarding the client.

DIVISION OF PUBLIC WELFARE

**Food Stamp Program
Group Living Arrangements and Shelters for
Battered Women**

**Proposed Amendments: N.J.A.C. 10:87-2.4,
2.7, 2.8, 2.34, 3.2, 3.12, 4.4, 4.19, 7.16
and 9.7**

Proposed New Rule: N.J.A.C. 10:87-7.17

Authorized By: Walter E. Ulrich, Acting Commissioner,
Department of Human Services.
Authority: N.J.S.A. 30:4B-2 and 7 CFR Chapter II,
Subchapter C.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1982-343.

The agency proposal follows:

Summary

The proposed amendments implement the provisions of the 1979 Amendments to the Food Stamp Act of 1977 (Public Law 96-58) and the 1980 Amendments to the Food Stamp Act of 1977 (Public Law 96-249) respectively. These amendments extend eligibility for the Food Stamp Program, under certain conditions, to blind and disabled residents of group living arrangements and to residents of shelters for battered women and their children.

Up to the present, residents of institutions which provide them with the majority of their meals were not eligible for participation in the Food Stamp Program. Exemptions from this restriction were granted to certain institutions such as drug and alcoholic treatment centers. The United State Department of Agriculture has expanded the exemption to include residents of public or private nonprofit residential group living arrangements and residential shelters for battered women and their children. Residents of such group living arrangements and shelters for battered women must meet all other eligibility criteria for the program.

The proposed amendments further address the use of an authorized representative in these situations. Residents of group living arrangements may apply on their own behalf if he or she is competent to understand the application process and be responsible for his or her statements. Residents may also choose to have applications filed by a staff member of the group living arrangement or other authorized representative of their own choice. Residents of shelters for battered women shall apply and be certified as individual households on their own behalf or may designate an authorized representative of their own choice.

Whenever an individual applies on his or her own behalf, he or she is responsible for reporting any changes in income or circumstances. Whenever application and certification is made by an authorized representative who is a staff member on behalf of

residents of drug or alcoholic treatment centers or group living arrangement, the treatment center or group facility is responsible for reporting all changes in income or circumstances and reporting to the County Welfare Agency (CWA) if an individual has left the center or facility.

The amendments also provide certain program exceptions pertaining to residence and resource requirements. Due to the emergent situation of residents of shelters, it is possible that the shelter may be in a county other than the county where the resident legally resides. Additionally, the resident may have been a participant in the Food Stamp Program in the household which also contained the person who subjected the resident to abuse. Recognizing these circumstances, the amendments will permit the household to apply for shelter in another county and consider as inaccessible resources which are jointly owned by the shelter resident and a member of their former household. Access to the value of the resource is dependent on an agreement of a joint owner who still resides in the former household in which the resident was abused.

A technical amendment, due to a previous error, is also proposed which concerns transfer of resources in order to align the example in N.J.A.C. 10:87-4.19 with the resource limit of \$1,250.

Social Impact

The proposed amendments will have a definite impact on blind or disabled residents of group living arrangements and to residents of shelters for battered women by extending food stamp eligibility to these groups.

Economic Impact

The proposed amendments will have no economic impact on the treasuries of the State or county governments. Federal expenditures for the Food Stamp Program will increase depending upon the number of eligible residents in facilities for blind or disabled residents and battered women and their children. These groups will now have an economic benefit through participation in the Food Stamp Program.

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

10:87-2.4 Residents of institutions

(a) Individuals shall be considered residents of an institution when the institution provides them with the majority of their meals as part of the institution's normal services and the institution has not been authorized to accept coupons. Residents of institutions are not eligible for participation in the Food Stamp Program, with the following exceptions:

1. (No change.)
2. Narcotic addicts or alcoholics: Narcotic addicts or alcoholics who, for the purpose of regular participation in a drug or an alcohol treatment and rehabilitation program, reside at a facility or treatment center as described in N.J.A.C. 10:87-2.7(a)4[.];

3. **Group living arrangements: Blind and/or disabled individuals who receive benefits under Title II (Retirement, Survivors, Disability Insurance benefits) or Title XVI (SSI) of the Social Security Act and who reside in public or private nonprofit group living arrangement that serves no more than 16 residents (see N.J.A.C. 10:87-2.7(a)4); and**

4. **Shelters for battered women and children: Women or women with their children temporarily residing in a shelter for battered women and children shall be considered individual household units for the purpose of applying for and participating in the program.**

i. **Shelters for battered women and children defined: A shelter for battered women and children shall be defined as a public or private nonprofit residential facility that serves battered women and their children which may be authorized by FNS to accept and redeem food coupons. If such a facility serves other**

individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children.

ii. **The CWA shall maintain a list of shelters which meet the definition in (a)4i above and document the basis of this determination. Shelters having FNS authorization to redeem coupons through wholesalers shall be deemed as meeting the above definition.**

10:87-2.7 Authorized representative

(a) The head of the household, spouse or any other responsible member of the household may designate an authorized representative to act on behalf of the household in one or all of the following capacities:

1.-3. (No change.)

4. **Drug or alcoholic treatment centers as authorized representatives: Narcotics addicts or alcoholics who regularly participate in a drug or alcoholic treatment program on a resident basis may elect to participate in the Food Stamp Program. The resident shall apply and be certified for Program participation through the use of an authorized representative who shall be an employee of and designated by an authorized representative who shall be an employee of and designated by the private nonprofit organization or institution which is administering the treatment and rehabilitation program. The organization or institution shall apply on behalf of each addict or alcoholic and shall receive and spend the coupon allotment for food prepared by and/or served to the addict or alcoholic. The organization or institution shall also be responsible with the requirements set forth in N.J.A.C. 10:87-7.18.**

i. (No change.)

ii. **Prior to certifying any residents for food stamps, the CWA shall verify that the treatment center is authorized by FNS as a retailer or is certified as an approved center, including the basis for the CWA determination that the center is a nonprofit organization.**

(1) **Evidence of authorization (Form FNS-254): A center or facility which is in possession of a current Food Stamp Program Authorization Card (Form FNS-254) shall be construed as an authorized center.**

(2) **State list of authorized facilities: The Division of Public Welfare, Bureau of Food Stamps, shall keep a list of currently certified facilities which may be obtained by the CWA upon request.**

5. **Group living arrangement facility as authorized representative: Residents of group living arrangements shall either apply and be certified through use of an authorized representative employed and designated by the group living facility or apply and be certified on their own behalf or through an authorized representative of their own choice. Prior to certifying any residents for food stamps, the CWA shall verify that the facility is authorized by FNS or certified by the Department of Human Services (see (a)5i below).**

i. **Group living arrangement defined: A group living arrangement shall be defined as a public or private nonprofit residential setting which serves no more than 16 residents, which is certified by the New Jersey Department of Human Services and which may elect to be authorized by FNS to accept food coupons.**

(1) **Evidence of authorization (Form FNS-254): A center or facility which is in possession of a current Food Stamp Program Authorization Card (FNS-254) shall be construed as an authorized center.**

(2) **State list of authorized centers and facilities: The Division of Public Welfare, Bureau of Food Stamps, shall keep a list of currently approved centers and facilities, which may be obtained by the CWA upon request.**

ii. **Staff of the group living arrangement facility has the responsibility to determine if any individual or group of individuals residing at the facility is competent to comprehend the application process and be responsible for his/her statements in order to apply on his/her own behalf.**

iii. If the group living arrangement facility acts as the authorized representative, the facility shall decide if application should be made for an individual resident as a one-person household or if some residents should make application together as a household.

iv. If the resident applies through the facility as the authorized representative, the facility may either receive and spend the coupon allotment for food prepared by and/or served to the eligible residents or allow the eligible resident to use all or any portion of the allotment on his/her own behalf.

v. If the residents are certified on their own behalf, the coupon allotment may either be returned to the facility to be used to purchase food for meals served, whether communally or individually to eligible residents; or the coupon allotment may be used by eligible residents to purchase and prepare food for their own consumption; and/or to purchase meals prepared and served by the group living arrangement.

vi. The group living arrangement facility is responsible for complying with the requirements set forth in N.J.A.C. 10:87-7.16.

10:87-2.8 Nonhousehold member as authorized representative
 In the event the only adult living with a household is classified as a nonhousehold member as defined in [section 3 of this subchapter] N.J.A.C. 10:87-2.3, that individual may be the authorized representative for minor household members.

10:87-2.34 Processing standards
 (a) (No change.)
 (b) Drug addicts and alcoholics, **and residents of group living arrangement facilities:** For residents of drug addiction or alcoholic treatment and rehabilitation centers **and residents of group living arrangements** (see N.J.A.C. 10:87-7.1[8]6(c)1) who are entitled to expedited service, the CWA shall mail an ATP, or have the ATP available to be picked up no later than 7 working days following the date the application was filed.
 (c)-(f) (No change.)

10:87-3.2 Residency in the county
 (a) A household must be a resident of the county in which it files an application for participation. No individual may participate as a member of more than one household, or in more than one county, in any month[.] ([F]or transfers between counties, see N.J.A.C. 10:87-9.[7]8[.] **except as follows in (a)1 below:**
1. Residents of shelters for battered women and children: Residents of shelters for battered women and children may participate in the program as a member of more than one household or in more than one county as a separate household in any month if the previously certified household of which they were members also contains the person who subjected them to abuse.
i. Shelter residents who are included in such certified households may receive an additional allotment as a separate household only once a month.

10:87-3.12 Eligibility to use coupons for prepared meals
 (a) The following individuals, if members of an eligible household, may use food coupons to purchase prepared meals from any communal dining facility, meal delivery service, [or] alcoholic and/or drug treatment center, **group living arrangement, or shelter for battered women and children** which is currently authorized by FNS to accept food coupons.
 1.-3. (No change.)
4. Group living arrangements: Members of eligible households who are residents of a private or public nonprofit facility, authorized by FNS to use coupons to purchase food for meals served either communally or individually.
5. Residents of shelters for battered women and children may use their coupons to purchase meals prepared especially for

them at a shelter which has been authorized by FNS to redeem coupons at wholesalers, or which redeems at retailers as the authorized representative of participating households.

10:87-4.4 Jointly owned resources
 (a)-(b) (No change.)
(c) Residents of shelters for battered women and children: Resources shall be considered inaccessible to residents of a shelter for battered women and children if:
1. The resources are jointly owned by such persons and by members of their former household; and
2. The shelter resident's access to the value of the resource is dependent on the agreement of a joint owner who still resides in the former household.

10:87-4.19 Period of disqualification
 The length of disqualification period shall be based on the amount by which nonexempt transferred resources, when added to other countable resources, exceed the allowable limits. For example, if a one-person household with [\$1,500]**\$1,250** in a bank account transferred ownership of a car worth \$5,000, \$250.00 of that transfer would be considered **in determining the period of ineligibility** because the first \$4,500 of the car's value is excluded and an additional \$250.00 of the transferred asset can be applied toward the [\$1,750]**\$1,500** resource limit. The following chart will be used to determine the period of disqualification:

Amount in Excess of the Resource Limit	Period of Household Disqualification
\$0.01-\$249.99	1 month
250-999.99	3 months
1,000-2,999.99	6 months
3,000-4,999.99	9 months
5,000 and over	12 months

10:87-7.16 Residents of drug/alcoholic treatment and rehabilitation programs **and group living arrangements**
 (a) Narcotic addicts or alcoholics, who regularly participate in drug or alcoholic treatment and rehabilitation programs on a resident basis, **and disabled or blind residents of group living arrangements who receive benefits under Title II or Title XVI of the Social Security Act** may [voluntarily] elect to apply for the Food Stamp Program. [Resident addicts and alcoholics shall have their eligibility determined as a one-person household. The CWA shall certify residents of drug/alcoholic treatment centers by using the same provisions that apply to all other applicant households except that certification must be accomplished through an authorized representative. (See also N.J.A.C. 10:87-2.7(a)4.)]
1. Narcotic addicts or alcoholics: Resident addicts and alcoholics shall have their eligibility determined as a one-person household. The CWA shall certify residents of drug/alcoholic treatment centers by using the same provisions that apply to all other applicant households except that certification must be accomplished through an authorized representative. (See also N.J.A.C. 10:87-2.7(a)4.)
2. Residents of group living arrangements: Residents of group living arrangements shall have their eligibiliity determined as one-person households when applying on their own behalf. The CWA shall certify residents of group living arrangements by using the same provisions that apply to all other applicant households except that certification may also be accomplished through an authorized representative of the group living arrangement or another representative chosen by the applicant. (See also N.J.A.C. 10:87-2.7(a)5.)
 (b) List of participants: Each treatment center [and], rehabilitation center, **and group living arrangement facility** shall provide the CWA with a certified list of currently participating residents on a monthly basis. In addition, the CWA shall conduct random onsite visits to the center **or facility** at least once every three months to

assure accuracy of the listings and CWA's records are consistent and up-to-date.

(c) Procedure applying to residents: The following provisions apply to residents of treatment centers **and group living arrangement facilities**.

1.-4. (No change.)

(d) Reporting requirements of the **drug/alcoholic treatment center and group living arrangement facility**: [The treatment center shall notify the CWA of changes in the household's income or other household circumstances and of when the addict or alcoholic leaves the treatment center. The treatment center shall return to the CWA a household's ATP or coupons received after the household has left the center.] **The treatment center or groups living arrangement facility shall be responsible for reporting changes to the CWA in accordance with the following:**

1. Reporting requirements of the treatment center: The treatment center shall notify the CWA of changes in the household's income or other household circumstances and of when the addict or alcoholic leaves the treatment center. The treatment center shall return to the CWA a household's ATP or coupons received after the household has left the center.

2. Reporting requirements of the group living arrangement facility: **If the group living arrangement facility is acting in the capacity of an authorized representative, the facility shall notify the CWA of changes in the household's income or other household circumstances and when the individual leaves the group living arrangement. The facility shall return a household's ATP or coupons to the CWA if they are received after the household has left the group living arrangement.**

i. Residents who have applied on their own behalf: **If the resident has made application on his/her own behalf, the household is responsible for reporting changes to the CWA.**

(e) Responsibilities upon a resident's leaving: [The treatment center shall provide resident addicts or alcoholics with their ID card and any untransacted ATP cards issued for the household when the household leaves the treatment and rehabilitation program. If the ATP card has already been transacted and the household leaves the treatment rehabilitation program prior to the 16th day of the month, the treatment center shall provide the household with one-half of its monthly coupon allotment. Once the household leaves the treatment center, the center is no longer allowed to act as the household's authorized representative. The center shall, if possible, provide the household with a Change Report Form to report, to the CWA, the individual's new address and other circumstances after leaving the center, and shall advise the household to return the form to the appropriate office of the CWA within 10 days.] **When a resident of an addict or alcoholic treatment center or group living arrangement facility leaves the treatment center or group living facility, the following provisions shall apply:**

1. The treatment center/group living facility shall provide residents with their ID card and any untransacted ATP cards or coupons issued for that household when the household leaves the center or facility.

2. The treatment center/group living facility must return to a departing household its full allotment of food coupons if already issued and no coupons were spent on behalf of that individual household.

3. Such treatment centers/group living facilities must return to the CWA, at the end of each month, any coupons not provided to departing residents.

4. Treatment centers/group living facilities shall not act as authorized representatives for any household that has left the center/facility.

5. The treatment center/group living facility shall, if possible, provide the household with a Change Report Form to report, to the CWA, the individual's new address and other circumstances after leaving the center/facility, and shall advise the household to return the form to the appropriate office of the CWA within 10 days.

(f) Fraud and misrepresentation: The organization [or], institution, **treatment center or group living facility** is responsible for any misrepresentation or fraud which it knowingly commits in the certification of center or facility residents. As an authorized representative, the organization [or] institution, **treatment center, or group living facility** must be knowledgeable about the household's circumstances and should carefully review those circumstances with residents prior to applying on their behalf. The organization [or], institution, **treatment center or group living facility acting in the capacity of an authorized representative** is strictly liable for all losses of misuse of food coupons held on behalf of resident households and for all overissuances which occur while the households are residents of the treatment center or group living facility. **A resident or a group of residents of a facility who applied and were certified on their own behalf, are liable for any overissuance.**

(g) Penalties and disqualifications: The organization [or], institution, **treatment center, or group living facility** may be penalized or disqualified by FNS if it is determined administratively or judicially that coupons were misappropriated or used for purchases that did not contribute to a certified household's meals. The CWA shall promptly notify DPW when it has reason to believe that an organization [or], institution, **treatment center, or group living facility** is misusing coupons in its possession. DPW will forward the report to FNS. However, the CWA shall not take any action against the organization [or], institution, **treatment center, or group living facility** prior to FNS action.

(h) Claims for overissuance: The CWA shall establish against the treatment center or **group living arrangement facility** for overissuance of food coupons held on behalf of resident clients if any overissuances are discovered during and investigation or hearing procedure for redemption violations.

(i) Disqualified treatment center or **group living arrangement facility**: If FNS disqualifies an organization [or], institution, **treatment center, or group living facility** as an authorized retail food store, the CWA shall suspend its authorized retail food store, the CWA shall suspend its authorized representative status for the same period. **If the treatment center or group living arrangement facility loses its authorization from FNS to accept and redeem coupons or loses its certification from the appropriate State agency, the residents of the center or facility are no longer eligible to participate in the program and are not entitled to a notice of adverse action but shall receive a written notice explaining the termination and when it will become effective. However, residents of group living arrangements applying on their own behalf are still eligible to participate.**

10:87-7.17 Residents of shelters for battered women and children

(a) Residents of shelters for battered women and their children shall apply as separate households and shall be certified solely on the basis of their income and resources, and the expenses for which they are responsible. Such households shall be certified without regard to the income, resources, and expenses of their former household.

(b) Jointly held resources shall be considered inaccessible if such resources meet the provisions of N.J.A.C. 10:87-4.4(c).

(c) Room payments to the shelter shall be considered as shelter expenses.

(d) Any shelter residents eligible for expedited service shall be handled in accordance with the provisions of N.J.A.C. 10:87-2.32.

(e) CWA responsibilities: The CWA shall take prompt action to ensure that the shelter resident's former household's eligibility or allotment reflects the change in the former household's composition. Such action shall include either shortening the certification period by issuing a notice of expiration to the shelter resident's former household or acting on the reported change by issuing a notice of adverse action. (See N.J.A.C. 10:87-9.7.)

10:87-9.7 Changes
 (a)-(b) (No change.)
 (c) Changes not requiring advance notice: Individual notices of adverse action are not required when:
 1.-8. (No change.)
9. Disqualified drug/alcoholic treatment center or group living arrangement facility: Residents of a treatment center or group living arrangement which lost its certification from the appropriate State agency or had its status as an authorized representative suspended due to FNS disqualifying it as a retailer.

(a)

DIVISION OF PUBLIC WELFARE

**Food Stamp Program
 Work Registration and Job Search**

**Proposed Amendments: N.J.A.C. 10:87-2.7,
 3.15, through 3.21**

Authorized By: George J. Albanese, Commissioner,
 Department of Human Services.
 Authority: N.J.S.A. 30:4B-2, the Food Stamp Act of
 1977 (P.L. 95-113), Section 6(d)(1) of the Act, and 7
 CFR 273.1 and .7.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1982-347.

The agency proposal follows:

Summary

The Food Stamp Act of 1977 requires that those food stamp participants who must register for employment must also search for employment on their own. This proposal provides procedures for participants to actively search for employment and delineates the roles of county welfare agencies, the New Jersey State Employment Service (NJSES), and food stamp participants in order to effect a work registration and job search system that will carry out the intent of the Act that able-bodied participants seek and find gainful employment.

Social Impact

The work registration and job search proposed amendments are intended to improve the integrity of the program by requiring work eligible participants to register for work, actively seek employment and accept jobs. Persons able but not willing to work would be eliminated from the program.

Economic Impact

This change will not impact significantly on State and county welfare agencies administering the program. NJSES has primary responsibility for carrying out the work registration and job search

requirements to the extent Federal funding is available. Some dollar savings in Federal benefits can be anticipated due to increases in the employment and earnings of recipients and elimination of persons able but not willing to work.

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

10:87-2.7 Authorized representatives
 (a) (No change.)

1. Making application for the program: When the head of the household or the spouse cannot make application, another household member may apply, or an adult nonhousehold member may be designated as the authorized representative for that purpose. The head of the household or the spouse should prepare or review the application whenever possible even though another household member or the authorized representative will actually be interviewed. **In conjunction with these provisions, another household member or the household's authorized representative may complete work registration forms for those household members required to register for work.** The CWA shall inform the household that it will be held liable for any overissuance which results from erroneous information given by the authorized representative, except as provided in N.J.A.C. 10:87-7.1[8]6(f). Adults who are nonhousehold members may be designated as authorized representatives for certification purposes only under the following conditions:

- i.-ii. (No change.)
- 2.-4. (No change.)

10:87-3.15 Work registration

(a) All members of an eligible household shall register for work, **comply with the job search requirements**, and accept suitable employment, if offered, unless exempt under any of the provisions of [section 18 of of this subchapter] **N.J.A.C. 10:87-3.18**. Upon reaching a determination that **an applicant or a member of the applicant's household** is required to register, the CWA shall explain to the applicant [both] the work registration **and job search requirements, his or her rights and responsibilities**, and the consequences of failure to comply.

(b) **The CWA shall provide work registration forms to the applicant for each household member required to register for employment and permit the applicant to complete the form. Household members are considered to have registered when a completed work registration form is submitted to the CWA.**

(c) **The work registration and job search functions of NJSES may be limited by the availability of administrative funds provided by USDA.**

10:87-3.16 Appropriate NJSES office defined

For the purposes of [section 22 of this subchapter] **N.J.A.C. 10:87-3.17**, the "appropriate" NJSES office shall be defined as that office having jurisdiction in the area in which a registrant resides.

10:87-3.17 Registration procedure

(a) Registration shall be accomplished [, ordinarily,] through the execution of [Form NJES-511B, "Self-Registration Application"] **a work registration form**. The certification worker shall review the registration form for completeness, retain a copy in the case record, and forward the original to the appropriate NJSES office [in order to comply with the NJES-511B work registration requirement. Such forms shall be forwarded to the NJES on a daily basis.] **in accordance with DPW instructions. The certification worker shall check "No" under the "job search" block on the work registration form for migrant or seasonal farm workers away from their usual place of residence, and following the work stream. Additionally, if the certification worker is aware that any registrant is exempt from the job search requirement, it shall be reflected in the "job search" block on the work**

registration form. The CWA shall not forward work registration forms to NJSES until the household is certified, but in no event, not later than five days after the date of certification.

(b) Frequency of registration: Each nonexempt person shall be required to register at the time of application and at least once every six months thereafter. Re-registration shall be accomplished by the return of a completed [NJES-1] information report form to the appropriate NJSES office.

(c) [Completion of NJES-511B not required: If an applicant's current WIN registration status can be definitively established prior to certification or recertification, the applicant shall not be required to complete Form NJES-511B.] Changes to be reported to NJSES: The CWA shall be responsible for notifying the appropriate NJSES office via an information report form of those work registrants who become exempt from the work registration requirement subsequent to registration, are no longer certified for participation in the program, or move from the area. Such notification shall be provided to the appropriate NJSES office within a reasonable time period but not to exceed 30 days from the date the change becomes known to CWA.

(d) Determination of work registration in case of agency disagreement: In the event that NJSES disagrees with the CWA determination that an individual is required to register for work, NJSES may request a reconsideration of the individual's nonexempt status. The CWA must respond to the reconsideration request within 30 days and NJSES must accept the response as final. If, however, the CWA fails to respond within 30 days, NJSES shall deregister the household member.

10:87-3.18 Exemptions from the work registration requirement

(a) Exemptions to the work registration requirement shall be determined when the household applies for benefits, when there is a change in the employment status of any member of the household, and/or when the six month registration period is initiated or renewed. The applicant shall cooperate fully with regard to the establishment of his or her exemption from the work registration requirement. If an applicant fails to cooperate in the determination of his or her exempt status, the county welfare agency shall require the applicant to register on Form NJES-511B **complete a work registration form.**

(b) The following persons shall be exempt from the work registration requirement:

1.-4. (No change.)

5. Employed persons: Persons who are employed or self-employed at least 30 hours per week or receiving weekly earnings equal to the federal minimum wage multiplied by 30 hours shall be exempt. **This shall include migrant and seasonal farm workers who are under contract or similar written agreement with an employer or crew chief to begin employment within 30 days, although this shall not prevent individuals from seeking additional services from NJSES.**

i. (No change.)

6. (No change.)

7. Persons subject to registration under other programs: Persons registered for work in accordance with program requirements of [AFDC and] General Assistance are exempt.

i. (No change.)

ii. [Persons deleted from assistance for failure to register: Persons whose needs have been deleted from AFDC or GA for refusal to cooperate in work requirements are subject to the work requirements of this program unless exempt in accordance with the criteria in this section.] **Persons failing to comply with AFDC or GA work registration requirements: Persons who fail to comply with an AFDC or GA work registration requirement that is equivalent to a food stamp work registration requirement shall be disqualified in accordance with the provisions of N.J.A.C. 10:87-3.20.**

(1) Notification procedures for GA recipients who fail to comply with work registration requirements: Municipal welfare departments shall advise the CWA of each GA recipient who fails to comply with any work registration requirement and of the actual requirement with which the recipient failed to comply. **If the GA recipient is participating in the food stamp program, the CWA shall determine if the failure to comply with the GA work requirement is equivalent to a food stamp work registration requirement.**

8.-9. (No change.)

10. WIN registrant: A household member subject to and participating in WIN shall be exempt.

(c) Persons losing exempt status: Persons losing exempt status due to any change in circumstance that is subject to the reporting requirements of N.J.A.C. 10:87-9.7(a)1i shall register for employment when the change is reported according to the following procedures:

1. If the change is reported in person by the household member required to register, the person shall complete a work registration form at the time the change is reported, unless this is not possible, in which case the household member shall return the work registration form to the CWA within 10 days.

2. If the change is reported in person by a household member other than the member required to register, the person reporting the change may complete the work registration form at the time the change is being reported or deliver the work registration form to the household member.

3. If the change is reported by phone or through the mail, the CWA shall be responsible for providing the participant with a work registration form.

4. Participants shall be responsible for returning the work registration form to the CWA within 10 calendar days from either the date the form was handed to the household member reporting the change in person, or the date the CWA mailed the form.

5. Persons who lose their exempt status due to a change in circumstances that is not subject to the reporting requirements of N.J.A.C. 10:87-9.7(a)1i shall register for employment at the household's next recertification.

10:87-3.19 Additional registration requirements

(a) For the purposes of retaining eligibility for Food Stamp benefits, a nonexempt member of the household, who is registered for work [on Form NJES-511B] shall be required to comply with the following provisions:

1. NJSES interview: The registrant shall, upon reasonable request, report to the appropriate NJSES office for a personal interview. **NJSES shall send the registrant a letter informing him or her about the interview. If the registrant fails to appear for the interview and has not contacted NJSES in advance to reschedule the interview, the NJSES office shall send a second letter scheduling another interview. If the registrant does not respond to the second interview request, the NJSES shall notify the CWA within five working days of the date the registrant failed to comply with the second interview request. The CWA shall take the appropriate action in accordance with the provisions of N.J.A.C. 10:87-3.20.**

2. Response to request by NJSES for additional information: The registrant shall be required to respond, in a timely fashion, to any request by the appropriate NJSES office for supplemental information regarding [employment status and/or availability for work] **past work experience skills.**

3. (No change.)

i. (No change.)

ii. (No change.)

(1) (No change.)

(2) Persons exempt from work registration: Persons exempt from the full time work registration provisions as stated in [section 18 of this subchapter] **N.J.A.C. 10:87-3.18.**

iii.-iv. (No change.)

4.-5. (No change.)

6. Continuation of suitable employment: The registrant shall be required to continue suitable employment to which he or she was referred, unless termination from such employment is due to circumstances beyond his or her control, the employment is no longer considered suitable in accordance with [paragraph 5 of this subsection](a)5 above, or the registrant becomes exempt from the work registration requirement (see [section 18 of this subchapter] N.J.A.C. 10:87-3.18).

7. (No change.)

(b) Job search: Persons required to register for work shall also be subject to a job search.

1. Job search assignment: During the initial assessment interview, NJSES shall determine the job search category of each work registrant. NJSES shall provide each registrant with written notification regarding his or her job search requirements, procedures to be followed and the consequences of failure to comply. Based on the capabilities and characteristics of the registrant, NJSES shall place each work registrant into one of the following categories:

i. Category I - Job Ready:

(1) Those registrants that have no apparent substantial barriers to employment shall be placed in Category I - Job Ready.

ii. Category II - Non-Job Ready:

(1) Those registrants with substantial barriers to employment such as, but not limited to, medical, transportation, language or family problems, that alone or in conjunction with adverse labor market conditions would make them difficult to place shall be placed in Category II - Non-Job Ready.

(2) Persons on temporary layoff or expecting to return to work within 60 days, shall be placed in Category II - Non-Job Ready for 60 days from the date of initial registration. At the end of the 60 day period, such persons, if still unemployed, may be re-categorized as appropriate.

iii. Category III - Exempt:

(1) The NJSES determination of exempt status shall be made at the time the work registration form is received from the CWA to preclude the need of such registrants to travel to the NJSES office for an interview, unless it is impossible for the NJSES office to determine exempt status from the information on the work registration form.

(2) Those work registrants for whom a job search is determined to be impractical, specifically including registrants residing an unreasonable distance from the appropriate NJSES office or potential employers shall be placed in Category III - Exempt.

(A) A distance shall be considered unreasonable if the round trip exceeds two hours by reasonably available public or private transportation.

(3) Migrant and seasonal farmworkers away from their usual place of residence and following the work stream shall also be placed in Category III-Exempt.

2. Job search requirements: Persons classified as Category I - Job Ready or persons losing exempt status or reentering the Food Stamp Program after a period of absence shall be subject to and must comply with a job search for a period of eight weeks each 12 months. The NJSES office may require that the eight week period be one continuous period, or that it be divided into two separate job search periods which total eight weeks.

i. Job contact: Registrants shall contact, as required by NJSES, up to 24 prospective employers during the eight week period. If the job search period is shortened, the number of required job contacts shall be reduced on a pro rata basis, to the maximum extent practicable.

(1) A referral by NJSES to an employer shall be considered a job contact provided the registrant presents himself or herself to the employer as available for employment.

(2) To be considered a job contact initiated by the registrant, the registrant must present himself or herself to the employer

as available for work and the employer must ordinarily employ persons in areas of work that the registrant is reasonably qualified by means of experience, training or ability and is not considered unsuitable employment in accordance with N.J.A.C. 10:87-3.19(a)5.

(3) Depending upon the position being sought, the job contact requirements may be fulfilled by either a personal visit to the prospective employer or another method of application which is considered by the NJSES office to be generally accepted practice.

(4) The work registrant cannot contact the same employer in subsequent weeks unless the initial contact indicated that vacancies in suitable job positions may soon exist.

ii. Reporting job contacts to NJSES

(1) Twice during the eight week job search period the work registrant shall report at a prescheduled time to NJSES, the result of all job search contacts. If the eight week job search activity is divided into two separate periods, NJSES may require the registrant to report once during each period of job search activity.

(2) Job contacts shall be reported in writing in a manner prescribed by NJSES. At the time of the initial interview with NJSES, the work registrant shall be informed about the manner of reporting. While such reporting will not require the employer's written confirmation of the job contact, the registrant shall be required to sign written documentation to attest to its validity. The registrant shall be responsible for providing NJSES, upon reasonable request, any additional information regarding job contacts.

3. NJSES review of job contacts: NJSES shall determine if the work registrant has completed the assigned number of job contacts.

i. If the registrant was assigned a continuous job search period of less than eight weeks, the registrant shall have two additional weeks to complete any missed contacts.

ii. If the registrant was assigned a single continuous eight week job search period, no additional time shall be allowed unless NJSES fails to accept, for reasons such as suitability or manner of contact, a job contact(s) reported by the registrant. In such instances, the work registrant shall be allowed an additional two weeks to make up the disallowed contact(s).

iii. Persons failing to complete the required number of job contacts, with good cause, shall be excused from completion of the job search requirements.

iv. If a registrant believes that a NJSES determination may be obtained from a designated NJSES official not involved in the original determination. For example, if the registrant believes he/she has been improperly assigned to a job search category or assigned an improper number of job search contacts, or that an action which should have been counted as a contact was not, a review may be obtained. This also applies to an NJSES determination that noncompliance was not for good cause.

10:87-3.20 Failure to comply

(a) If the registrant fails to comply with any work registration or [work] job search requirement[s] provisions in this subchapter, without good cause, the appropriate NJSES office shall notify the county welfare agency[,] within five working days of the date such information becomes known to the NJSES, citing specific facts and circumstances, by means of [Form NJSES-1] an information report form. The NJSES office shall be responsible for contacting the registrant to determine if good cause existed.

(b) CWA responsibilities: Within 10 days after [the] NJSES provides notification of failure to comply, the CWA shall [determine if the household had good cause for failure to comply. If good cause is not established, the CWA shall] provide the household with notice of adverse action and begin the disqualification period with the first month following the expiration of the adverse action notice period unless a fair hearing is requested.

1. Fair hearing: Each household has a right to a fair hearing to [contest a determination of nonexempt status or] **appeal** a denial, reduction, or termination of benefits due to a **determination of nonexempt status or a NJSES determination of failure to comply with the work registration and/or job search requirements of this subchapter.**

i. **The household can appeal NJSES actions such as the job search category assigned, the number of job search contacts required, NJSES refusal to accept an action as a job search contact, or NJSES refusal to make a finding of good cause.**

ii. **A fair hearing shall be scheduled in accordance with N.J.A.C. 10:87-8.6(a)4 and the NJSES office shall be provided with sufficient advance notice to either permit the attendance of an NJSES representative or insure that an NJSES representative will be available for questioning over the phone during the hearing.**

(1) **NJSES representative attendance at hearing: If the Administrative Law Judge determines that the NJSES representative should be present at the hearing because of the nature and importance of the evidence to be given, the hearing shall be adjourned and rescheduled for a time at which the NJSES representative is able to attend. In such an event, the time frames prescribed by N.J.A.C. 10:87-8.19 for rendering a fair hearing decision shall be extended for as many days as elapse between the original fair hearing and the rescheduled fair hearing.**

(c) **Good cause for non[-] compliance: The NJSES shall be responsible for determining good cause in those instances where the work registrant fails to comply with the work registration and job search requirements of this subchapter. The CWA shall determine good cause in those cases where an applicant has voluntarily quit a job (see N.J.A.C. 10:87-3.19(a)3iii). [In the determination of good cause.] NJSES and the county welfare agency shall take into consideration all of the facts and circumstances which existed at the time of the registrant's alleged failure to comply including information submitted by [NJSES,] the employer and the household member involved. [Only those] **Good cause shall include** circumstances [which can be construed as being] beyond the control of the registrant[, shall be considered good cause for noncompliance].**

(d) **Good cause [defined] circumstances: Good cause for noncompliance shall [be defined] include circumstances such as, but not limited to, the illness of the registrant, or another household member, unavailability of transportation, and/or an unanticipated emergency. Problems caused by inability of the registrant to speak or write English may constitute good cause. For example, a registrant who cannot read English would have good cause for not appearing for an NJSES interview if the appointment notice was written only in English.**

1. (No change.)

(e) **Penalty for non[-] compliance: If the CWA [determines that the registrant's failure to comply was without good cause, the following penalties will apply as appropriate:] is informed by the NJSES Office that a household member has refused or failed, without good cause, to comply with the requirements of this subsection or the CWA determines that a registrant voluntarily quit a job without good cause, the following penalty will apply:**

1. **Household ineligibility: [If the CWA determines that a household member has refused or failed without good cause to comply with the requirements of section 19 of this subchapter,] [t]The entire household shall become ineligible for a period of two months or until such member becomes exempt, or complies with the provisions for reestablishment of eligibility (see [section 21 of this subchapter] N.J.A.C. 10:87-3.21) whichever is earlier.**

10:87-3.21 Reestablishment of eligibility

(a) **A household [or household member] which has become ineligible for program benefits because of noncompliance with the work registration and/or job search requirements may have**

eligibility, regarding work registration and/or job search requirements, restored upon satisfaction of one of the following provisions:

1. **Expiration of the suspension period: The household [or household member] shall not retain its status of ineligibility regarding work registration and/or job search requirements for a period greater than two months.**

i. **New two month period: If the two month period should elapse and, upon reapplication, the household member again refuses to comply with the work registration and/or job search requirements, the member is subject to disqualification pursuant to provisions of this section.**

2. **Achievement of exempt status: If the household member should achieve exempt status, as defined in [section 18 of this subchapter] N.J.A.C. 10:87-3.18, prior to the expiration of the two month suspension period, then he or she shall no longer be considered ineligible on the basis of noncompliance with [the] work registration and/or job search requirements.**

3. **Nonhousehold member: If the household member who caused the disqualification is no longer a member of the household, the remaining members of the household may resume participation in the program if the household reapplies and is determined eligible. Any new household containing the disqualified person shall be subject to disqualification for the remainder of the disqualification period.**

[3.]4. **Compliance at a later date: If, prior to the expiration of the two month suspension period, the [applicant] household member who caused the disqualification complies with the provisions of [section 15 of this subchapter] N.J.A.C. 10:87-3.15 which he or she failed to meet initially, then he or she shall no longer be considered ineligible on the basis of noncompliance with the work registration and/or job search requirements.**

[i. **Reporting to an employer: If the registrant initially failed to comply with the provisions of N.J.A.C. 10:87-3.19(a)4, reporting to this employer if work is still available or to another employer to whom referred, shall be regarded as compliance with the work registration requirement.]**

[ii.]i. **Accepting suitable employment: If the registrant [initially failed to comply with the provisions of N.J.A.C. 10:87-3.19(a)5,] refused to accept a bona fide offer of suitable employment to which he or she was referred by NJSES, acceptance of the employment offer, if still available to the participant, or [acceptance] securing of any other employment which yields earnings per week equivalent to the refused job, or acceptance of any other employment of at least 30 hours per week[,] or any employment of less than 30 hours per week but with weekly earnings equal to the [f]Federal minimum wage multiplied by 30 hours, shall be considered as compliance with the work registration/job search requirements.**

[iii.]ii. **Return to suitable employment: If the registrant [initially failed to comply with the provisions of N.J.A.C. 10:87-3.19(a)6, then a return to his or her former employment at a later date.] refused to continue suitable employment to which he or she was referred by NJSES, if still available to the participant, or [the acceptance] securing of any other employment of at least 30 hours per week or less than 30 hours per week but with weekly earnings equal to the Federal minimum wage multiplied by 30 hours, shall be regarded as compliance with the work registration/job search requirements.**

iii. **Reporting to NJSES: If the registrant initially failed to comply with the job search requirements, the assessment interview, follow-up interview, and/or job contacts, without good cause, and such failure results in disqualification, the disqualification of the household can only be ended if the person who caused the disqualification becomes exempt from the work registration requirement or is no longer a member of the household.**

INSURANCE

(a)

DIVISION OF ADMINISTRATION

Commercial Lines Insurance

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

Authorized By: Joseph F. Murphy, Commissioner,
Department of Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e) and the
Commercial Insurance Deregulation Act of 1982, P.L.
1982 c.114, N.J.S.A. 17:29AA-1 et seq.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1982-374.

The agency proposal follows:

Summary

The Commercial Insurance Deregulation Act of 1982, P.L. 1982 c.114, N.J.S.A. 17:29AA-1 et seq. exempts certain lines of commercial insurance from the provisions of the existing property-liability rating law (N.J.S.A. 17:29A-1 et seq.) except as specifically provided in the Act. The Deregulation Act establishes a separate rating law for commercial insurance which affords insurers greater flexibility in the underwriting and rating of commercial risks while maintaining appropriate regulatory oversight. The Commissioner of Insurance is empowered under the Act to promulgate rules and regulations in order to implement and enforce its provisions.

These proposed rules set forth those procedures which insurers must follow in submitting filings of rates, supplementary rate information and policy forms on commercial lines coverages. The proposal also incorporates by reference certain existing rules concerning the statistical plans used by insurers in recording and reporting loss and expense experience on commercial lines and the procedures applicable to consent to higher rate filings. With respect to a particular category of commercial risks designated in the Act as "special risks," the rules describe this category more specifically and set forth certain standards insurers must follow in maintaining statistical, financial and other records on such risks.

Social Impact

The proposed rules together with the Commercial Insurance Deregulation Act of 1982 are expected to enhance the ability of commercial insureds and insurers to effectively negotiate contracts thereby stimulating competition and encouraging efficient rating and marketing practices.

While recognizing that many commercial insureds do not require the same degree of regulatory protection afforded to individual insureds, the requirements of the Act and proposed rules ensure that the rights of such insureds are adequately protected.

Economic Impact

The prior approval process applicable to commercial lines filings under N.J.S.A. 17:29A-1 et seq. created a costly and time consuming process for insurers preparing and submitting such filings and for the Department in carrying out its review and approval responsibilities. The streamlining of this process which results from the Commercial Insurance Deregulation Act of 1982, and the proposed rules designed to facilitate its implementation, should accordingly result in savings.

Full text of the proposal follows.

CHAPTER 13 COMMERCIAL LINES INSURANCE

SUBCHAPTER 1. GENERAL PROVISIONS

11:13-1.1 Purpose

The Commercial Insurance Deregulation Act of 1982 establishes a separate rating law for commercial lines insurance and exempts such lines from the provisions of N.J.S.A. 17:29A-1 et seq. except as provided by the Act. This chapter provides rules for the implementation of the Act.

11:13-1.2 Scope

(a) This chapter applies to all policies or contracts of insurance issued by a licensed insurer pursuant to Title 17 of the Revised Statutes except:

1. Ocean marine, title, mortgage guaranty, workers' compensation and employers' liability, any policy or contract of reinsurance, other than joint reinsurance, as provided for in section 22 of the Commercial Insurance Deregulation Act of 1982, insurance written through the New Jersey Medical Malpractice Reinsurance Association, insurance written through the New Jersey Insurance Underwriting Association, and insurance issued by hospital service or medical service corporations;

2. Insurance issued for personal, family or household purposes;

i. Examples of policies of insurance issued for personal, family or household purposes are:

(1) Policies used solely to provide homeowners insurance, dwelling fire insurance on one to four family units, or individual fire insurance on dwelling contents;

(2) Policies principally used to provide primary insurance on private passenger automobiles which are individually owned and used for personal or family needs; and

(3) Policies of personal inland marine, personal theft, residence glass, personal liability insurance and personal excess.

ii. Insurance issued for personal, family or household purposes does not include insurance used to cover business, professional or other commercial risks, such as farmowners, businessowners, and commercial multi-peril policies.

11:13-1.3 Definitions

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

"Commissioner" means the Commissioner of Insurance.

"Department" means Department of Insurance.

"Insurer" means any person, corporation, company, association, joint underwriting association, partnership, or any other legal entity licensed under the laws of this State to transact the business of insurance in this State.

"Policy" means any contract of insurance subject to this chapter and includes, but is not limited to, all policies, contracts, certificates and endorsements.

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

"Special Risks" means:

1. Commercial lines insurance risks as specified on a list promulgated by the Commissioner, which are of an unusual nature or high loss hazard or are difficult to place or rate or which are excess or umbrella or which are eligible for export;

2. Inland marine insurance, other than personal lines;

3. Fidelity, surety or forgery bonds; or

4. Commercial lines insurance risks which produce minimum annual premium in excess of \$10,000 as specified in subchapter 4 of this chapter.

"Supplementary rate information" includes any manual or plan of rates, statistical plan, classification, rating schedule, rating rule and any other rule used by an insurer in making rates.

11:13-1.4 Separability

If any provision of this chapter, or its application to any person or circumstances is held to be invalid, the remainder of this chapter and its application to the other persons or circumstances shall not be affected.

SUBCHAPTER 2. COMMERCIAL LINES FILINGS

11:13-2.1 Filing of rates, supplementary rate information, and policies

(a) This subchapter sets forth procedures and requirements for the filing of commercial lines rates, supplementary rate information and policies. The requirements of this subchapter shall not be applicable to:

1. Policy forms exempted by order of the Commissioner; or

2. Rates, supplementary rate information or policy forms used in connection with any special risk provided, however, that policy forms which are used in connection with commercial lines risks producing a minimum annual premium in excess of \$10,000 as described under N.J.A.C. 11:13-4.1(a)4 and which are not otherwise described as special risks shall be subject to the requirements and filing procedures found in this subchapter.

(b) Pursuant to section 5 of the Commercial Insurance Deregulation Act of 1982, every insurer and rating organization shall file with the Commissioner all rates and supplementary rate information and all changes and amendments thereof not later than 30 days after becoming effective.

(c) Pursuant to section 6 of the Commercial Insurance Deregulation Act of 1982, insurers shall file copies of all policy forms for approval with the Commissioner at least 30 days prior to becoming effective.

(d) Filings submitted to the Commissioner must be explicit and self-contained, must be supported by statistics, where applicable, and must set forth the information upon which the filer relied in making the filing.

11:13-2.2 Filings of changes

(a) Filings containing changes in rates, supplementary rate information, including any manual rules or plans, or in policy forms or endorsements required to be filed with the Department shall be presented in the following fashion:

1. A copy of the page or pages containing the passage for which a change is proposed shall be filed in such form that the text is self-contained without need to refer to material not included in the filing. Matter to be changed or omitted by the filing shall be identified, preferably by marking the passages to be changed with a marking pencil; where matter is to be added, a mark () shall so indicate.

2. A memorandum shall be filed reciting the rule or section of form to be changed, properly referenced as to the manual or form, with newly added matter underlined and matter to be eliminated in brackets [].

(b) An explanatory note shall state the reason or purpose for the proposed change including any statistical support, and a calculation or estimate of the effect of the change on premiums and/or losses shall be submitted:

1. Filings of proposed rate changes must contain all information

upon which the rater filer relied. Due consideration must be given to: past and prospective loss experience, including where pertinent, the conflagration and catastrophe hazards, if any, both within and without the State; all factors reasonably related to the kind of insurance involved; a reasonable profit for the insurer; and, in the case of participating insurers, policyholder's dividends.

11:13-2.3 Adoption of rates, supplementary rate information or policies of other filers

(a) If a filer adopts rates or supplementary rate information used by other filers or proposes to adopt policy forms or endorsements previously approved (or deemed approved) for other filers in New Jersey, the filing shall clearly identify such reference including the name of the filer and, if applicable, the date such filings were approved in this State, including any amendments thereof. The Department staff will give reasonable assistance to a filer in obtaining such information to the extent that it is a public record:

1. If the proponent wishes to adopt exactly and without any change filings of rate or supplementary rate information used by or policies and endorsements approved for rating organizations or accepted for reference purposes on behalf of advisory organizations in New Jersey, the filing shall clearly identify such reference but shall not include a copy of the material referred to.

i. If the proponent wishes to adopt such filing material with some exceptions, he shall clearly identify such reference and shall submit copies of only those pages containing such exceptions.

2. If the proponent wishes to adopt filings approved in New Jersey for other filers acting independently of rating organizations, the material made reference to must be filed, with any modifications identified as outlined under N.J.A.C. 11:13-2.2.

11:13-2.4 New filings

Policy forms and supplementary rate information such as manual rules or rating plans are rarely entirely new. Most such filings are built upon something previously or currently in use. Any required action with respect to such filings will be expedited if they are identified as to their foundation. Filings shall not be identified as new filings if they properly fall under the categories discussed under N.J.A.C. 11:13-2.2 and 2.3.

11:13-2.5 Filing questionnaires

(a) The filing questionnaires described in this section and shown as Exhibits A, B and C of this chapter shall be used in conjunction with the procedures and requirements set forth in sections 1 through 4 above by all insurers and rating organizations in submitting filings required pursuant to the Commercial Insurance Deregulation Act of 1982 and this chapter.

(b) Every insurer and every rating organization submitting filings of rates or supplementary rate information shall complete and submit with the filing the Commercial Lines Insurance-General Questionnaire and Affidavit of Compliance shown in Exhibit A and the Commercial Lines Insurance-Rate and Supplementary Rate Information Questionnaire shown in Exhibit B.

(c) Every insurer submitting policy forms for approval shall complete and submit with the filing the Commercial Lines Insurance-General Questionnaire and Affidavit of Compliance shown in Exhibit A and the Commercial Lines Insurance-Policy Approval Questionnaire shown in Exhibit C.

1. Pursuant to section 6 of the Commercial Insurance Deregulation Act of 1982, only a policy form filing which is accompanied by a properly completed General Questionnaire, Affidavit of Compliance and Policy Approval Questionnaire, shall be deemed approved by the Commissioner as of its effective date unless disapproved by the Commissioner prior to that date.

SUBCHAPTER 3. EXPENSE EXPERIENCE

11:13-3.1 Expense experience

(a) N.J.A.C. 11:4-10.1 and 10.2 including all subsequent

amendments and supplements are hereby adopted as rules with the modifications indicated in (b) below.

1. This document is available for review at or may be purchased from the New Jersey Department of Insurance, 201 East State Street, Trenton, New Jersey.

(b) The following are modifications to the rule referenced in (a) above:

1. Reference to N.J.S.A. 17:29A-5 contained in N.J.A.C. 11:4-10.1(a) is deleted and replaced with "section 16 of the Commercial Insurance Deregulation Act of 1982".

SUBCHAPTER 4. SPECIAL RISKS

11:13-4.1 Special risks

(a) This subchapter sets forth procedures and requirements which are applicable to various categories of commercial lines risks herein designated as special risks pursuant to section 3.k of Commercial Insurance Deregulation Act of 1982. Such special risks are:

1. Commercial lines insurance risks as specified on a list promulgated by the Commissioner which are of an unusual nature or high loss hazard or are difficult to place or rate or which are excess or umbrella, or which are eligible for export;

2. Inland marine insurance, other than personal inland marine;

3. Fidelity, surety or forgery bonds; or

4. Commercial lines insurance risks which produce minimum annual premium in excess of \$10,000. Only premiums generated by coverages subject to the Commercial Insurance Deregulation Act of 1982 shall be used in determining whether a risk generates a premium sufficient to qualify under this paragraph. Risks producing a minimum annual premium in excess of \$10,000 shall be:

i. A single risk which generates annual premium in excess of \$10,000 written under a single policy.

ii. A single risk which generates annual premium in excess of \$10,000 written under more than one policy if all are written by the same insurer or group.

iii. A risk written under a single policy covering more than one risk which policy generates an annual premium in excess of \$10,000.

(b) Except as otherwise required by the provisions of this chapter or as may be ordered by the Commissioner, the requirements and procedures found in subchapters 2 and 3 above shall not apply to special risks.

OFFICE OF ADMINISTRATIVE LAW NOTE: The Department of Insurance will hold a public hearing concerning the list of special risks to be promulgated by the Commissioner on October 19, 1982 at 10:00 A.M. at:

Department of Insurance
Hearing Room
201 East State Street
Trenton, NJ 08625

The list as subsequently promulgated by the Commissioner will be published in the Register for informational purposes and will be available from the Department of Insurance.

11:13-4.2 Reporting requirements

(a) Expense experience statistics with respect to special risks written by an insurer shall be maintained in accord with subchapter 3 of this chapter and shall be reported promptly to the Department upon request.

(b) The Commissioner may require the filing of such additional reports as he deems necessary to implement the provisions of the Commercial Insurance Deregulation Act of 1982 and this chapter.

11:13-4.3 Examination

The underwriting files, premium, loss and expense statistics, financial and other records with respect to special risks written by

an insurer shall be maintained in such detail as may be required by the Commissioner and shall be subject to examination by the Commissioner or his designee in this State as often as deemed necessary by the Commissioner.

SUBCHAPTER 5. PROCEDURE FOR THE REGULATION OF CONSENT TO HIGHER RATE FILINGS

(a) N.J.A.C. 11:4-7 including all subsequent amendments and supplements is hereby adopted as a rule with the modifications indicated in (b) below.

1. This document is available for review at or may be purchased from the New Jersey Department of Insurance, 201 East State Street, CN 325, Trenton, New Jersey.

(b) The following are modifications to the rule referenced in (a) above:

1. Reference to N.J.S.A. 17:29A-22 contained in N.J.A.C. 11:4-7.1(b)11 is deleted and replaced with "section 26 of the Commercial Insurance Deregulation Act of 1982".

The following Exhibits are part of this proposal.

EXHIBIT A

NEW JERSEY DEPARTMENT OF INSURANCE
COMMERCIAL LINES INSURANCE
GENERAL QUESTIONNAIRE

COMPLETE FOR ALL FILINGS. USE ADDITIONAL SHEETS AS REQUIRED.

- 1. Date of Submittal
2. Name all filing companies (and group, if applicable).

Table with 2 columns: Company, and 7 numbered rows for listing companies.

3. Indicate type of filing: place "x" for all applicable items.

- Rate, Supplementary Rate, Policy or Endorsement, Information

4. Indicate the category of the filing: place "x" for all applicable items.

- New, Revision, Reference, Withdrawal

5. Indicate the lines and, if applicable, sublines of insurance affected by this filing.

Table with 2 columns: Line, Subline, and 2 numbered rows for listing affected lines.

6. Does this filing have any impact on rates to be charged or losses to be paid?

- Yes, No

a. Please describe in detail the anticipated impact and, if possible, state the estimated overall percentage.

% Indeterminable

AFFIDAVIT OF COMPLIANCE

The attached filing, to the best of my knowledge and belief, fully conforms to all pertinent State of New Jersey Laws, and New Jersey

Insurance Department rules and requirements. The attached filing, to the best of my knowledge and belief, contains no provisions previously disapproved by the New Jersey Insurance Department, except as specifically noted within the attached letter.

Date

Name and Title of Insurer's Officer

Signature

EXHIBIT B

**NEW JERSEY DEPARTMENT OF INSURANCE
COMMERCIAL LINES INSURANCE
RATE AND SUPPLEMENTARY RATE
INFORMATION QUESTIONNAIRE**

COMPLETE FOR FILINGS AFFECTING EXISTING OR NEW RATES OR SUPPLEMENTARY RATE INFORMATION—USE ADDITIONAL SHEETS AS REQUIRED. IF THE INFORMATION IS DESCRIBED IN FILING, IDENTIFY EXHIBIT AND SPECIFIC PAGES.

1. On what date did you begin or plan to begin using the provisions or changes outlined in this filing? _____

2. Does this filing change rates or supplementary rate information which you have previously filed with the Department?

Yes No (Explain "No" Answer)

a. If the answer to 2, above, is yes, please identify the previous filing as specifically as possible. Please include the following information, if available.

DEPARTMENT FILING NUMBER _____
EFFECTIVE DATE OF USE _____
DATE OF SUBMITTAL _____

3. Does this filing represent an adoption or an adoption with modifications of rates or supplementary rate information used by another filer?

Adoption Adoption w/Modification Inapplicable (Explain)

a. Identify filing as specifically as possible. Please include the following information if available.

FILER _____
DEPARTMENT FILING NUMBER _____
EFFECTIVE DATE OF USE _____

EXHIBIT C

**NEW JERSEY DEPARTMENT OF INSURANCE
COMMERCIAL LINES INSURANCE
POLICY APPROVAL QUESTIONNAIRE**

COMPLETE FOR FORMS OR ENDORSEMENTS AFFECTING EXISTING OR NEW COVERAGES—USE ADDITIONAL SHEETS

AS REQUIRED. IF INFORMATION IS DESCRIBED IN FILING IDENTIFY EXHIBIT AND SPECIFIC PAGES.

1. On what date do you propose to make the provisions or changes described in this filing effective? _____

2. Please indicate whether the policy forms or endorsements included in this filing are identical, similar, or not similar or identical to any previously approved filing.

Identical Similar Not Similar or Identical (Explain)

A. If similar or identical, please identify the previous filing as specifically as possible. Include the following information, if available.

FILER _____
FORM NUMBER _____
DEPARTMENT FILING NUMBER _____
DATE OF APPROVAL _____

3. Please identify and describe below any changes being made on a previously approved form, including but not limited to those changes which affect coverages provided by the policy or endorsement. Please reference any attachments, including copies of forms or memoranda which serve to identify or describe these changes.

Form No.	Added	Changed	Deleted
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____

4. Provide a specific explanation of the reasons for any changes described in item 3 above. If applicable, describe how the changes affect coverages provided by the policy and the impact on premiums and/or losses. Please reference any supporting attachments.

- 1. Form No. _____
- 2. Form No. _____
- 3. Form No. _____
- 4. Form No. _____
- 5. Form No. _____

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

**Bills and Payments for Service
Budget Billing Plans**

Proposed New Rule: N.J.A.C. 14:3-7.11A

Authorized By: Board of Public Utilities, Barbara A. Curran, President.
Authority: N.J.S.A. 48:2-12 and 13.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Edward D. Beslow, Esq.
Regulatory Officer
Board of Public Utilities
1100 Raymond Boulevard
Newark, NJ 07102

The Board of Public Utilities thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption

becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-368.

The agency proposal follows:

Summary

The proposed new rule provides for a uniform plan applicable to residential customers of gas and electric utilities for budget billing payments to be implemented by all gas and electric utilities in the State of New Jersey under the jurisdiction of the Board of Public Utilities. Currently, each such utility has its own practices concerning budget and payment billing. The rule is intended to permit the Board of Public Utilities to regulate budget billing payment practices in a uniform manner.

Social Impact

This proposed new rule will affect the thousands of residential customers who are currently utilizing the various budget billing and payment plans offered by the gas and electric utilities in the State of New Jersey. The public will benefit from a single uniform plan and from the over-view which the Board of Public Utilities would exercise concerning same.

Economic Impact

This new regulation will not have any economic impact on the Board of Public Utilities.

Residential customers of electric and gas utilities will derive an economic benefit as a result of established uniform requirements for monthly projected usage, reviews of budget plans, and the right to negotiate a deferred payment agreement. If a customer elects to go off the budget plan, he may not be required to pay a down payment of more than 25 percent of the total outstanding bill due at the time a deferred payment agreement is made or executed.

Full text of the proposed new rule follows.

14:3-7.11A Requirements for budget billing and payment plans of gas and electric utilities for residential accounts

(a) Each gas and electric utility shall have available at request a budget payment billing plan for residential accounts having the characteristics set forth below.

1. The plan shall be voluntary.
2. The customer plan as currently constituted and in place on the effective date of these regulations shall remain in effect until expiration. Upon renewal of said budget plan the regulations promulgated herein shall apply. Each utility shall file with the Board a copy of its Budget Policy Program and Practices.
3. The monthly projected usage shall be determined by the consideration of the following factors:
 - i. Usage on the account for the past season;
 - ii. Actual weather conditions encountered during the past season as compared to normal year;
 - iii. Base rate increases and levelized energy or levelized raw material adjustment charges actually granted by the Board of Public Utilities and in effect at the time plan is established.
4. The utility company shall have the authority to determine the time frame of the plan, 10, 11, or 12 months. Any change will require prior approval by the Board of Public Utilities.
5. If a customer is a new customer with little or no prior use the budget amount shall be determined by a reasonable estimate of likely usage.
6. Projected monthly budget billing shall be maintained so that comparisons will automatically be made between the actual use as determined by actual meter readings and the projected monthly billing amount, as follows:
 - i. These comparisons shall occur once in the budget plan year;
 - ii. The revisions in the budget billing amount shall also take into

account any rate increases or decreases that have been granted by the Board of Public Utilities, which would include the levelized energy or levelized raw material adjustment charges, including such increases or decreases occurring during the budget period.

- iii. The budget review of a customer's account whose actual consumption varies from the projected level by 25 percent plus or minus the monthly budget amount shall have his budget billing and payments adjusted for the balance of the budget year;
 - iv. A final bill for a budget plan year will be issued at the end of the budget year and shall contain that month's budget amount plus an adjustment for any difference between the amount billed and the service rendered during the plan year;
 - v. A utility shall notify budget plan customers in writing at least 45 days before the beginning of the next budget year of the customers budget amount for the next budget year and of budget revisions made during the preceding budget year.
7. A budget plan shall be offered by a bill insert to those eligible customers at least twice a year.
8. Each plan bill shall contain the information required by N.J.A.C. 14:3-7.9 (Form of bill for metered service), N.J.A.C. 14:3-7.10 (Form of bill for unmetered service) and N.J.A.C. 14:3-7.11 (Method of billing). In addition, the plan bill shall show the monthly budget amount, the budget billing to date, the actual usage billing to date and the balance after payment of the bill.
9. A customer may go off a budget plan anytime he desires in which event the customer shall pay the amount owed for actual usage or agree to a stipulated payment agreement according to N.J.A.C. 14:3-7.13(c).

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

**Restricted Parking and Stopping
Route 1 and 9**

Proposed Amendment: N.J.A.C. 16:28A-1.2

Authorized By: John P. Sheridan Jr., Commissioner of Transportation.
Authority: N.J.S.A. 27:1A-5 and 6, 39:4-138.1 and 139.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1982-366.

The agency proposal follows:

Summary

This proposal will establish "no parking" zones along Route 1 and 9 in the City of Newark, Essex County for the efficient flow and movement of traffic along the route designated. Appropriate signs will be erected advising the motoring public.

Social Impact

This amendment will restrict parking along the route indicated and enhance the safety and well-being of the populace.

Economic Impact

The Department will incur direct and indirect costs for its workforce and placement of signs. Costs are dependent upon mileage, personnel and equipment requirements.

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

16:28A-1.2 Route 1 and 9

(a) The certain parts of State Highway Route 1 and 9 described in (a) of 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.-3. (No change.)

4. No stopping or standing in the City of Newark, Essex County:

i. Along the westerly side (south local lanes):

(1) From the Bessmer Street ramp (M.P. 47:03) southerly to the Newark-Elizabeth City corporate line.

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

OTHER AGENCIES

(a)

NEW JERSEY MORTGAGE FINANCE AGENCY

**Contracting
Debarment and Suspension**

Proposed New Rule: N.J.A.C. 19:1-1.6

Authorized By: New Jersey Mortgage Finance Agency,
Christopher G. Kelly, Executive Director.
Authority: N.J.S.A. 17:1B-7(a), 8 (c), and (v).

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

Christopher G. Kelly
Executive Director
New Jersey Mortgage Finance Agency
1180 Raymond Boulevard
Newark, NJ 07102

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

This proposal is known as PR N 1982-372.

The agency proposal follows:

Summary

The purpose of the proposed rule is to exclude from participation in Agency programs, as a New Jersey Mortgage Finance Agency contractor, any person or business entity who has demonstrated a lack of business integrity or who has been found to be otherwise irresponsible in the conduct of business. The rule provides that the

Agency may exclude from participation as an NJMFA contractor any person or business entity after furnishing the person or business entity to be excluded with notice of the reasons for the proposed action and an opportunity for a hearing. The Agency also may suspend persons or business entities from participation in Agency programs as NJMFA contractors for up to 18 months.

Social Impact

The intended social impact of the rule is to protect the integrity of the Agency programs and ultimately the homeowners who purchase and improve homes under the programs.

Economic Impact

The rule will not produce any direct revenue nor will it impose any direct costs on the Agency or the public.

Full text of the proposed new rule follows.

19:1-1.6 Debarment and suspension from NJMFA contracting

(a) Definitions: When used in this subchapter, the following terms shall have the following meanings.

"Debarment" means an exclusion from New Jersey Mortgage Finance Agency (NJMFA) contracting, on the basis of a lack of responsibility evidenced by an offense, failure, or inadequacy of performance, for a reasonable period of time commensurate with the seriousness of the offense, failure, or inadequacy of performance.

"Suspension" means an exclusion from NJMFA contracting for a temporary period of time, pending the completion of an investigation or legal proceedings.

"Person" means any natural person, company, firm, association, corporation, or other entity.

"NJMFA contracting" means any arrangement giving rise to an obligation to supply anything to or perform any service for NJMFA, directly or indirectly, other than by virtue of State or NJMFA employment, or to supply anything to or perform any service for a private or public person where NJMFA provides substantial financial assistance, directly or indirectly, and retains the right to approve or disapprove the nature or quality of the goods or service or the persons who may supply or perform the same.

"Affiliates" means persons having an overt or covert relationship such that any one of them directly or indirectly controls or has the power to control another.

(b) Causes for debarment of a person(s): In the public interest, NJMFA may debar a person for any of the following causes:

1. Commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract;
2. Violation of the Federal Organized Crime Control Act of 1970, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, perjury, false swearing, receiving stolen property, obstruction of justice, or any other offense indicating a lack of business integrity or honesty;
3. Violation of the Federal or State Antitrust Statutes, or of the Federal Anti-Kickback Act (18 U.S.C. 874, 40 U.S.C. 276 b, c);
4. Violations of any of the laws governing the conduct of elections of the Federal Government, of the State of New Jersey or of its political subdivisions;
5. Violation of the "Law Against Discrimination" (P.L. 1945, c.169, N.J.S.A. 10:5-1 et seq. as supplemented by P.L. 1975, c.127), or of the act banning discrimination in public works employment (N.J.S.A. 10:2-1 et seq.) or of the act prohibiting discrimination by industries engaged in defense work in the employment of persons therein (P.L. 1942, c.114, N.J.S.A. 10:1-10 et seq.);
6. Violations of any laws or regulations governing hours of labor, minimum wage standards, prevailing wage standards, discrimination in wages, or child labor;
7. Violations of any laws or regulations governing the conduct of occupations or professions or regulated industries;

PROPOSALS

8. Violations of any other laws which may bear upon a lack of responsibility or moral integrity;

9. Willful failure to perform in accordance with contract specifications or within contractual time limits;

10. A record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that such failure or unsatisfactory performance has occurred within a reasonable time preceding the determination to debar and was caused by acts within the control of the person debarred;

11. Violation of contractual or statutory provisions regulating contingent fees;

12. Any other cause affecting responsibility as an NJMFA contractor of such serious and compelling nature as may be determined by NJMFA to warrant debarment, including such conduct as may be prescribed by the laws or contracts enumerated in this section even if such conduct has not been or may not be prosecuted as violations of such laws or contracts; or

13. Debarment by some other department or agency in the Executive Branch.

(c) Conditions affecting the debarment of person(s): The following conditions shall apply concerning debarment:

1. Debarment shall be made only upon approval of the members of NJMFA, upon their own action or upon recommendation by the Executive Director of NJMFA, except as otherwise provided by law;

2. The existence of any of the causes set forth in section (b) above shall not necessarily require that a person be debarred. In each instance, the decision to debar shall be made within the discretion of the members of NJMFA, upon their own action or upon recommendation by the Executive Director of NJMFA, unless otherwise required by law, and shall be rendered in the best interests of the State;

3. All mitigating factors shall be considered in determining the seriousness of the offense, failure or inadequacy of performance and in deciding whether debarment is warranted;

4. The existence of a cause set forth in section (b)1-8 above shall be established upon the rendering of a final judgment or conviction, including a guilty plea or a plea of nolo contendere by a court of competent jurisdiction or by an administrative agency empowered to render such judgment. In the event an appeal taken from such judgment or conviction results in reversal thereof, the debarment shall be removed upon the request of the debarred person unless cause for debarment exists;

5. The existence of a cause set forth in section (b)9-12 above shall be established by evidence which NJMFA determines to be clear and convincing in nature;

6. Debarment for the cause set forth in section (b)13 above shall be proper, provided that one of the causes set forth in section (b)1-12 above was the basis for debarment by the original debarring agency. Such debarment may be based entirely on the record of facts obtained by the original debarring agency, or upon a combination of such facts and additional facts.

(d) The procedures, the period of debarment, and the scope of debarment to be followed by NJMFA are as follows:

1. NJMFA seeking to debar a person or his affiliates shall furnish such party with a written notice:

i. Stating that debarment is being considered;

ii. Setting forth the reasons for the proposed debarment; and

iii. Indicating that such party will be afforded an opportunity for a hearing if he so requests within a stated period of time. All such hearings shall be conducted in accordance with the provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. However, where another department or agency has imposed debarment upon a party, NJMFA may also impose a similar debarment without affording an opportunity for a hearing, provided that NJMFA furnishes notice of the proposed similar debarment to that party, and affords that party an opportunity to present information in his behalf to explain why the proposed similar debarment should not be imposed in whole or in

OTHER AGENCIES

part;

2. Debarment shall be for a reasonable, definitely stated period of time which as a general rule shall not exceed five years. Debarment for an additional period shall be permitted provided that notice thereof is furnished and the party is afforded an opportunity to present information in his behalf to explain why the additional period of debarment should not be imposed;

3. Except as otherwise provided by law, a debarment may be removed or the period thereof may be reduced in the discretion of the members of NJMFA, upon their own action or upon recommendation by the Executive Director of NJMFA, upon the submission of a good faith application under oath, supported by documentary evidence, setting forth substantial and appropriate grounds for the granting of relief, such as newly discovered material evidence, reversal of a conviction or judgment, actual change of ownership, management or control, or the elimination of the causes for which the debarment was imposed; and

4. A debarment may include all known affiliates of a person, provided that each decision to include an affiliate is made on a case by case basis after giving due regard to all relevant facts and circumstances. The offense, failure or inadequacy of performance of an individual may be imputed to a person with whom he is affiliated, where such conduct was accomplished within the course of his official duty or was effected by him with the knowledge or approval of such person.

(e) In the public interest, NJMFA, upon approval of the Attorney General, may suspend a person for any cause specified in section (b) above or upon a reasonable suspicion that such cause exists.

(f) The following conditions concerning suspension will be followed:

1. Suspension shall be imposed only upon approval of the members of NJMFA, upon their own action or upon recommendation by the Executive Director of NJMFA, and upon approval of the Attorney General, except as otherwise provided by law;

2. The existence of any cause for suspension shall not require that suspension be imposed, and a decision to suspend shall be made at the discretion of the members of NJMFA, upon their own action or upon recommendation by the Executive Director of NJMFA, and at the discretion of the Attorney General, and shall be rendered in the best interests of the State;

3. Suspension shall not be based upon unsupported accusation, but upon adequate evidence that cause exists or upon evidence adequate to create a reasonable suspicion that cause exists;

4. In assessing whether adequate evidence exists, consideration shall be given to the amount of credible evidence which is available, to the existence or absence or corroboration as to important allegations, and to inferences which may properly be drawn from the existence or absence of affirmative facts;

5. Reasonable suspicion of the existence of a cause described in section (b)1-8 above may be established by the rendering of a final judgment or conviction by a court or administrative agency of competent jurisdiction, by grand jury indictment, or by evidence that such violations of civil or criminal law did in fact occur;

6. A suspension invoked by another agency for any of the causes described in section (b) 1-13 above may be the basis for the imposition of a concurrent suspension by NJMFA, which suspension may be imposed when found to be in the best interests of the State.

(g) The following provisions regarding procedures, period of suspension and scope of suspension shall be followed by NJMFA:

1. Upon approval of the Attorney General, NJMFA may suspend a person or his affiliates, provided that within 10 days after the effective date of the suspension, NJMFA provides such party with a written notice:

i. Stating that a suspension has been imposed and its effective date;

ii. Setting forth the reasons for the suspension to the extent that the Attorney General determines that such reasons may be properly disclosed;

iii. Stating that the suspension is for a temporary period pending the completion of an investigation and such legal proceedings as may ensue; and

iv. Indicating that, if such legal proceedings are not commenced or the suspension removed within 60 days of the date of such notice, the party will be given either a statement of the reasons for the suspension and an opportunity for a hearing if he so requests, or a statement declining to give such reasons and setting forth NJMFA's position regarding the continuation of the suspension. Where a suspension by another agency has been the basis for suspension by NJMFA, the latter shall note that fact as a reason for its suspension;

2. A suspension shall not continue beyond 18 months from its effective date unless civil or criminal action regarding the alleged violation shall have been initiated within that period, or unless debarment action has been commenced. Whenever prosecution or debarment action has been initiated, the suspension may continue until the legal proceedings are completed;

3. A suspension may include all known affiliates of a person, provided that each decision to include an affiliate is made on a case by case basis after giving due regard to all relevant facts and circumstances. The offense, failure or inadequacy of performance of an individual may be imputed to a person with whom he is affiliated, where such conduct was accomplished within the course of his official duty or was effectuated by him with the knowledge or approval of such person.

(h) The exclusion from NJMFA contracting by virtue of debarment or suspension shall extend to all contracting and subcontracting within the control or jurisdiction of NJMFA including any contracts which utilize NJMFA funds. When it is determined by the members of NJMFA, upon their own action or upon recommendation by the Executive Director of NJMFA, to be essential to the public interest, and upon filing of a finding thereof with the Attorney General, and in the case of suspension, upon approval of the Attorney General, an exception from total exclusion may be made with respect to a particular NJMFA contract.

(i) Insofar as practicable, prior notice of any proposed debarment or suspension shall be given by NJMFA to the Attorney General and the Treasurer.

(j) NJMFA shall supply to the State Treasurer a monthly list of all persons having been debarred or suspended in accordance with the procedures prescribed herein, including the effective date and term, if any, of such debarment or suspension. Such list shall at all times be available for public inspection.

(k) Nothing contained herein shall be construed to limit the authority of NJMFA to contract or to refrain from contracting within the discretion allowed by law.

(a)

CASINO CONTROL COMMISSION

Accounting and Internal Controls Slot Machines; Coin Containers; Keys

Proposed Amendment: N.J.A.C. 19:45-1.36

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

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1982-367.

The agency proposal follows:

Summary

This proposed amendment to N.J.A.C. 19:45-1.36 requires any person in the casino authorized to enter a slot machine to record information pertinent to that entry, including signature, on the required Machine Entry Authorization Log. This amendment modifies the existing requirement that only slot mechanics and other attendants need record such information.

Social Impact

The social impact of this proposed change will be to require every casino to have a history of all employees entering a slot machine. This was the original intent of the regulation. As only slot mechanics and attendants are currently required to attest to the opening of a slot machine, the only persons affected by the change would be persons authorized to enter the slot machines other than slot mechanics and attendants. These persons will now be required to make log entries.

Economic Impact

There is no perceived economic impact upon the industry because the slot machines are already equipped with logs in which the present authorized employees must enter information pertinent to the entry of a slot machine. Because this rule does not directly relate to its activities, there is no economic impact upon the Commission.

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

19:45-1.36 Slot machines; coin containers; keys

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

(d) Keys to each slot machine, other than the compartment housing the drop bucket, shall be maintained in a secure place and controlled by the slot department.

1. Whenever it is required that a slot machine be opened [by a slot mechanic or attendant], an entry shall be made on a form to be entitled "Machine Entry Authorization Log". The entry shall include, at a minimum, the date, time, purpose of opening the machine, and signature of authorized employee opening the machine. The Machine Entry Authorization Log shall be maintained in the slot machine.

2. (No change.)

(e) (No change.)

(a)

CASINO CONTROL COMMISSION

Accounting and Internal Controls
Progressive Slot Machines

Proposed Amendment: N.J.A.C. 19:45-1.39

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

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1982-375.

The agency proposal follows:

Summary

This proposed amendment would allow for resetting of a progressive slot machine prior to the completion of a payout to a winning patron provided the jackpot amount is adequately recorded.

Social Impact

It is perceived that this amendment would decrease patron dissatisfaction associated with excessive downtime on linked progressive slot machines.

Economic Impact

It is perceived that this amendment would increase slot machine revenues and resulting taxes by decreasing excessive downtime on linked progressive slot machines. It is also perceived that costs would be incurred by the industry through the preparation and approval process for internal control procedures.

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

19:45-1.39 Progressive slot machines

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

(f) No "progressive meter(s)" shall be turned back to a lesser amount unless the amount indicated has been actually paid to a winning patron, **or the progressive jackpot amount won by the patron has been recorded in accordance with an approved system of internal controls.** or the change in the meter(s) reading is necessitated by a slot machine or meter(s) malfunction, in which case an explanation must be entered on the summary required in [subsection] (j) **above** [of this section] and the Commission inspector must pre-approve the resetting in writing.

(g)-(k) (No change.)

RULE ADOPTIONS

EDUCATION

(a)

STATE BOARD OF EDUCATION

**Special Education
Auxiliary Services for Nonpublic School Pupils;
Examination, Classification and Corrective
Speech Services for Nonpublic School
Pupils**

**Adopted New Rules: N.J.A.C. 6:28-5.10, 5.11,
6.10 and 6.11**

Proposed: June 21, 1982 at 14 N.J.R. 617(a).
Adopted: August 4, 1982 by State Board of Education,
Saul Cooperman, Secretary.
Filed: September 1, 1982, as R.1982 d.316, **without
change.**

Authority: N.J.S.A. 18A:4-15, 18A:46A-1 et seq., 18A:46-
6, 46-8 and 46-19.1 et seq.

Effective Date: September 20, 1982.

Summary of Public Comments and Agency Responses:

Two letters with comments were received. One organization expressed support for the new rules. The other organization suggested that:

1. Certain portions be deleted;
2. Language be added to reinforce certain points;
3. A clause be added requiring districts to show cause why certified employees cannot provide services;
4. A save harmless clause be added for teachers.

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

1. Certain changes should not be deleted because they were necessary for clarification and for assuring both quality of service and level of accountability that are in the public interest;
2. Additional language to reinforce certain points was not necessary because these points were already implicit in the law;
3. A show cause requirement was not appropriate because the law itself does not require services to be performed only by employees of the district;
4. A save harmless clause was not appropriate for the code because no such clause appears in the law.

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF WATER RESOURCES

**Water Quality Management
Industrial Waste Management Facilities**

Adopted Amendment: N.J.A.C. 7:14A-4.3

Proposed: June 7, 1982 at 14 N.J.R. 506(b).
Adopted: August 17, 1982 by Robert E. Hughey,
Commissioner, Department of Environmental
Protection.
Filed: August 31, 1982 as R.1982 d.310, **without
change.**

Authority: N.J.S.A. 58:10A-4 and 13:1E-6.

Effective Date: September 20, 1982.
DEP Docket No.:013-82-05.

Summary of Public Comments and Agency Responses:

The Department of Environmental Protection received one comment on this proposed rule. By defining a wastewater treatment unit as being a tank, as well as fitting other characteristics, certain forms of waste containment, such as surface impoundments, no longer fall within the definition of a wastewater treatment unit. Since only wastewater treatment units are exempt from obtaining a hazardous waste management facility (HWMF) permits, the failure of a facility to meet that definition has substantial impact.

The commentor owns a surface impoundment which is used for emergency retention of effluent from a wastewater treatment facility. The commentor asserted that, as such, the impoundment is exempt from regulation as a HWMF, due to a recent amendment to the Federal hazardous waste rules, which exempted from regulation certain mixtures of hazardous and nonhazardous wastes from a presumption of hazardousness. New Jersey has not yet adopted an equivalent rule. The result is that the commentor's impoundment is now subject to regulation as a HWMF under New Jersey rules but not under Federal rules.

The Department responded to this comment by agreeing that New Jersey should expeditiously consider adoption of rules equivalent to the Federal "mixture rule" but that the wastewater treatment unit definitional change should proceed. The primary reason for this is that the U.S. Environmental Protection Agency has mandated that this amendment be made, before they will grant to New Jersey authorization to implement the Federal hazardous waste management program. Failure to receive Federal authorization could result in loss of Federal funding and the continuance of a parallel State and Federal regulatory program, which now requires separate industrial compliance.

(a)

DIVISION OF FISH, GAME AND WILDLIFE**Shellfisheries****Relay of Hard Clams****Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 7:25-15.1**

Emergency Amendment Adopted: August 12, 1982 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Emergency Amendment Filed: August 7, 1982 as R.1982 d.309.

Authority: N.J.S.A. 50:1-5.

Emergency Amendments Effective Date: August 27, 1982.

Emergency Amendments Operative Date: August 27, 1982.

Emergency Amendments Expiration Date: October 26, 1982.

A public hearing concerning the proposal will be held on October 12, 1982 at 7:00 P.M. at:

Court Room One
Ocean County Court House
Toms River, NJ

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before October 20, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Gale Critchlow
Bureau of Shellfisheries
Division of Fish, Game and Wildlife
CN 400
Trenton, NJ 08625

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

The concurrent proposal is known as PRN 1982-385.

The agency emergency adoption and concurrent proposal follows:

Summary

The rule reorders the prescribed method by which licensed commercial clammers move (relay) clams from polluted waters to areas in clean water (relay lots) where the clams can, over a period of time, purge themselves of impurities to become wholesome and fit for market.

The major change in the regulations gives responsibility for record keeping on the relay to the Relay Coordinator, chosen by the clammers from among their ranks. The coordinator will prepare a daily harvest report, listing the number of bags of clams each clammer must plant on his relay lot. The coordinator will seal the bags, with seals that the clammer will break, when he plants the clams. The relay reports will become part of the records of the Bureau of Shellfisheries when they are turned in at each week's end by the coordinator and will serve as a bill of lading while the clams are enroute to the relay lots.

Requiring accurate record keeping of the clammers will enable

the enforcement personnel, concerned with the relay, to spot check the movement of the clams without tying up two or more men to monitor the process continually, as was the case under the old regulations.

Another change allows the clammers to pick their own hours (within the dawn to sundown constraints of the law) so that they can harvest on the most advantageous tides. Clammers will be required to mark their boats and leased grounds with their relay permit number as before. They must still have their trucks approved by the enforcement unit, and now will also be required to indicate the route they will customarily take from the harvest area to their relay lots.

Social Impact

Failure to change the method of relay would force the division to discontinue the program, since enforcement manpower is not available to be assigned full time to the hard clam relay. Invidious social impact would be twofold. The clammers involved would be forced out of a legitimate business, and the clam-eating public would be put in a high risk situation, as fewer wholesome clams reach market.

Economic Impact

Loss of a source of legitimate income, if the relay were to be discontinued, would have a catastrophic economic impact on the clammers involved and the families they support on income from the hard clam relay. The baymen who work on the relay are hardworking and they are dedicated to making a living on the water. It is what they know best, and as pollution has forced them to adapt their way of life, many have come to depend on the State's relay programs for their livelihood. The method outlined in the new regulations will allow them to continue their work without serious disruption.

Environmental Impact

The effect of the change in the method of monitoring relay harvest will have little environmental impact on the bay or the clam resource. To halt the relay because of inadequate enforcement capability could cause a severe negative impact if clammers resorted to illegal harvest of clams from the polluted waters now being safely used for relay.

Full text of the emergency adoption and concurrent proposal follows (~~delete~~ existing text in Code and replace with the following text).

7:25-15.1 Relay of hard clams

(a) These rules are intended to implement the hard clam relaying program administered by the Department of Environmental Protection. These rules must be read together with the shellfish growing water classification regulations and definitions which appear at N.J.A.C. 7:12-1, which rules are subject to amendment at anytime. N.J.S.A. 58:24-2 requires the Department to condemn immediately shellfish beds subject to pollution.

(b) The general intent of these rules is to control the relaying of hard clams (*Mercenaria mercenaria*) from Specified Special Restricted or Condemned Waters within the Atlantic Coast Section (see N.J.S.A. 50:1-18) to specially designated leased shellfish cleansing grounds also situated in the Atlantic Coast Section. The designated Special Restricted or Condemned Waters will be charted by the Department and such charts will be issued to participants and will be available to the public on demand. Anyone who meets the requirements set forth below in these regulations may participate in this program. If it becomes necessary to limit the number of participants, then applicants will be admitted in order of their application.

(c) The participants shall be responsible for the appointment of one of their number to the position of relay coordinator. The relay coordinator shall act as liaison with the designated enforcement unit and the Bureau of Shellfish Control of the Division of Water

Resources and the Bureau of Shellfisheries of the Division of Fish, Game and Wildlife for scheduling areas for harvest. The relay coordinator will count each participant's daily harvest and seal the individual bags with seals provided by the Department as specified below. He will also record the bags on report forms provided by the Department as specified below.

(d) Any person who wishes to participate in this program must comply with the following rules and conditions in order to remain eligible for participation:

1. Possess a current, valid, commercial clamming license issued by the Division of Fish, Game and Wildlife (see N.J.S.A. 50:2 et. seq.);

2. Hold one of the following special permits issued by the Division of Water Resources (N.J.S.A. 58:24-3 and N.J.A.C. 7:12-2 to harvest and/or buy and/or sell hard clams from condemned waters; (a fee of \$25.00 is required for each permit issued, Chapter 156, Public Law of 1971);

i. Permit 5a: SPECIAL PERMIT TO HARVEST, BUY, SELL AND RELAY HARD CLAMS FROM SPECIFIED SPECIAL RESTRICTED OR CONDEMNED WATERS IN CONJUNCTION WITH A STATE APPROVED SHELLFISH RELAY PROGRAM;

ii. Permit 5b: SPECIAL PERMIT TO HARVEST HARD CLAMS FROM SPECIFIED SPECIAL RESTRICTED OR CONDEMNED WATERS FOR SALE PURPOSES ONLY IN CONJUNCTION WITH A STATE APPROVED SHELLFISH RELAY PROGRAM;

3. The above permits will show on their face the specific conditions that are deemed necessary for the proper operation of the shellfish relay program. All permittees are also required to comply with all other applicable statutes and regulations. Included with every permit will be charts of the harvest sites showing specific sections within the estuaries that may be harvested on any particular day, as determined by the designated enforcement unit.

i. Violations of these conditions may subject the violator to prosecution, (N.J.S.A. 58:24-10), and may cause the violator's permit to be revoked and may cause the violator's boat and equipment to be seized and forfeited. Pursuant to the Administrative Procedure Act, such individual may apply to the Division of Water Resources for an administrative hearing regarding the decision to revoke such permit.

(e) Any person applying for permit 5a must have acquired a special relay lease from the Department for three one-half acre plots of shellfish cleansing grounds on which the relayed shellfish are to be deposited by the means hereinafter set forth. No person shall hold more than one relay lease.

1. Applications for leases must be made in person at the Nacote Creek Shellfish Office of the Department. The lease shall be subject to the following additional conditions:

i. This special relay lease shall be issued for only one year and can be reapplied for annually;

ii. The fee for this lease, to be paid at the time of application shall be \$50.00;

iii. Once the lease plots have been marked by the Division, the lessee shall be solely responsible for the placement and maintenance of the stakes marking same, or their necessary replacement;

iv. This special relay lot shall be used for relay from the specified harvest areas only. No special relay lease will be renewed if the lessee did not actively participate in the previous year's program unless such inactivity was due to unusual hardship; or if the Department does not administrate or operate a hard clam relay program in the current year. Upon termination of the program by the Department, special relay lessees shall have exclusive rights to clams planted on their leased grounds before the termination date, for a period of 18 months from that date, and may thereafter reapply to lease the ground;

v. A lessee vacating a relay lot shall have exclusive rights to clams planted before the date of vacation for a period of six months from

that date;

vi. Signs having a white background with legible black lettering, giving the participant's special relay permit number and relay lot Section A, B or C shall be placed and maintained on the participant's relay lot corners;

vii. The participant's harvest boat shall be marked on both sides amidships with three-inch black letters on a white background giving the participant's first initial, last name and special relay permit number while he is engaged in any phase of the program.

(f) Clams taken from the specified Special Restricted or Condemned Harvest areas shall be bagged by the participant and sealed by the coordinator with seals provided by the Department before being transported to the lots. The bags shall remain sealed until the clams are planted on the relay lots.

1. The sealed bags will be counted by the relay coordinator and the harvester and listed on three-part Relay Report Forms, which shall be signed by the coordinator and the harvester. In the case of clams harvested under Relay Permit 5b, the form shall be signed by the buyerplanter also;

2. The coordinator shall retain one copy, forward one copy to the Bureau of Shellfisheries and give the third copy to the harvester or buyer who shall carry it with the bagged clams directly to his relay lot;

3. Participants will place their sealed counted bags in trucks provided by them and approved by the designated enforcement unit for transportation to a designated landing. Each participant shall inform the designated enforcement unit of the route he will routinely follow from the harvest area to the planting area. Deviations will not be tolerated except in an emergency;

4. Bagged clams shall be relayed to the participant's leased plots and planted before sunset of the same harvest day;

5. Participants shall not harvest approved clams on the same trip they plant clams from the day's relay;

6. The coordinator shall notify the Bureau of Shellfisheries, Nacote Creek Office ((609) 441-3284) daily of the area to be harvested and the number of participants and the bag count for the previous day.

(g) Clams relayed to the leased plots shall remain upon said leased plots until written approval for harvest has been granted by the Department's Division of Water Resources, Bureau of Shellfish Control.

(h) Only the lessee or a substitute harvester shall remove clams from the leased plots. A substitute harvester must possess a Letter of Permission from the lessee giving the dates for which he is allowed harvest privileges and the lessee's permit from the Division of Water Resources (Permit 5a).

(i) The Department shall establish a schedule of dates and times when the Special Restricted or Condemned Waters shall be opened to participants in this program for the harvest of clams. It is the intention of the Department to operate this program on a regular basis for a period and at times to be determined by the Department with the advice of the Atlantic Coast Shellfish Council.

(j) The Department may terminate this program at anytime for just cause and upon notice to all participants. Just cause shall include, but not be limited to, excessive depletion, or threat thereof, of shellfish stocks, lack of industry participation, and violations of the rules of the relay program deemed detrimental to the program. Possession of an unsealed bag of clams, possession of fewer bags than are listed on the relay report, or possession of clams, bagged or loose in a vessel which has left the relay lots after planting, shall be prima facie evidence of a violation of these rules.

(k) Penalty: Any participant violating these regulations or the terms of the special relay permit issued by the Division of Water Resources may be subject to prosecution, including fine, imprisonment and forfeiture of vessel, vehicle and all equipment. Any lessee who is convicted of an offense which results in the revocation of a Shellfish Harvesting License or Special Permit mentioned in (d) above (N.J.A.C. 7:12-2) shall have his lease voided by the Department; provided, however, that upon notice to

the Division of Fish, Game and Wildlife within a 10-day period the lessee shall be given the opportunity to show why the lease should not be voided. If notice is given within the 10-day period, no action may be taken on the lease until the next regularly scheduled meeting of the Atlantic Coast Shellfisheries Council. The Atlantic Coast Shellfisheries Council shall have the authority to suspend permanently the voiding of the lease for good cause shown. Nothing in this section shall allow the voiding of a lease because of a violation of N.J.S.A. 50:2-1 or 2-5.

Effective Date: September 20, 1982.

Summary of Public Comments and Agency Responses:

Comments were received from one public entity, the Essex County Division of Youth Services. The establishing of a goal for the maximum number of children in placement for more than 24 months was commended and the focus on permanency planning was recognized as an effort towards reducing the number of children in out-of-home placement. Ten questions and concerns were raised, falling into three general areas. First, inquiry was made regarding the data and process used to establish that no more than 2,150 children should remain in foster care for more than 24 months commencing with Federal fiscal year 1983. Second, information was sought about the services to be developed and provided to achieve the goal, including those to be targeted to Hispanics, Blacks, handicapped children and adolescents. Third, assurance was sought that monitoring of goals and objectives in the Child Welfare Plan would take place and that children would not be routed to inappropriate settings or moved in and out of foster care to meet goals. Finally, it was suggested that before a set goal is finalized, responses should be assessed and targeted to determine whether the goal is appropriate.

With regard to data and process, an analysis by the Division indicated that at the outset of FFY '82, 2,500 children were in placement for more than 24 months. This represented a reduction of 10 percent over the previous year and reflected the effects of newly initiated permanency planning policies. A Foster Care Assessment Task Force, which included numerous citizens from every region of the State, supported continued efforts towards the reduction of long-term placements, while recognizing that long-term foster care will continue to be an appropriate plan for some children. Thus the goal of a further reduction was proposed, and is hereby established.

Among the service and activities developed and provided to meet the goal is an intensive foster care and adoptive home recruitment effort specifically targeting homes for children who are adolescents, handicapped or minorities. Also, on this date, regulations authorizing improved adoption subsidy payments and procedures targeted towards such children have been promulgated. Further, the FFY '83 Plan Update will highlight a variety of preventative and alternative community based programs such as short-term shelters and emergency assistance.

The status of each of the goals and objectives listed in the Child Welfare Services Plan is currently monitored by the Division's Office of Program Support with additional monitoring and evaluation presently under consideration. Monitoring of the goal for children in long-term care will also take place, but it is clear that no specific sanction or reward, fiscal or otherwise, concerning achievement of this goal is authorized under Federal law. The Division is committed to a policy of placement only when necessary and in the least restrictive setting consistent with the needs of each child. Likewise no child should or would be returned home if his health or safety would be in jeopardy, regardless of numerical goals established.

The goal provided in N.J.A.C. 10:131-2.2 is required to be established by October 1, 1982 by Federal law. It has been determined in light of fiscal and programmatic resources and projections available at this time and no modification was warranted as a result of the comments.

HUMAN SERVICES

(a)

DIVISION OF PUBLIC WELFARE

**Food Stamp Manual
Revised Standard Deductions, Maximum Allowable Net and Gross Income Standards and Monthly Coupon Allotment Formula**

Readopted Amendments: N.J.A.C. 10:87-12.1, 12.3, 12.4. and 12.6

Proposed: July 19, 1982 at 14 N.J.R. 757(d).
Adopted: September 1, 1982 by George J. Albanese, Commissioner, Department of Human Services.
Filed: September 2, 1982 as R.1982 d.318, **without change.**

Authority: N.J.S.A. 30:4B-2, 7 CFR 273.9(d)(6)(ii) and (iv), 7 CFR 273.9 the Food Stamp Act of 1979, as amended (7 USC 2014) and the Omnibus Budget Reconciliation Act (P.L. 97-35) 7 CFR 273.10(a)(1)(iii).

Effective Date: September 2, 1982.

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

(b)

DIVISION OF YOUTH AND FAMILY SERVICES

**Adoption Assistance and Child Welfare Act of 1980
Requirements and State Plan on Services to Families and Children**

**Adopted New Rule: N.J.A.C. 10:131
Adopted Repeal: N.J.A.C. 10:91**

Proposed: July 19, 1982 at 14 N.J.R. 744(a).
Adopted: August 31, 1982 by George J. Albanese, Commissioner, Department of Human Services.
Filed: September 2, 1982 as R.1982 d.317, **without change.**

Authority: N.J.S.A. 30:4C-4 and 30:1-12.

(a)

DIVISION OF PUBLIC WELFARE

Medicaid Only Program
New Eligibility Computation Amounts

Readopted Amendments: N.J.A.C. 10:94-5.4,
5.5 and 5.6

Proposed: July 19, 1982 at 14 N.J.R. 758(a)
Adopted: August 31, 1982 by George J. Albanese,
Commissioner, Department of Human Services.
Filed: August 31, 1982 as R.1982 d.314, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 44:7-87 and Section 1902(a) of the Social Security Act.

Effective Date: August 31, 1982.

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

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

Note: The figures which appear in boldface with brackets and asterisks are those figures which appeared at 14 N.J.R. 758(a) and are to be effective upon filing through September 30, 1982. The new figures in boldface with asterisks, which will become effective October 1, 1982, represent a \$2.10 increase in the optional State supplement in the SSI payment level pursuant to the Legislature's increase of annual Lifeline benefits. All other figures become effective upon filing.

10:94-5.5 Deeming of income
(a)-(c) (No change from proposal.)
(d) **A table for deeming computation amounts follows:**

TABLE A
Deeming Computation Amounts

1.-2. (No change from proposal.)
3. Spouse to Spouse Deeming-Eligibility Levels

a. Residential Health Care Facility*	\$[540.80]* [570.20]* *572.30*
b. Eligible individual living alone with ineligible spouse	\$[553.80]* [587.60]* *589.70*
c. Living alone or with others	\$[412.80]* [451.40]* *453.50*
d. Living in household of another	\$[302.70]* [322.33]* *324.43*

4. (No change from proposal.)

10:94-5.6 Income eligibility standards
(a)-(b) (No change from proposal.)
(c) (No change from proposal.)
1.-4. (No change from proposal.)
5. TABLE B

Variations in Living Arrangements	Medicaid Eligibility Income Standards	
	Individual	Couple
I. Residential Health Care Facility	\$[408.50] *[428.10]* *430.20*	\$[804.50] *[843.70]* *845.80*
II. Living Alone or with others	[300.50] *[309.30]* *311.40*	[421.50] *[445.50]* *447.60*
III. Living Alone with Ineligible Spouse	[421.50] *[445.50]* *447.60*	
IV. Living with Others	[280.50]	[414.50]
V. Living in Household of Another	[214.50] *[227.60]* *229.70*	[351.50] *[371.10]* *373.20*
V. Title XIX Approved Facility:	[794.10†] \$852.90†	

Includes persons in acute general hospitals, skilled nursing facilities, intermediate care facilities (level A, B, and I[N]* CFMR) and licensed special hospitals (Class A, B, C) and Title XIX psychiatric hospitals (for persons under age 21 and age 65 and over) or a combination of such facilities for a full calendar month.

†Gross income (i.e., income prior to any income exclusions) is applied to this Medicaid "Cap".

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

(b)

NEW JERSEY COMMISSION FOR THE
BLIND AND VISUALLY IMPAIRED

Rehabilitation Services
Rehabilitation Services State Plan

Adopted Amendment: N.J.A.C. 10:98

Proposed: July 19, 1982 at 14 N.J.R. 745(a).
Adopted: August 25, 1982 by Norma F. Krajczar, Executive Director of the Commission for the Blind and Visually Impaired.

ADOPTIONS

Filed: August 31, 1982 as R.1982 d.311, **without change.**

Authority: N.J.S.A. 30:6-12.

Effective Date: September 20, 1982.

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

(a)

DIVISION OF PUBLIC WELFARE

Service Programs For Aged, Blind or Disabled SSI Payment Levels

Readopted Amendment: N.J.A.C. 10:100-1.23

Proposed: July 19, 1982 at 14 N.J.R. 760(a)
 Adopted: August 31, 1982 by George J. Albanese, Commissioner, Department of Human Services.
 Filed: August 31, 1982 as R.1982 d.315, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 44:7-87 and Section 1618(a) of the Social Security Act.

Effective Date: August 31, 1982.

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

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

Note: The figures which appear in boldface with brackets and asterisks are those figures which appeared at 14 N.J.R. 760(a) and are to be effective upon filing through September 30, 1982. The new figures in boldface with asterisks, which will become effective October 1, 1982, represent a \$2.10 increase in the optional State supplement in the SSI payment level pursuant to the Legislature's increase of annual Lifeline benefits. All other figures effective upon filing.

10:100-1.23 SSI payment schedule
 (a) The following is the SSI payment schedule and related levels:

New Jersey Supplemental Security Income Payment Levels

Living Arrangement Categories	Payment Level [7/1/81]*[7/1/82]* *10/1/82*
Eligible Couple	
Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence	[\$50/397.00†] \$50/426.40†

Residential Health Care Facilities

HUMAN SERVICES

and certain residential facilities for children and adults [\$804.50] \$*[843.70]*
845.80

[Living Alone, or in a business arrangement, or in a commercial establishment or living with others but not member of a "household", or a member of a household with ownership or rental responsibility and paying more than their pro rata share of household expenses] [\$421.50]

[Living with Others (Includes householder receiving pro rata share or more of "household" expenses from other members of the household who have no ownership or rental responsibility)] [\$414.50]

Living Alone or with Others **\$*[445.50]**447.60***

Living in Household of Another, Receiving Support and Maintenance [\$351.50] \$*[371.10]*
373.20

Eligible Individual

Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence of 16 or less [\$25/264.70†] **\$25/284.30†**

Residential [h]Health Care Facilities and certain residential facilities for children and adults [\$408.50] \$*[428.10]*
430.20

[Living Alone, or in a business arrangement, or in a commercial establishment, or living with others but not member of a "household" or a member of a household with ownership or rental responsibility and paying more than his pro rata share of household expenses.] [\$300.50]

Living Alone or with Others **\$*[309.30]**311.40***

Living with Ineligible Spouse (No other individuals in household) [\$421.50] \$*[445.50]*
447.60

[Living with others (Includes householder receiving pro rata share or more of "household" expenses from other members of the household who have no ownership or rental responsibility)] [\$280.50]

Living in Household of Another, Receiving Support and Maintenance [\$214.50] \$*[227.60]*
229.70

†The lower figure applies when Medicaid payments with respect to an individual equal an amount over 50 percent of the cost of services provided in a month.

(a)

DIVISION OF PUBLIC WELFARE

Ruling 11
Salary Increases for County Welfare Agency Employees

Adopted Amendment: N.J.A.C. 10:109 (Appendix II)

Proposed: June 21, 1982 at 14 N.J.R. 630(a).
Adopted: September 1, 1982 by George J. Albanese, Commissioner, Department of Human Services.
Filed: September 2, 1982 as R.1982 d.319, without change.

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

Effective Date: September 20, 1982.

Summary of Public Comments and Agency Responses:

Only one source submitted a written comment suggesting the ceilings on the compensation schedules of Ruling 11 remain unchanged unless the counties demanded adjustment.

These revisions would enable the county welfare agencies to grant salary increases to its employees to bring them up to parity with State employees if they wished to do so. Nine county welfare agencies have provisions in their current agreement allowing them to adopt wage increases effective July 1, 1982. Other counties are in the midst of negotiating new agreements or wage reopeners effective July 1, 1982, and these agencies would be free to negotiate a salary package within the additional parameters of Ruling 11.

(b)

DIVISION OF YOUTH AND FAMILY SERVICES

Adoptions
Adoption Subsidy

Adopted New Rule: N.J.A.C. 10:121-2
Adopted Repeal: N.J.A.C. 10:121-2

Proposed: July 19, 1982 at 14 N.J.R. 746(a).
Adopted: September 2, 1982 by George J. Albanese, Commissioner, Department of Human Services.
Filed: September 3, 1982 as R.1982 d.321, without change.

Authority: N.J.S.A. 30:4C-45 through -49, 30:4C-31 and P.L. 96-272.

Effective Date: September 20, 1982.

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

(c)

DEVELOPMENTAL DISABILITIES COUNCIL

1982 State Plan for services to the Developmentally Disabled

Adopted Amendment: N.J.A.C. 10:140

Proposed: July 6, 1982 at 14 N.J.R. 699(b).
Adopted: August 31, 1982 by New Jersey Developmental Disabilities Council, Catherine Rowan, Executive Director.
Filed: September 3, 1982 as R.1982 d.320, without change.

Authority: N.J.S.A. 30:1AA-7.

Effective Date: September 20, 1982.

Summary of Public Comments and Agency Responses:

Two letters were received concerning the State Plan. In the first, our estimate of the number of "infants at risk" was questioned as being low. Our response was to explain that we estimate only the number of babies at risk of a developmental disability versus numbers at risk of any handicapping condition. This accounts for the low numbers in the State Plan.

The second letter expressed concern that the 1982 State Plan does not contain a complete listing of private agencies serving developmentally disabled persons. We are undertaking a survey of more than 150 agencies to be included in the 1983 State Plan.

Finally, comments on the Council's four priority service areas were solicited at a public event on May 22, 1982. Ballots were provided on which participants were asked to rate the two goals (of 11) the Council should concentrate on. Early intervention and alternative living arrangements, the two priority service areas for 1982, were chosen.

TRANSPORTATION

(d)

TRANSPORTATION OPERATIONS

Speed Limits for State Highways
Route US 130 including Parts of Route I-295,
Route US 30 and Route US 206

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

Proposed: August 2, 1982 at 14 N.J.R. 824(a).
Adopted: September 2, 1982 by David W. Gwynn, Chief Engineer, Transportation Operations and Local Aid.
Filed: September 3, 1982 as R.1982 d.323, without change.

Authority: N.J.S.A. 27:1A-5 and 6, and 39:4-98.

Effective Date: September 20, 1982.

Summary of Public Comments and Agency Responses:

ADOPTIONS

TRANSPORTATION

No comments received. _____

(c)

(a)

TRANSPORTATION OPERATIONS

**Restricted Parking and Stopping
Routes US 22 and 38**

**Adopted Amendments: N.J.A.C. 16:28A-1.13
and 1.27**

Proposed: July 19, 1982 at 14 N.J.R. 753(a).
Adopted: August 23, 1982 by David W. Gwynn, Chief
Engineer, Transportation Operations and Local Aid.
Filed: August 31, 1982 as R.1982 d.313, **without
change.**

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

Effective Date: September 20, 1982.

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

(b)

TRANSPORTATION OPERATIONS

**Restricted Parking and Stopping
Route US 30 and Rising Sun Square Road**

**Adopted Amendment: N.J.A.C. 16:28A-1.21
Readopted New Rule: N.J.A.C. 16:28A-1.95**

Proposed: August 2, 1982 at 14 N.J.R. 825(b).
Adopted: September 2, 1982 by David W. Gwynn, Chief
Engineer, Transportation Operations and Local Aid.
Filed: September 3, 1982 as R.1982 d.322, **without
change.**

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

Effective Date: September 20, 1982.

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

OFFICE OF ADMINISTRATIVE LAW NOTE: The notice of
proposed changes concerning restricted parking and stopping on
Route US 30 and Rising Sun Square Road was published in the
August 2, 1982 Register at 14 N.J.R. 825(b). A portion of this
notice of adoption (N.J.A.C. 16:28A-1.95) was previously adopted
on July 27, 1982 and filed with the Office of Administrative Law
as an emergency rule on August 5, 1982 (see the September 7, 1982
Register at 14 N.J.R. 982(b)).

TRANSPORTATION OPERATIONS

**Restricted Parking and Stopping
Routes 36, 38, US 40, 45, US 46, 93, 166,
168 and 439**

**Adopted Amendments: N.J.A.C. 16:28A-1.26,
1.27, 1.28, 1.31, 1.32, 1.50, 1.51, 1.68 and
1.70**

Proposed: July 6, 1982 at 14 N.J.R. 702(b).
Adopted: August 16, 1982 by David W. Gwynn, Chief
Engineer, Transportation Operations and Local Aid.
Filed: August 31, 1982 as R.1982 d.312, **without
change.**

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

Effective Date: September 20, 1982.

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

MISCELLANEOUS NOTICES

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Notice to Our Readers

Starting with the September 7, 1982 Register, the agency's reasons for any changes to a proposed rule made upon adoption of the rule now appear as part of the notice of changes and adoption. A summary by the agency of comments received with respect to the proposal and of its responses to those comments will also appear with the notice of adoption.

The publication of this material is in compliance with N.J.S.A. 52:14B-4(a)(4), as implemented by N.J.A.C. 1:30-4.1(a)5 and 6.

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF WASTE MANAGEMENT

Hazardous Waste Management and Identification Petition for Exclusion of a Listed Hazardous Waste

Public Notice

The New Jersey Department of Environmental Protection (NJDEP) is temporarily excluding solid waste generated in the manufacture of metal printed wiring boards by the Western Electric Company located in Kearny, New Jersey. This temporary exclusion is in response to a delisting petition submitted under N.J.A.C. 7:26-8.17. This action will temporarily exclude these wastes from management under N.J.A.C. 7:26-7 through 12, the hazardous waste rules.

The Department will accept **public comments** on this temporary exclusion until October 20, 1982. Comments should be sent to:

Randall Vieser
Division of Waste Management
32 East Hanover Street
Trenton, NJ 08625

The public docket for this temporary exclusion is located at the same address and is available for viewing from 9:00 A.M. to 4:00 P.M., Monday through Friday, excluding holidays.

Petition to Delist

The Western Electric Company is located in Kearny, New Jersey and is involved in the manufacture of metal printed wiring boards. The Western Electric production processes, which generate the wastes concerned herein, include plating of copper, zinc, nickel,

chrome, solder, gold and silver parts and associated alkali and acid cleaning. The resultant sludge is presently listed as:

"N.J. Hazardous Waste No. F006-Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum." (N.J.A.C. 7:26-8.13)

Western Electric is of the opinion that its waste does not meet the criteria for which the waste type F006 was listed.

Support for Delisting

Western Electric has submitted detailed documentation in support of their petition for delisting. This documentation includes the following items:

1. A description of the existing operations, including the sludge generation rate;
2. The results from the EP toxicity test, including a description of sampling techniques and equipment employed, analysis methodology and instrumentation and the qualifications of the personnel doing the work; and
3. Copies of data from previous sludge analyses performed for the NJDEP and Hackensack Meadowlands Development Commission.

Departmental Analysis and Action

The background document for the listing of the F006 waste stream was published by EPA's Office of Solid Waste on November 14, 1980. The constituents of concern in waste number F006, described in the Federal background document, are cadmium, hexavalent chromium, cyanide and nickel. Waste stream F006 is hazardous primarily due to its toxicity.

In order to test whether a waste is hazardous because of toxicity, the testing methods set by the department and the USEPA must be followed. If a waste has levels of a substance higher than listed in Table I, under N.J.A.C. 7:26-8.12, it is a toxic hazardous waste.

The results of the toxicity test on two composite samples of Western Electric's sludge were included in the petition submitted by Western Electric. The levels of arsenic, selenium, mercury, barium, lead, silver, chromium and cadmium are below the maximum allowable concentrations which are listed in N.J.A.C. 7:26-8.12, Table I.

In addition to the maximum constituent levels set for the substances in Table I, the USEPA has established maximum levels of other hazardous constituents, as part of the review of specific delisting petitions, similar to the one filed by Western Electric. In this regard, the EPA's Office of Solid Waste in Washington, D.C. has set maximum levels of 20 parts per million (ppm) of nickel (see 46 FR 40158, August 6, 1981) and has placed a limit of 10 parts per million of total cyanide, specifically for Western Electric sludge shipments, as discussed below. The Department's Division of Waste Management will further research the toxicity of nickel before formally adopting this criterion. However, on an interim basis, the Department will also employ the 20 ppm nickel criterion.

In addition to the nickel analyses, Western Electric has not yet analyzed their sludge for another constituent of concern, total cyanide. The EPA has set 10 ppm as the maximum allowable level of with total cyanide, and the EPA has approved a contingency plan to which Western Electric must adhere for temporary exclusion status, which requires analysis of each batch of sludge for both extractable nickel and total cyanide. If a batch of sludge exceeds

MISCELLANEOUS NOTICES

the criterion suggested by the EPA for nickel, that sludge must be managed as a hazardous waste. For total cyanide, the EPA is solely concerned that photodegradation might convert complexed cyanide, measured as total cyanide, to the more hazardous free cyanide. To mitigate dangers from cyanide, via this pathway, the contingency plan requires daily soil cover to be applied to any sludge having above 10 ppm total cyanide.

In addition to complying with the above requirements, Western Electric must also submit information regarding the contingency plan activities to the NJDEP for at least a six month period. At that time, the Department will review the submitted data on waste monitoring and management activities and will consider the continuation of all interim management requirements. The Department defers decision on the permanent exclusion of the Western Electric sludge, pending further action by the EPA and review of comments, submitted in response to this notice.

This temporary delisting shall apply only to that sludge, described as F006, generated by Western Electric Company of Kearny, New Jersey.

(a)

THE COMMISSIONER

State Certifications of Draft NPDES Permits

Public Notice

Robert E. Hughey, Commissioner of the Department of Environmental Protection, pursuant to the "New Jersey Water Pollution Control Act," N.J.S.A. 58:10A-1 et seq., is authorized to assess compliance of a surface water discharge with State law pertaining to discharges to the waters of the State. The Department is requested by the United States Environmental Protection Agency, as required by section 401 of the Federal Clean Water Act, 33 U.S.C. 1251 et seq., to certify that a discharge, as described in a draft National Pollutant Discharge Elimination System permit, will not violate the requirements of State law.

The Department publishes public notice of certifications in the DEP Bulletin. Copies of the Bulletin may be obtained by calling (609) 292-3178 or writing to the Documents Distribution Center, P.O. Box 1390, Trenton, New Jersey 08625.

INSURANCE

(b)

THE COMMISSIONER

Public Notice: List of New Jersey Municipalities That Have Adopted Ordinances Pursuant to P.L. 1978, c.184, As Amended by P.L. 1979, c.369

On July 29, 1982, Herman W. Hanssler, Assistant Commissioner of Insurance, pursuant to authority of P.L. 1979, c.369, filed a list of New Jersey municipalities that have passed an ordinance requiring insurance companies writing fire insurance on risks located in that municipality to pay unpaid liens out of any claimed payments in excess of \$2,500.

This list was filed as R.1982 d.290.

Full text of the list follows.

INSURANCE

Date Filed With
The Department
of Insurance

The City of Paterson 07505 (Passaic County)	February 16, 1979
The City of East Orange 07019 (Essex County)	February 20, 1979
The City of Jersey City 07302 (Hudson County)	February 23, 1979
The Town of West Orange 07052 (Essex County)	February 26, 1979
The Township of Jackson 08527 (Ocean County)	March 7, 1979
The City of Bayonne 07002 (Hudson County)	March 12, 1979
The Township of Washington 08215 (Burlington County)	March 12, 1979
The Town of West New York 07093 (Hudson County)	March 16, 1979
The Borough of South River 08882 (Middlesex County)	March 16, 1979
The City of Newark 07102 (Essex County)	March 16, 1979
The City of Atlantic City 08401 (Atlantic County)	March 19, 1979
The Town of Irvington 07111 (Essex County)	March 20, 1979
The Township of Howell 07731 (Monmouth County)	March 20, 1979
The Borough of Eatontown 07724 (Monmouth County)	March 23, 1979
The Borough of Somerville 08876 (Somerset County)	March 23, 1979
The Town of Bloomfield 07003 (Essex County)	March 27, 1979
The Township of Maplewood 07040 (Essex County)	April 4, 1979
The Town of Montclair 07042 (Essex County)	April 5, 1979
The City of Plainfield 07061 (Union County)	April 5, 1979
The Borough of Sea Bright 07760 (Monmouth County)	April 10, 1979
The City of Millville 08332 (Cumberland County)	April 10, 1979
The City of Union City 07087 (Hudson County)	April 23, 1979
The Township of Lawrence 08648 (Mercer County)	April 24, 1979
The Borough of Florham Park 07932 (Morris County)	April 25, 1979
The City of Elizabeth 07201 (Union County)	April 30, 1979
The City of Bridgeton 08302 (Cumberland County)	April 30, 1979
The City of Camden 08101 (Camden County)	May 4, 1979
The Township of Randolph 07801 (Morris County)	May 10, 1979
The Township of Riverside 08075 (Burlington County)	May 10, 1979
The Township of Mannington 08079 (Salem County)	May 17, 1979
The Township of Berkeley 08721 (Ocean County)	May 22, 1979
The City of Cape May 08204 (Cape May County)	May 22, 1979
The City of Asbury Park	May 25, 1979

INSURANCE

MISCELLANEOUS NOTICES

07712 (Monmouth County) The Township of Washington	May 30, 1979	08009 (Camden County) The Borough of Sussex	October 24, 1979
07853 (Morris County) The Township of Westampton	June 4, 1979	07461 (Sussex County) The Township of Ocean	November 27, 1979
08060 (Burlington County) The Township of Hillside	June 4, 1979	07755 (Monmouth County) The Borough of Lavallette	December 11, 1979
07205 (Union County) The City of Salem	June 20, 1979	08735 (Ocean County) The City of Rahway	December 18, 1979
08079 (Salem County) The Township of Lower	June 25, 1979	07065 (Union County) The City of Pleasantville	December 27, 1979
08204 (Cape May County) The Borough of Fanwood	June 29, 1979	(Atlantic County) The Township of Mount	January 29, 1980
07023 (Union County) The City of Orange	July 2, 1979	Holly 08060 (Burlington County)	March 5, 1980
07050 (Essex County) The Township of Carneys Point	July 2, 1979	The Town of Secaucus	March 20, 1980
08069 (Salem County) The City of Vineland	July 6, 1979	07094 (Hudson County) The Township of Berlin	April 1, 1980
08360 (Cumberland County) The Borough of Penns Grove	July 9, 1979	08091 (Camden County) The City of Asbury Park	April 16, 1980
08069 (Salem County) The Town of Phillipsburg	July 13, 1979	07712 (Monmouth County) The Town of Dover	April 17, 1980
08865 (Warren County) The Borough of Westwood	July 13, 1979	07801 (Morris County) The Township of Willingboro	April 22, 1980
07675 (Bergen County) The Township of Pohatcong	July 20, 1979	08046 (Burlington County) The City of Hackensack	May 2, 1980
08865 (Warren County) The Township of Edgewater	July 24, 1979	07602 (Bergen County) The Township of Brick	May 27, 1980
Park 08010 (Burlington County)	August 3, 1979	08723 (Ocean County) The Township of Mount Laurel	June 12, 1980
The Town of Hammonton	August 8, 1979	08054 (Burlington County) The City of Trenton	June 17, 1980
08037 (Atlantic County) The Borough of Roselle	August 10, 1979	08608 (Mercer County) The Borough of Tenafly	June 20, 1980
07203 (Union County) The Township of Cedar	August 15, 1979	07670 (Bergen County) The Township of Franklin	June 20, 1980
Grove 07009 (Essex County) The Borough of Keyport	August 15, 1979	(Somerset County) The Borough of Tinton Falls	June 23, 1980
07735 (Monmouth County) The Borough of Victory	August 22, 1979	07724 (Monmouth County) The Township of Readington	July 16, 1980
Gardens 07801 (Morris County)	August 24, 1979	08889 (Hunterdon County) The Borough of Princeton	July 18, 1980
The Township of Scotch	August 27, 1979	08540 (Mercer County) The Township of Maple Shade	August 19, 1980
Plains 07076 (Union County) The City of North Wildwood	August 30, 1979	08052 (Burlington County) The Township of South Orange	August 21, 1980
08260 (Cape May County) The Borough of Fort Lee	August 30, 1979	Village 07079 (Essex County) The Township of Fairfield	August 26, 1980
07024 (Bergen County) The Township of Cinnaminson	August 30, 1979	07006 (Essex County) The Town of Kearny	September 3, 1980
08077 (Burlington County) The Township of Delran	September 5, 1979	07032 (Hudson County) The Borough of Hightstown	September 4, 1980
08075 (Burlington County) The Township of Lopatcong	September 19, 1979	08520 (Mercer County) The City of Passaic	September 8, 1980
08865 (Warren County) The Borough of Fair View	September 24, 1979	07055 (Passaic County) The Township of Aberdeen	September 9, 1980
07022 (Bergen County) The Borough of Sayreville	September 26, 1979	07747 (Monmouth County) The Borough of Red Bank	September 25, 1980
08872 (Middlesex County) The Township of Egg Harbor	September 26, 1979	07701 (Monmouth County) The Township of Princeton	September 26, 1980
08221 (Atlantic County) The Township of Hopewell	September 26, 1979	08540 (Mercer County) The Borough of South	September 26, 1980
08302 (Cumberland County) The Township of Dover	October 15, 1979	Plainfield 07080 (Middlesex County)	September 26, 1980
08753 (Ocean County) The City of Hoboken	October 15, 1979	The Township of Maurice River 08332	October 9, 1980
07030 (Hudson County) The Township of Upper	October 15, 1979	(Cumberland County) The Township of Byram	October 28, 1980
Pittsgrove 08318 (Salem County)	October 18, 1979	07860 (Sussex County) The Township of Fredon	
The Borough of Berlin			

07860 (Sussex County) The Township of Winslow 08037 (Camden County)	November 13, 1980
The Borough of Butler 07405 (Morris County)	November 14, 1980
The Borough of Roselle Park 07204 (Union County)	March 5, 1981
The Township of Piscataway 08854 (Middlesex County)	March 20, 1981
The Borough of Paulsboro 08066 (Gloucester County)	May 7, 1981
The Borough of Farmingdale 07727 (Monmouth County)	May 18, 1981
The Township of Millburn 07041 (Essex County)	May 19, 1981
The City of Egg Harbor 08215 (Atlantic County)	May 21, 1981
The Borough of Spotswood 08884 (Middlesex County)	June 19, 1981
The Borough of Matawan 07747 (Monmouth County)	June 19, 1981
The Township of Lacey 08731 (Ocean County)	August 18, 1981
The Township of Ewing 08618 (Mercer County)	November 10, 1981
The Township of Clinton 08801 (Hunterdon County)	December 10, 1981
The Borough of Eatontown 07724 (Monmouth County)	December 15, 1981
The Township of Neptune 07753 (Monmouth County)	January 4, 1982
The Borough of Pine Hill 08021 (Camden County)	March 2, 1982
The Borough of Belmar 07719 (Monmouth County)	March 5, 1982
The City of Ventnor City 08401 (Atlantic County)	March 30, 1982
The Borough of Runnemede 08078 (Camden County)	May 6, 1982
The Borough of Woodlynne 08107 (Camden County)	June 7, 1982
The Township of Green 07821 (Sussex County)	July 20, 1982
The Borough of Somerdale 08083 (Camden County)	July 28, 1982

3. Taxpayers which have realized a nonrecurring, extraordinary gain which would distort the amount of their installment payment. The recognition of such gain must cause that distortion, and the gain must have been nonrecurring and extraordinary as those terms are used in the application of generally accepted accounting principles *[*], **but not limited to those principles.** * [For example, such a gain may have resulted from a sale of a plant or business segment.]*

4. (No change from proposal.)

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

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Corporation Business Tax Installment Payments

Notice of Correction: N.J.A.C. 18:7-3.14

Errors appeared in the January 18, 1982 issue of the New Jersey Register at 14 N.J.R. 105(d) concerning installment payments, N.J.A.C. 18:7-3.14 should have appeared as follows:

18:7-3.14 Equitable relief from certain otherwise mandatory installment payments of corporation business tax

(a) (No change from proposal.)

(b) There are four classes of eligible taxpayers:

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

INDEX OF PROPOSED RULES

The *Index of Proposed Rules* contains rules which have been proposed in the New Jersey Register between September 10, 1981 and September 7, 1982, and which have not been adopted and filed by September 3, 1982. The index does not contain rules proposed in this Register and listed in the *Table of Rules in This Issue*. These proposals will appear in the next *Index of Proposed Rules*.

A proposed rule listed in this index may be adopted no later than one year from the date the proposal was originally published in the Register. Failure to timely adopt the proposed rule requires the proposing agency to re-submit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) as implemented by the Rules for Agency Rulemaking of the Office of Administrative Law (N.J.A.C. 1:30).

The *Index of Proposed Rules* appears in the second issue of each month, complementing the *Index of Adopted Rules* which

appears in the first Register of each month. Together, these indices make available for a subscriber to the Code and Register all legally effective rules, and enable the subscriber to keep track of all State agency rulemaking activity from the initial proposal through final promulgation.

The proposed rules are listed below in order of their Code citation. Accompanying the Code citation for each proposal is a brief description of its contents, the date of its publication in the Register, and its Register citation.

The full text of the proposed rule will generally appear in the Register. If the full text of the proposed rule was not printed in the Register, it is available for a fee from:

Administrative Filings
CN 301
Trenton, New Jersey 08625

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1			
1:1-2.2	Contested cases and OAL jurisdiction	6-7-82	14 N.J.R. 486(a)
1:1-2.2	Public hearing: Contested cases and OAL jurisdiction	6-7-82	14 N.J.R. 674(a)
1:1-5.2, 5.3	Pre-hearing information	6-21-82	14 N.J.R. 607(a)
1:1-9.7	Interlocutory review	8-2-82	14 N.J.R. 778(a)
1:1-17.3	Return of cases	1-4-82	14 N.J.R. 4(b)
1:6A	Special Education Program hearing rules	9-7-82	14 N.J.R. 930(a)
1:20	Representation fee hearings before PERC Appeal Board	8-16-82	14 N.J.R. 862(a)
1:30	Agency rulemaking	8-2-82	14 N.J.R. 780(a)
15:15-8	Repeal rules on Register and Code	4-19-82	14 N.J.R. 366(a)
AGRICULTURE—TITLE 2			
2:2-2.19	Brucellosis testing for intrastate movement	8-16-82	14 N.J.R. 865(a)
BANKING—TITLE 3			
3:1-2.20	Savings and loan branch facilities	11-2-81	13 N.J.R. 714(a)
3:6-9	Super NOW deposit accounts	8-2-82	14 N.J.R. 786(a)
CIVIL SERVICE—TITLE 4			
4:1-2.1	"Base salary" defined	7-6-82	14 N.J.R. 679(a)
4:1-7.11	Hours of work and compensation	9-7-82	14 N.J.R. 938(a)
4:1-8.8B	Veterans' age reduction	5-17-82	14 N.J.R. 455(a)
4:1-12.10	Notifying eligibles of certification	9-7-82	14 N.J.R. 940(a)
4:1-15.2	Lateral title change	9-7-82	14 N.J.R. 940(b)
4:1-16.1-16.5	Layoffs and demotions	2-16-82	14 N.J.R. 184(a)
4:1-16.1-16.5	Senate Concurrent Resolution: Layoffs and demotions	2-16-82	14 N.J.R. 298(a)
4:1-18.2, 18.6-18.8	Hours of work and compensation	9-7-82	14 N.J.R. 938(a)
4:1-18.4	Repeal dual employment rules	9-7-82	14 N.J.R. 941(a)
4:1-24.1, 24.3-24.12	Layoffs and demotions	2-16-82	14 N.J.R. 184(a)
4:1-24.1, 24.3-24.12	Senate Concurrent Resolution: Layoffs and demotions	2-16-82	14 N.J.R. 298(a)
4:1-25.1	Public inspection of records	9-7-82	14 N.J.R. 942(a)
4:2-2.1	Repeal rule on veterans' age reduction	5-17-82	14 N.J.R. 455(a)
4:2-7.1	Compensation for NL4 designated titles	2-16-82	14 N.J.R. 184(a)
4:2-7.1	Repeal: Hours of work	9-7-82	14 N.J.R. 938(a)
4:2-15.2	Repeal: Lateral title change	9-7-82	14 N.J.R. 940(b)
4:2-16.1, 16.2	Senate Concurrent Resolution: Layoffs and demotions	2-16-82	14 N.J.R. 298(a)
4:2-18.4	Repeal dual employment rules	9-7-82	14 N.J.R. 941(a)
4:2-20.12	Repeal: Public inspection of records	9-7-82	14 N.J.R. 942(a)
4:3-2.1	Repeal rule on veterans' age reduction	5-17-82	14 N.J.R. 455(a)
4:3-16.1, 16.2	Layoffs and demotions	2-16-82	14 N.J.R. 184(a)
4:3-16.1, 16.2	Senate Concurrent Resolution: Layoffs and demotions	2-16-82	14 N.J.R. 298(a)
4:3-18.1	Repeal dual employment rules	9-7-82	14 N.J.R. 941(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
COMMUNITY AFFAIRS—TITLE 5			
5:10-1.17	Hotel and multiple dwelling inspection fees (with Emergency Adoption)	8-16-82	14 N.J.R. 909(b)
5:23-2.38, 4.15 4.26, 5.2, 5.9, 5.11	Uniform Construction Code: Licensing	7-19-82	14 N.J.R. 734(a)
5:23-4.8	Interlocal Construction Code enforcement	6-7-82	14 N.J.R. 495(a)
5:23-4.17, 4.20	UCC enforcing agency fees	9-7-82	14 N.J.R. 943(a)
5:25-5.5	Warranty coverage claims	9-7-82	14 N.J.R. 944(a)
5:27-2.1	Fire safety in boarding houses	6-7-82	14 N.J.R. 496(b)
5:27-3.5	Boarding houses: Non-ambulatory residents	6-7-82	14 N.J.R. 499(a)
5:27-4.8, 5.1-5.3, 5.8, 5.9	Fire safety in boarding houses	6-7-82	14 N.J.R. 496(b)
5:27-10.6	Boarding houses: Self-administration of medicine	6-7-82	14 N.J.R. 499(a)
5:27-12	Boarding house safety improvement loans	6-7-82	14 N.J.R. 496(b)
5:30-10.1, 10.2	Local Finance Board: Municipal port authorities	8-2-82	14 N.J.R. 786(b)
5:80-2	Housing Finance Agency project conversions	4-5-82	14 N.J.R. 301(b)
EDUCATION—TITLE 6			
6:11-8.1, 8.2, 8.4 8.8, 8.9-8.13	Minimum standards for teacher education	4-5-82	14 N.J.R. 305(a)
6:11-10.2, 10.4, 10.7-10.9	Administrative certification	6-21-82	14 N.J.R. 614(a)
6:53	Vocational education safety standards	6-21-82	14 N.J.R. 619(a)
ENVIRONMENTAL PROTECTION—TITLE 7			
7:7-2.2, 2.6-2.9, 2.11, 2.15	"Repair" of waterfront structures; removal of unauthorized fill; permit duration	7-6-82	14 N.J.R. 679(b)
7:7F	Shore Protection Program	8-16-82	14 N.J.R. 865(b)
7:8	Storm water management	12-21-81	13 N.J.R. 916(a)
7:11-2, -4	Rate Schedule: Water from Delaware and Raritan, Spruce Run/Round Valley	7-6-82	14 N.J.R. 681(a)
7:13-1.11	Notice of flood hazard delineations	12-21-81	13 N.J.R. 950(a)
7:13-1.11	Delineated streams in Somerset County	4-19-82	14 N.J.R. 367(a)
7:13-1.11	Floodway delineations along Big Timber Creek, Delaware basin	6-7-82	14 N.J.R. 505(a)
7:13-1.11	Floodway delineations along Pond Run, Mercer County	6-7-82	14 N.J.R. 506(a)
7:13-1.11	Floodway delineations along Cedar Creek, Lacey Twp.	7-6-82	14 N.J.R. 683(a)
7:13-1.11	Floodway delineations within Bass River Basin	7-6-82	14 N.J.R. 683(b)
7:13-1.11	Floodway delineations within Atlantic Basin	7-19-82	14 N.J.R. 736(a)
7:13-1.11	Floodway delineations in Union County	8-16-82	14 N.J.R. 870(a)
7:13-1.11	Floodway delineations in Morris County	8-16-82	14 N.J.R. 870(b)
7:14-2	Construction of wastewater treatment facilities	1-18-82	14 N.J.R. 75(a)
7:14A-1.8, 1.9	Fee schedule for NJPDES permittees	7-6-82	14 N.J.R. 684(a)
7:25-5.13, 5.28, 5.29	1982-83 Game Code changes	8-16-82	14 N.J.R. 871(a)
7:25-6	1983-84 Fish Code	8-16-82	14 N.J.R. 872(a)
7:25-7.10	"No charge" oyster license	6-21-82	14 N.J.R. 629(a)
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7:25-16.1	Upstream fishing lines	8-16-82	14 N.J.R. 882(a)
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10:63-1.16	Long-term care of psychiatric patients	11-16-81	13 N.J.R. 813(a)
10:63-1.16	Agency response to petition: Long-term care of psychiatric patients	4-5-82	14 N.J.R. 321(a)
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10:64	Hearing aid services revisions	10-8-81	13 N.J.R. 656(a)
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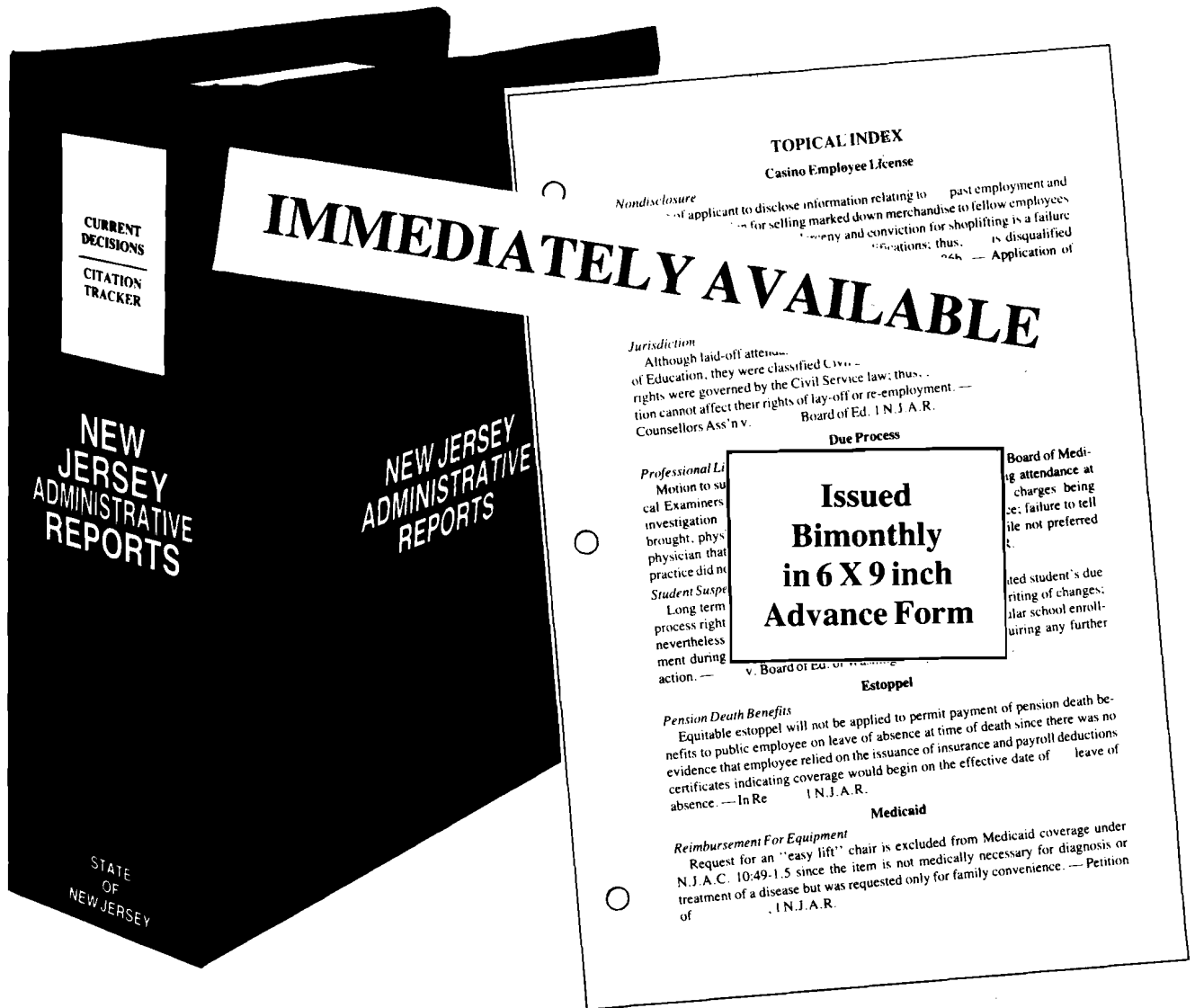
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