

# NEW JERSEY



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THE JOURNAL OF STATE AGENCY RULEMAKING

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MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: OCTOBER 16, 1989

See the Register Index for Subsequent Rulemaking Activity.

NEXT UPDATE: SUPPLEMENT NOVEMBER 20, 1989

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**Interested persons** may submit, in writing, information or arguments concerning any of the rule proposals in this issue until **February 1, 1990**. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal or group of proposals.

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

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

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## NEW JERSEY REGISTER

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# RULE PROPOSALS

## ADMINISTRATIVE LAW

(a)

### OFFICE OF ADMINISTRATIVE LAW

#### Uniform Administrative Procedure Rules Partial Summary Decision

#### Proposed Amendment: N.J.A.C. 1:1-12.5

Authorized By: Jaynee LaVecchia, Director, Office of Administrative Law.

Authority: N.J.S.A. 52:14F-5(e), (f) and (g).

Proposal Number: PRN 1990-18.

Submit written comments by February 1, 1990 to:

Steven L. Lefelt, Deputy Director  
Office of Administrative Law  
Quakerbridge Plaza, Building No. 9  
CN 049  
Trenton, New Jersey 08625

The agency proposal follows:

#### Summary

N.J.A.C. 1:1-12.5(e) provides for partial summary decisions in contested cases. Such orders are not final until reviewed by the transmitting agency head, either interlocutorily or at the end of the contested case. The rule also permits the judge, in appropriate situations, to refer a partial summary decision to the agency head as an initial decision for immediate review. The proposed amendment will allow the agency head to remand a partial summary decision to the judge if the agency head decides that it is not necessary to consider the merits of a partial summary ruling before the end of the case. Remands will rarely occur because partial summary rulings are rarely referred as initial decisions, and only when the judge determines that their resolution will avoid unnecessary litigation and expense. However, should the need arise, the proposed amendment makes clear that the agency head has the authority to remand and indicate that the partial summary ruling will be considered at the end of the contested case.

#### Social Impact

The proposed amendment will avoid any potential problems that might occur if an agency head receives a partial summary ruling referred by a judge as an initial decision, but the agency head believes it is not appropriate to review the ruling at that time. The proposed amendment provides a simple check on improvident referrals.

#### Economic Impact

The proposed amendment provides for remands of partial summary rulings which were incorrectly referred as initial decisions. An inappropriate remand by an agency head of a correctly submitted partial summary ruling could result in increased litigation expense for the parties. However, the agency achieves greater flexibility in organizing its work and an ability to protect itself against the need to review rulings prematurely. Because the rule will probably have limited applicability, the overall economic impact, if any, will be insignificant.

#### Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because this proposed amendment does not impose reporting, recordkeeping or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The amendment provides for a certain agency head action in a contested case.

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

1:1-12.5 Motion for summary decision; when and how made;  
partial summary decision

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

(e) A partial summary decision order shall by its terms not be effective until a final agency decision has been rendered on the issue, either upon interlocutory review pursuant to N.J.A.C. 1:1-14.10 or at the end of the contested case, pursuant to N.J.A.C. 1:1-18.6. However, at the discretion of the judge, for the purpose of avoiding

unnecessary litigation or expense by the parties, the order may be submitted to the agency head for immediate review as an initial decision, pursuant to N.J.A.C. 1:1-18.3(c)12. **If the agency head concludes that immediate review of the order will not avoid unnecessary litigation or expense, the agency head may remand the matter to the judge and indicate that the order will be reviewed at the end of the contested case.** Within 10 days after [the] a partial summary decision order is filed with the agency head, the Clerk shall certify a copy of pertinent portions of the record to the agency head.

(f) (No change.)

## AGRICULTURE

(b)

### DIVISION OF MARKETS

#### New Jersey Sire Stakes Program Qualifying Standards

#### Proposed Amendment: N.J.A.C. 2:32-2.22

Authorized By: Sire Stakes Board of Trustees; and  
Arthur R. Brown, Jr., Secretary, Department of Agriculture.  
Authority: N.J.S.A. 5:5-91.

Proposal Number: PRN 1990-10.

Submit written comments by February 1, 1990 to:

Bruce A. Stearns, Executive Director  
New Jersey Sire Stakes Program  
State Department of Agriculture  
CN 330  
Trenton, New Jersey 08625  
Telephone: (609) 292-8830

The agency proposal follows:

#### Summary

The proposed amendment provides for a slight (one second) decrease in qualifying times in the two-year-old trot category in the New Jersey Sire Stakes Pari-mutuel Division.

#### Social Impact

The Sire Stakes Board of Trustees sees little if any new or additional social impact to the participant. The reduction in starting times is a reflection and tribute to the quality of horses being raced in New Jersey and the reduction should not disqualify any competitive classes of horses from a race.

#### Economic Impact

The proposed amendment should result in little, if any, economic impact on Sire Stakes Program participants as the change is technical and does not increase fees, or impose major new conditions on the participants.

#### Regulatory Flexibility Statement

Many of the participants in the Sire Stakes Program are small businesses by definition of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., and, as such, an analysis is appropriate.

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

The Sire Stakes Board of Trustees is aware of the facts of the industry it regulates. The total value of the 16,000 plus Standardbred stallions and race horses in New Jersey exceeds \$360 million. Standardbred owners, breeders and trainers put \$75 million of expenses into the economy each year and realize about \$70 million worth of revenue. Individually, it costs approximately \$20,000 per year to keep a race horse but the purse revenues are only \$19,000.

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

The Sire Stakes Program, by providing 365 races at both pari-mutuel and fair tracks, provides over \$6 million in purse money and another \$3 million in restricted races for New Jersey sired performers. The Program has continued to grow despite its funding problems. The number of small businesses participating in the Program has increased each year. Therefore, the Sire Stakes Board of Trustees believes the program is beneficial to the small businesses of the Standardbred industry based on the continuing and increasing numbers of small business participants.

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

2:32-2.22 Qualifying standards

(a) All starters in the New Jersey Sire Stakes Pari-mutuel Division must meet the following qualifying standards and be eligible at time of entry.

1. (No change.)
2. The New Jersey Sire Stakes qualifying times at the Pari-mutuel tracks will be as follows:

	One Mile	5/8 Mile	1/2 Mile
	Track	Track	Track
Two-Year-Old-Trot	[2:06] <b>2:05</b>	[2:07] <b>2:06</b>	[2:08] <b>2:07</b>
Three-Year-Old-Trot	2:03	2:04	2:05
Two-Year-Old-Pace	2:02	2:03	2:04
Three-Year-Old-Pace	2:01	2:02	2:03

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

- 3.-4. (No change.)
- (b) (No change.)

## ENVIRONMENTAL PROTECTION

### (a)

#### NEW JERSEY WATER SUPPLY AUTHORITY

#### Notice of Change of Public Hearing Location Schedule of Rates, Charges and Debt Service Assessments for the Sale of Water from the Manasquan Reservoir Water Supply System Proposed New Rules: N.J.A.C. 7:11-4

Take notice that the Department of Environmental Protection has changed the location of the public hearing on the above-referenced proposed new rules, scheduled for February 1, 1990 at 10:30 A.M. as published in the December 18, 1989 New Jersey Register at 21 N.J.R. 3838(a), from the Allaire State Park Administration Building to:  
Howell Township Recreation Building  
Municipal Complex  
Preventorium Road  
Howell, New Jersey

## HUMAN SERVICES

### (b)

#### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Prosthetic and Orthotic Services Manual Proposed Readoption: N.J.A.C. 10:55

Authority By: William Waldman, Acting Commissioner,  
Department of Human Services.  
Authorized: N.J.S.A. 30:4D-6b(6), 7, 7a,b,c; 30:4D-12.  
Proposal Number: PRN 1990-21.

Submit comments by February 1, 1990 to:  
Henry W. Hardy, Esq.  
Administrative Practice Officer  
Division of Medical Assistance and Health Services  
CN-712  
Trenton, NJ 08625

The agency proposal follows:

#### Summary

Pursuant to Executive Order No. 66(1978), the Prosthetic and Orthotic Services Manual (N.J.A.C. 10:55) expires on March 11, 1990. The Division of Medical Assistance and Health Services has reviewed these rules and determined them to be necessary, reasonable, adequate, efficient, understandable, and responsive to the purpose for which they were originally promulgated. The readoption of all three subchapters is necessary because they describe the conditions of provider participation, scope of reimbursement, and billing procedures. The Department therefore, is proposing the readoption of this chapter without change.

"Orthotic appliances" are defined as custom-made braces prescribed by a physician for the purpose of providing support, increased function, and overcoming physical impairment or defect.

"Prosthetic appliances" are defined as appliances prescribed by a physician for the purpose of artificially replacing a missing portion of the body.

A "custom-made" appliance is one that is designed for a specific single individual.

The Division will authorize a prosthesis or orthosis for a Medicaid patient when it is medically necessary to facilitate or restore the functioning of an individual.

Subchapter 1 describes such topics as eligible providers, prescription policies, prior authorization, policy on shoes, repairs and replacement of parts, and a provider guarantee of serviceable equipment.

Subchapter 2 describes the billing procedures.

Subchapter 3 references the HCPCS procedure codes which are the basis for reimbursement.

The chapter has been amended since the last readoption, as follows:

The reference to timely claim submittal was amended to refer providers to standardized references in the Administration Manual. This was accomplished by amending N.J.A.C. 10:55-2.2 to refer the reader to N.J.A.C. 10:49-1.12. The current standard for non-institutional providers is that a claim must be submitted within one year from date of service. If there are several dates of service on the claim form, the claim must be submitted within one year from the earliest date of service. The one year time frame for claim submittal by Medicaid providers is a Federal requirement (42 CFR 447.45(d)) (see R.1987 d.408 at 19 N.J.R. 1800(a)).

The Division also amended N.J.A.C. 10:55-3 which references, but does not reproduce, the Health Care Financing Administration (HCFA) Common Procedure Coding System. The purpose of HCPCS is to have a standardized reimbursement methodology for fee-for-service providers, (see R.1986 d.52, effective March 3, 1986; 17 N.J.R. 1519(b), 18 N.J.R. 478(a)).

There is no textual change associated with this readoption.

#### Social Impact

This chapter impacts on those Medicaid patients who might need a prosthesis, orthosis, or orthopedic shoes.

The chapter also impacts on prosthetic and orthotic providers, and upon pedorthists and shoe dealers.

**Economic Impact**

The Division of Medical Assistance and Health Services spent approximately \$1,825,189 (Federal-State share combined) in State Fiscal Year 1989.

Providers covered by this chapter are reimbursed on a fee-for-service basis.

There is no cost to Medicaid patients.

**Regulatory Flexibility Analysis**

Prosthetists, orthotists, pedorthists, and shoe dealers, hereinafter referred to as "providers," might be considered a small business under the terms of N.J.S.A. 52:14B-16 et seq., the Regulatory Flexibility Act, because some may employ less than 100 full-time employees. However, the requirements contained in this Manual apply equally to all providers participating in the New Jersey Medicaid Program. Providers are required to keep certain records regarding patient care and patient activities. Providers are also required to maintain sufficient records to enable correct and accurate billing within the prescribed time frames. This proposed reoption does not impose any additional reporting, recordkeeping, or other compliance requirements.

No differentiation in requirements based on business size is necessary or required because the records which providers are required to maintain are necessary for the health, safety and general welfare of the Medicaid patients receiving prosthetics, orthotics and orthopedic shoes. In addition, providers are required by law to maintain sufficient records to fully document the name of the patient being treated, dates and nature of services, etc. (see N.J.S.A. 30:4D-12).

Full text of the proposed reoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:55.

**(a)****DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES****Long Term Care Services Manual****Sanctions Imposed on Long Term Care Facilities****Proposed Amendment: N.J.A.C. 10:63-1.15**

Authorized By: William Waldman, Acting Commissioner,  
Department of Human Services.

Authority: N.J.S.A. 30:4D-6a(4)(a)b(13)(14); 30:4D-7, 7a, b, c;  
30:4D-12; 42 CFR 442, Subpart C.

DMAHS Control Number: 89-P-30.

Proposal Number: PRN 1990-22.

Submit comments by February 1, 1990 to:

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

The agency proposal follows:

**Summary**

The terms listed below are defined, for a better understanding of this proposal.

Skilled nursing facility (SNF) means a free-standing institution, or a portion thereof, which meets the State and Federal requirements for participation in the New Jersey Medicaid Program as a skilled nursing facility. (See N.J.A.C. 10:63-1.2, Definitions.)

Intermediate care facility (ICF) means a free-standing institution, or portion thereof, which meets the State and Federal requirement for participating in the New Jersey Medicaid Program as an intermediate care facility (See N.J.A.C. 10:63-1.2, Definitions.)

For purposes of this proposal, intermediate care facilities for the mentally retarded (ICF/MRs) are included in the definition of an ICF.

Long term care facility is a composite term and includes SNFs, ICFs, and ICF/MRs. When this term is used in this summary and in the proposal, all three types of institutions (SNFs, ICFs and ICF/MRs) are included.

HCFA refers to the Health Care Financing Administration which is part of the Federal Department of Health and Human Services. HCFA administers both the Title XVIII (Medicare) and Title XIX (Medicaid) Programs at the Federal level.

Medicare (Title XVIII) is a federally administered health care program for qualified beneficiaries. It is wholly Federally funded.

Medicaid (Title XIX) is a medical assistance program for qualified persons. It is funded jointly by the State and Federal government. It is administered by the Division of Medical Assistance and Health Services within the New Jersey Department of Human Services.

The proposed amendment concerns sanctions for LTCFs, including SNFs, ICFs, and ICF/MRs, and is designed to implement 42 CFR 442 Subpart C. There are two types of sanctions that may be imposed upon an LTCF. One type of sanction is mandatory according to the Federal regulations; the other is optional. The sanctions are required when the SNF does not meet the Federally required conditions of participation, or standards of participation for an ICF.

If the survey agency (New Jersey Department of Health) finds that an SNF or ICF no longer meets the conditions/standards of participation, and that the deficiencies pose immediate jeopardy to the patients' health and safety, then the Medicaid agency (Division of Medical Assistance and Health Services) must terminate the provider agreement. The Division of Medical Assistance and Health Services, hereinafter referred to as the Division, receives the notice of decertification for SNFs that participate in Medicare from the Secretary, U.S. Department of Health and Human Services. The Division receives the notice of decertification for those SNFs that do not participate in Medicare and for all ICFs from the New Jersey Department of Health. The LTCF has the right to appeal the termination of their provider agreement. The LTCF must submit a written request to the Director of the Division in accordance with the provisions of the New Jersey Medicaid regulations governing LTCF program participation. (See N.J.A.C. 10:63-1.15.)

The hearing would be conducted before the Office of Administrative Law (OAL). The provider agreement can be terminated prior to the hearing.

There is another set of circumstances where sanctions can be imposed on an LTCF that does not necessarily involve termination of the Medicaid provider agreement. The thrust of this amendment is directed at situations which concern lesser penalties for those LTCFs that have deficiencies that do not pose an immediate jeopardy to the patient's health and safety.

If the New Jersey Department of Health finds that an SNF/ICF does not meet the conditions/standards of participation, and that the deficiencies do not pose an immediate jeopardy to the patient's health and safety, the Division may either terminate the provider agreement or deny payment for new admissions. However, if the LTCF is an SNF that participates in Medicare, the Division must take the same action as Medicare.

If the Division imposes a denial of payment for new Medicaid admissions, the LTCF must receive a written notice of intent to ban admissions. The notice also informs the LTCF of their right to an informal "hearing" which is conducted by a Medicaid official not involved in the initial determination. The Medicaid official issues a written decision. According to Federal regulations, the "hearing" is really a review of the findings of the New Jersey Department of Health, the State survey agency.

If the decision is to deny payment for new admissions, the LTCF must receive written notice of the denial with reasons for the denial. Notice of the decision to deny admissions to the LTCF must also be published in a local newspaper. The time period for both notice to the LTCF and notice to the public is the same; that is, 15 days prior to the date of denial.

Because the Federal regulations specify that the LTCF is entitled to only one hearing with either HCFA or Medicaid (42 CFR 442.118(c)(2)), there are situations where HCFA conducts a hearing for an LTCF participating in both Medicare and Medicaid with beds dually certified as both SNF/ICF beds. The Division jointly participates in the hearing conducted by HCFA in order to have direct jurisdiction over the ICF segment of the facility. The Division will concurrently implement the decision rendered by HCFA for Medicare participation so that the sanctions, if any, will be the same for both the SNF and ICF beds in the LTCF.

If HCFA denies Medicare payment for new admissions to a SNF that also participates in Medicaid, the period of denial will be the same for both Medicare and Medicaid.

Denial of payment for new admissions can last for a maximum 11 months after the month the denial was imposed. The time period can be shortened if the Division receives written notice from the New Jersey Department of Health that the LTCF meets the conditions or standards of participation that were previously deficient. In the event the LTCF does not correct the deficiencies within the specified time period, the provider agreement must be terminated.

This proposed amendment has no impact on private admissions to an LTCF.

The amendment also contains a technical change to N.J.A.C. 10:63-1.15(a). The word "approval" is being deleted because the term licensure is self-sufficient pursuant to New Jersey Medicaid law that requires all providers to be licensed if this standard is appropriate (see N.J.S.A. 30:4D-3h).

The LTCF must be approved by the New Jersey Medicaid Program. Approval includes, but is not limited to, filing of a provider application, signing a provider agreement, and submittal of a HCFA 1513, Ownership and Control Interest Disclosure Statement. The LTCF must also file an acceptable cost study. The requirements listed in this paragraph have been basically long-standing Medicaid program requirements.

There is new language added to N.J.A.C. 10:63-1.15(a)5 which indicates that when a SNF participates in both Medicare and Medicaid, the LTCF must have a Medicaid provider agreement that contains the same terms, conditions and duration as the Medicare provider agreement.

#### Social Impact

The proposed amendment impacts indirectly on patients in LTCFs. The rule is designed to help insure that LTCFs provide care and treatment of patients that is consistent with approved standards. In addition, a Medicaid-eligible patient who is seeking admission to an LTCF will not be admitted to a facility where a ban is in effect.

This amendment impacts directly upon LTCFs who must maintain standards of care. If an LTCF has deficiencies that pose an immediate threat to patient safety, the Medicaid provider agreement will be terminated. If an LTCF has deficiencies that are not life threatening, a ban on new Medicaid admissions may be imposed. The amendment impacts equally on both private and governmental LTCFs.

The amendment also impacts indirectly on the Office of Administrative Law, who is responsible for conducting evidentiary hearings in those cases where an LTCF is being terminated as a Medicaid provider.

#### Economic Impact

There is no economic impact on the Division of Medical Assistance and Health Services. Existing administrative mechanisms will be used to implement these regulatory requirements.

This amendment has no economic impact on Medicaid patients in LTCFs. These patients are already required to contribute toward the cost of their care from their available income.

The economic impact on LTCFs would vary, depending on the type of sanction being imposed and the number of Medicaid beds in the facility. It would be virtually impossible to generalize about the economic impact of this particular amendment because any sanction that is imposed is specific to a particular LTCF.

#### Regulatory Flexibility Analysis

Many LTCFs would not be considered small businesses because they employ more than 100 people. There are some LTCFs which would be considered small businesses, as the term is defined in N.J.S.A. 52:14B-16 et seq.; however, these small businesses cannot be exempt from the rules. This proposed amendment is based upon Federal regulations which apply equally to SNFs, ICFs, and ICF/MRs. The Federal regulations apply uniformly to all LTCFs, regardless of the number of employees that are hired to maintain and operate the LTCF. The Department intends to follow these Federal regulations to insure LTCF compliance with standards and to protect the health, safety and welfare of the patients in long term care facilities. Therefore, there will be no differentiation made based upon business size.

The amendment does not impose any additional record keeping, reporting or other requirements. LTCFs are already required to maintain documentation to demonstrate that patient care is within acceptable standards. LTCFs are also required to maintain sufficient documentation to complete and submit an initial cost report and annual cost reports thereafter.

This amendment will not impose capital costs on LTCFs, because they should already be meeting these conditions or standards of participation.

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

10:63-1.15 Program participation

(a) A LTCF [operated by a public or private agency or organization, either proprietary or non-profit, or a subdivision of such an agency or organization must meet] **shall comply with the following**

[qualifications] requirements in order to participate in the New Jersey Medicaid Program. A LTCF shall:

1. [Licensure or approval] **Be licensed** by the New Jersey State Department of Health;

2. [Certification] **Be certified** by the New Jersey State Department of Health **and/or the Secretary of the Department of Health and Human Services** that the LTCF meets the Federal [and State] requirements for participation [in the New Jersey Medicaid Program] **as an SNF and/or ICF.**

3. [Approval] **Be approved** for participation as a LTCF provider by the New Jersey Medicaid Program. This includes [as a minimum,] the [approval] **filing** of a New Jersey Medicaid Provider Application FD-20 (Exhibit No. 6), **the signing of a [and] Provider Agreement MCNH-38 (Exhibit No. 10)[,] and submittal of the HCFA-1513, Ownership and Control Interest Disclosure Statement.** [as submitted by the provider of the New Jersey Medicaid Program.] Continued participation as a New Jersey Medicaid provider is contingent upon reapproval by the New Jersey Medicaid Program.

4. [Filing of] **File** an acceptable Cost Study for Long-Term Care Facility form MCNH-1(Exhibit No. 29) with the New Jersey State Department of Health and the Division of Medical Assistance and Health Services. After the initial cost study is filed, continued participation will be subject to acceptable annual filings.

**5. In those situations where a SNF participates in Medicare and Medicaid, have a Medicaid provider agreement with the same terms, conditions and duration as the Medicare Provider agreement.**

**(b) The Division shall terminate a LTCF's provider agreement if the Division:**

1. **Receives notice from the New Jersey State Department of Health or the Secretary of the Department of Health and Human Services that the LTCF is no longer certified to provide SNF and/or ICF services; and**

2. **The deficiencies pose immediate jeopardy to patients' health and safety.**

**(c) If the deficiencies in (b)1 above do not pose immediate jeopardy to the patient's health and safety, the Division may either terminate the LTCF's provider agreement or deny payment for new admissions.**

**[(b)](d) Any LTCF whose certification or Medicaid Provider Agreement is denied, terminated or not renewed shall have the opportunity to request a full evidentiary hearing before an Administrative Law Judge from the Office of Administrative Law.**

1. In order to obtain a hearing, the LTCF [must] **shall** submit a written request to the Director, Division of Medical Assistance and Health Services, CN-712, Trenton, New Jersey 08625.

2.-6. (No change.)

**(e) The Division may deny payments as follows for new admissions to a SNF, ICF, ICF/MR that no longer meets the applicable conditions of participation (for SNFs) or standards (for ICFs and ICFs/MR), if either of the following conditions is met:**

1. **If the LTCF deficiencies do not pose immediate jeopardy to the patient's health and safety, the Division may either terminate the LTCF's provider agreement or deny payment for new admissions; or**

2. **If the LTCF deficiencies do pose immediate jeopardy to the patient's health and safety, the Division may additionally seek to impose the denial of payment sanction in addition to the provider agreement termination.**

**(f) Before the denial of payment for new admissions, a LTCF is entitled to the following:**

1. **A notice of intent to deny payment for new admissions and an opportunity for an informal hearing;**

2. **If the LTCF requests a hearing, the Division shall provide an informal hearing that includes:**

i. **The opportunity for the LTCF to present, before a Medicaid official who was not involved in making the initial determination, evidence or documentation, in writing or in person, to refute the decision that the facility is out of compliance with the applicable conditions of participation (for SNFs) or standards (for ICFs and ICFs/MR); and**

ii. **A written decision setting forth the factual and legal bases pertinent to a resolution of the dispute.**

3. **If the decision of the Medicaid official is to deny payments for new admissions, provide the LTCF and the public, at least 15 days**

before the effective date of the sanction, with a notice that includes the effective date and the reason(s) for the denial of payment.

(g) The effect of denial of Medicare payment is as follows:

1. If HCFA denies Medicare payment for new admissions to a SNF that also participates in Medicaid, the Division shall deny Medicaid payment for new admissions, effective for the same time period that Medicare payments are denied.

2. Only one informal hearing is available to a SNF that participates in both programs. It shall be provided by HCFA in accordance with Federal regulations (42 CFR 442.118(c)(2)).

(h) The denial of payment for new admissions will continue for 11 months after the month it was imposed unless, before the end of that period, the Division receives notice from the Department of Health that:

1. The LTCF has corrected the deficiencies or is making a good faith effort to achieve compliance with the conditions of participation (for SNFs) or the standards (for ICFs and ICFs/MR); or

2. The deficiencies are such that it is necessary to terminate the LTCF provider agreement.

(i) The Division shall terminate a LTCF's provider agreement as follows:

1. Upon the Division's finding that the LTCF has been unable to achieve compliance with the conditions of participation (for SNFs) or standards (for ICFs and ICFs/MR) during the period that payments for new admissions have been denied;

2. Effective the day following the last day of the denial of payment period; and

3. In accordance with the procedures for appeal of terminations set forth in N.J.A.C. 10:63-1.15(c).

## (a)

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Medicaid Only Manual Medicaid Eligibility

**Proposed Amendments: N.J.A.C. 10:71-4.5, 4.6, 4.7, 5.4, 5.6, and 5.7**

**Proposed New Rules: N.J.A.C. 10:71-4.8, 4.9, and 5.7**

Authority: N.J.S.A. 30:4D-3, 30:4D-6a(4)(a)b(14), 30:4D-7, 7a, b, and c and 1917(c)(2)(3) of the Social Security Act, codified as 42 U.S.C. 1396p, and 1924 of the Social Security Act, codified as 42 U.S.C. 1396r-5.

Proposal Number: PRN 1990-20.

Submit comments by February 1, 1990 to:

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

The agency proposal follows:

#### Summary

The Medicare Catastrophic Coverage Act of 1988 (P.L. 100-360, as amended by the Family Support Act of 1988, P.L. 100-485) contains several provisions that require modification of the method by which resource eligibility determinations are currently made for Medicaid for persons requiring institutional long term care. These changes apply equally to eligibility for long-term care provided in the community under New Jersey's home and community-based waiver programs. Additionally, the amendments require the State to revise its rules concerning the post eligibility set-aside of income for the maintenance of a community spouse and other dependent relatives.

The Medicare Catastrophic Coverage Act of 1988 modifies provisions of the Social Security Act governing the effect of resource transfer on eligibility for Medicaid benefits. Therefore, under these proposed amendments and new rules, the ineligibility period associated with a resource transfer will apply only to eligibility for long term care services. Therefore, if an individual has transferred a resource prior to application for Medicaid, he or she would, if otherwise eligible, be entitled to all Medicaid

services except long term care and services through the home and community-based waiver programs.

With the existing rules, in determining resource eligibility for a person requiring long term care, the county welfare agencies generally count only those resources which are in fact owned and accessible to that individual. If his or her countable resources are less than \$2,000, resource eligibility is established.

The Medicare Catastrophic Coverage Act introduces a preliminary resource eligibility step when one member of a married couple is institutionalized. The resources of both the husband and wife will be counted. This process will apply only when a member enters long term care on or after September 30, 1989.

A community spouse's share of the combined countable resources will be established so that a share of the total resources may be set aside for the use of the spouse remaining in the community. The community spouse's share will be the greater of \$12,000 or one-half of the couple's resources. The community spouse's share of the resources cannot exceed \$60,000. Any resources remaining after the determination of the community spouse's share will be considered available to the individual requiring the long term care. If that remaining amount exceeds the resource limit of \$2,000, the excess resources must be decreased to that limit before resource eligibility may be established for the person requiring the long term care.

To the extent that the community spouse's share of the resources are not already owned by the community spouse, the resources must be transferred to him or her or they will continue to be counted in the eligibility determination for the spouse requiring long term care. An otherwise eligible individual will have 90 days to transfer the community spouse's share of the resources to the community spouse. The allowable period for this transfer may be extended if individual circumstances warrant an extension. Medicaid eligibility will be available during the transfer period so long as the individual has agreed, in writing, to transfer the community spouse's share of the resources to the community spouse.

Under current rules, in order to provide for the income maintenance of the community spouse, up to \$399.25 (The Supplemental Security Income program income standard for community cases) per month can be deducted from the institutionalized spouse's income prior to applying the remainder of his or her income toward the cost of the long term care. This maintenance allowance is reduced dollar-for-dollar by any income of the community spouse. The Medicare Catastrophic Coverage Act requires the State to increase the community spouse maintenance allowance to a minimum of \$815.00 per month. The new allowance, like the present, would be reduced dollar-for-dollar by the community spouse's income.

With the new Federal requirements, to the extent that the community spouse's shelter costs exceed \$244.00 per month, the community spouse maintenance allowance will be increased above the \$815.00 standard. For this purpose, shelter costs include rent and mortgage payments, taxes, insurance, as well as a standard amount for utilities. The standard amount for utilities will be the utility allowance developed by the Division of Economic Assistance for use in determining eligibility for the Food Stamp program. For persons who pay for heating fuel, the monthly allowance is \$182.00. If the individual does not pay for heating but pays for a utility charge other than telephone, water, sewerage, or garbage collection, the monthly standard allowance is \$112.00. If the individual's only separate utility charge is the telephone, an allowance of \$15.00 is authorized.

If either member of a couple can demonstrate at a fair hearing that the community spouse maintenance amount established under these new provisions is insufficient because of exceptional financial circumstances and will therefore cause the community spouse financial duress, a higher level may be established.

When an institutionalized individual has dependent children in the community, current program rules provide that the maintenance allowance is to be set at the same standard as is used to determine eligibility and assistance under Aid to Families with Dependent Children. For example, if the community spouse and couple's three children reside together, a maximum maintenance deduction of \$488.00 per month would be authorized for the entire family unit. Under the new Federal provisions, the total allowance will be more generous. Additionally, the Act specifies additional dependent relatives who may qualify for a maintenance deduction. Under these proposed amendments and new rules, a maintenance deduction may be authorized for children under the age of 21, other tax dependent children, tax dependent parents of either member of the couple, or tax dependent siblings of either member of the couple so long as any of these family members reside with the community spouse.

The family member deduction is calculated separately for each family member. The monthly deduction for family members will be one-third the difference between the member's gross income and \$815.00.

The monthly figure of \$815.00 which serves as the basis for community spouse and family member maintenance deductions is the minimum specified in the Federal statute. It is 122 percent of the Federal poverty guideline for two persons divided by 12. This figure will be increased to 133 percent and 150 percent of the Federal poverty guideline in July 1991 and 1992, respectively. Additionally, the Federal poverty guideline is, itself, subject to annual cost-of-living adjustments.

It is important to note that these maintenance deductions only reduce the institutionalized spouse's income that would otherwise be applied toward the cost of care. In determining Medicaid eligibility for long term care, the individual's gross monthly income is compared to the current income maximum of \$1,104. No deductions from that income are permitted.

#### Social Impact

The establishment of an initial resource test for persons requiring long term care will, dependent on individual circumstances, delay or hasten access to Medicaid payment for such care. Under current rules, when the relatively substantial assets of a couple are owned solely by the community spouse, the spouse requiring long term care has immediate access to Medicaid assuming all other eligibility requirements are met. Under the proposed amendments and new rules, since as much as one half of assets belonging to a couple would be presumed to be available to the spouse requiring the care, access to Medicaid would be limited until his or her share of the combined resource were expended down to the \$2,000 resource limit.

Alternatively, in those cases in which the spouse requiring the long term care is the owner of minimal assets which constitute the couple's total resources, under current eligibility rules, program access would be denied until his or her resources are reduced through expenditures of \$2,000. Because the current rules do not recognize any resource needs of the community spouse, often the community spouse is left without adequate resources to meet his or her basic financial needs and obligations. The amendments and new rules provide recognition of the community spouse's needs and thereby affords an avenue to long term care services through Medicaid without the absolute destitution of the spouse remaining in the community.

The proposed resource eligibility provision provides greater equity in policy application and should limit the opportunities for abusive manipulation of resources in order to attain Medicaid eligibility. While providing the community spouse a share of the couple's total resources to avoid unnecessary deprivation, the amendments and new rules would serve to deny program access to persons with substantial assets; some of whom can currently access Medicaid benefits only because the couple's total resources are held by the spouse who will remain in the community.

The increased maintenance allowances for the community spouse and other dependent relatives will provide those individuals with better financial means to allow them to preserve a reasonable standard of living. That the community spouse maintenance deduction considers excess shelter expenses, there will be a measure of recognition of geographic differences in shelter costs and will better enable the community spouse to retain his or her existing residence upon the institutionalization of the other spouse.

#### Economic Impact

The Department is estimating that the State share of the net increased cost of this change is approximately \$7 million for State fiscal year 1990. This projection only includes the costs of allowing the community spouse to retain additional income each month. The Department is unable to project the additional costs resulting from the changes in the allocation of resources between the institutionalized client and the community spouse due to the lack of data about the resources of such individuals (and their spouses) who have not yet applied for Medicaid.

#### Regulatory Flexibility Analysis

While some of the providers indirectly affected by these amendments and new rules, specifically long term care facilities may be categorized as small businesses, these amendments and new rules impose no additional recordkeeping, paperwork or other administrative requirements on such facilities. All the basic eligibility features of these amendments and rules are required by provisions of the Medicare Catastrophic Coverage Act of 1988.

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

#### SUBCHAPTER 4. RESOURCES

##### 10:71-4.5 Resource eligibility standards

(a) For eligibility in the Medicaid Only Program, total countable resources are [limited by] **subject** to the following limits. (See N.J.A.C. 10:71-4.1(b) regarding [resources defined] **definition of resources**, [and] N.J.A.C. 10:71-4.2 regarding countable resources, and N.J.A.C. **10:71-4.8 regarding resources of a couple when one member is applying for Medicaid for institutional services.**)

1. and 2. (No change.)

(b) and (c) (No change.)

(d) Resource maximum (institutionalized individuals): The resource maximum for an individual in (c) above applies equally to individuals institutionalized in a Title XIX approved facility. Countable resources held in the institution ([e.g.] **for example**, trust funds, personal needs accounts) together with those held outside the institution, are to be applied toward the resource maximum. If the resource maximum is exceeded, Medicaid eligibility will cease. **See also N.J.A.C. 10:71-4.8 regarding resource eligibility for institutionalized individuals.**

(e) (No change.)

##### 10:71-4.6 Deeming of resources

(a) and (b) (No change.)

(c) Applicant/recipient couple: In the case of an applicant/recipient couple, the total amount of the husband's and wife's combined countable resources shall be applied to the resource maximum for a couple. Such individuals will continue to have resources treated in this manner until they have been separated for one calendar month. At such time, the individuals will be considered to be living alone.

**1. If one member of an eligible couple enters a Title XIX institution, only the resources of the institutionalized individual will be counted in the determination of his or her eligibility beginning with the date of admission except as provided in N.J.A.C. 10:71-4.8.**

(d) Applicant/recipient living with ineligible spouse: If the applicant/recipient lives with an ineligible spouse, all countable resources of the ineligible spouse are deemed to the applicant/recipient. The value of the total countable resources is compared to the resource maximum for a couple. Such individuals will continue to have resources treated in this manner until they have been separated for one full calendar month. At such time, the individuals will be considered to be living alone.

1. Separation due to institutionalization: [If a physician has certified that the applicant's/recipient's duration of stay in a Title XIX facility (or combination of such facilities) is expected to be a full calendar month or more, the applicant/recipient shall be considered to be living alone at the time of such certification.] **If one member of the couple enters a Title XIX institution, only the resources of the institutionalized individual will be counted in the determination of his or her eligibility beginning with the date of admission except as provided in N.J.A.C. 10:71-4.8.**

(e) Applicant/recipient unmarried and under 18 years of age, living with parents: If the applicant/recipient is an unmarried child under the age of 18 years of age who lives with his or her parents (including stepparents), the total value of all countable resources in excess of the appropriate parental resource maximum, cited in (e)2 below, shall be applied toward the resource maximum for an individual (see N.J.A.C. 10:71-4.5). A child will be considered to be not living with his or her parents when he or she has ceased living with them for a period of one calendar month.

1. Child not living with parents due to institutionalization: If a physician has certified that the child's duration of stay in a Title XIX facility (or a combination of such facilities) is expected to be [a full calendar month] **30 consecutive days** or more, such child shall be considered to be not living with his/her parents at the time of such certification. In such circumstances, only the child's own countable resources shall be applied to the resource maximum for an individual.

2. and 3. (No change.)

(f) (No change.)

10:71-4.7 Transfer of resources

(a) The provisions of this section apply only to persons who are receiving an institutional level of services or who are seeking that level of services. An individual shall be ineligible for institutional level services through the Medicaid program if he or she (or his or her spouse) has disposed of resources at less than fair market value at any time during or after the 24 month period immediately before:

1. In the case of an individual who is already eligible for Medicaid benefits, the date the individual becomes an institutionalized individual, or

2. In the case of an individual not already eligible for Medicaid benefits, the date that the individual applies for Medicaid as an institutionalized individual.

[(a)] (b) The following definitions apply in situations involving the transfer of resources:

1. and 2. (No change.)

3. Institutionalized individual: An institutionalized individual for the purposes of this section is a person who is receiving care in a skilled nursing facility, intermediate care facility (level A or B and ICFMR) and licensed special hospital (Class B or C) or Title XIX government psychiatric hospital (if under the age of 21 or age 65 and over). For the purposes of this section, an institutionalized individual shall include a person seeking benefits under a home or community care waiver program, not including the Home Care Expansion Program. An institutionalized individual shall not include a person who is receiving care in an acute care general hospital or a Class A licensed special hospital.

[(b)] (c) [General procedures:] If an individual or his or her spouse [applying for Medicaid] described in (a) above (including any person acting with power of attorney or as a guardian for such individual) has sold, given away, or otherwise transferred any [nonexcluded] resources (including any interest in a resource or future rights to a resource) within the 24 months preceding the date of application or entry into institutional care, the following steps shall be taken and fully documented in the case record[.]:

1.-5. (No change.)

6. Advise the applicant that he or she may rebut the presumption that a resource was transferred at less than FMV in order to qualify for Medicaid (see [(g)] (i) below).

[(c)] (d) [Excluded resources: Resources which are excluded in accordance with N.J.A.C. 10:71-4.4 are not subject to the transfer provisions. A transferred resource shall be excluded if, at the time of transfer, the resource would have been excluded if the individual were an applicant. For example, if an individual transfers a home serving as his or her place of residence and subsequently applies for Medicaid, the CWA would not consider the UV of the home as a resource.] The provisions of this section apply whether or not the resource would have been considered an excluded resource at the time of its disposal or transfer. However, an individual shall not be ineligible for an institutional level of care because of the transfer of his or her equity interest in a home which serves (or served immediately prior to entry into institutional care) as the individual's principal place of residence and the title to the home was transferred to:

1. The institutionalized individual's spouse;

2. A child of the institutionalized individual who is under the age of 21 or a child of any age who is blind or totally and permanently disabled;

i. In the event that the child does not have a determination from the Social Security Administration of blindness or disability, the blindness or disability shall be evaluated by the Disability Review Section of the Division of Medical Assistance and Health Services in accordance with the provisions of N.J.A.C. 10:71-3.13.

3. A brother or sister of the institutionalized individual who already had an equity interest in the home prior to the transfer and who was residing in the home for a period of at least one year immediately before the individual becomes an institutionalized individual; or

4. A son or daughter of the institutionalized individual (other than described in 2 above) who was residing in the individual's home for a period of at least two years immediately before the date the individual becomes an institutionalized individual and who has provided care to such individual which permitted the individual to reside at home rather than in an institution or facility.

i. The care provided by the individual's son or daughter must have exceeded normal personal support activities (for example, routine transportation and shopping). The individual's physical or mental condition must have been such as to require special attention and care. The care provided by the son or daughter must have been essential to the health and safety of the individual and consisted of activities such as, but not limited to, supervision of medication, monitoring of nutritional status, and insuring the safety of the individual.

(e) The provisions of this section do not apply to the following resource transfer situations:

1. The resources were transferred to the community spouse (or to another individual for the sole benefit of the community spouse) prior to the entry into institutional care, so long as the resources were not subsequently transferred by the community spouse;

i. If funds were transferred to another individual for the sole benefit of the community spouse prior to entry into institutional care, in order that the transfer not be considered to have been for the purposes of qualifying for Medicaid, the funds must have been transferred in the form of a legally binding trust document specifying that the trustee(s) may use the funds solely for the benefit of the community spouse. Should the transferred funds not be so designated, the transfer shall be presumed to be for the purpose of qualifying for Medicaid in accordance with the provisions of this section.

2. The resources were transferred to the community spouse subsequent to the application for Medicaid in accordance with N.J.A.C. 10:71-4.8(a)3; or,

3. The resources were transferred from the institutionalized individual or the community spouse to the institutionalized individual's child who is blind or permanently and totally disabled.

i. In the event that the child does not have a determination from the Social Security Administration of blindness or disability, the blindness or disability will be evaluated by the Disability Review Section of the Division of Medical Assistance and Health Services in accordance with the provisions of N.J.A.C. 10:71-3.13.

[(d)] (f) (No change in text.)

[(e)] (g) Resource transferred, resource limit not exceeded: When the UV of a transferred resource, combined with all other countable resources does not exceed the applicable resource limit, the application shall be processed as usual. In addition, the following procedures shall be adhered to.

1. (No change.)

2. The client shall be informed that although eligible at time of application, if his or her resources, including the amount of the UV, should exceed the resource maximum within the 24 month period, he or she will lose Medicaid eligibility for long term care services.

i. Example: At the time of application the UV equals \$1,000, other resources equal \$200.00 for a total of \$1,200, the client is resource eligible. At the time of redetermination, the UV equals \$1,000, other resources equal \$1,100 for total of \$2,100, the client is ineligible because of excess resources and [the case must be terminated] eligibility for long term care services will terminate.

3. (No change.)

[(f)] (h) Resource transferred, resource limit exceeded: When the UV of a transferred resource combined with other countable resources, exceeds the resource limit, [the application for Medicaid] eligibility for long term care services shall be denied and the procedures below followed[.]:

1. Notify the applicant via Form PA-13 that he or she has transferred a resource at less than FMV, the amount of the UV, and that this amount will be counted toward the resource maximum for 24 months from the date of disposal. Explain that the law states that transfer of a resource at less than FMV is presumed to be for the purpose of establishing Medicaid eligibility for institutional services.

2. Advise the applicant that he or she may rebut the presumption (see [(g)] (i) below).

3. Prepare a list of such cases for control purposes [in accordance with (e) 3 above]. The control list shall include the case number, client's name, Social Security number, date of resource disposal, FMV of the resource, amount of UV, and the start and end dates of the period of ineligibility for institutional level services.

[(g)] (i) (No change in text.)

[(h)] (j) (No change in text.)

[(i)] (k) (No change in text.)

#### 10:71-4.8 Institutional eligibility; resources of a couple

(a) In the determination of resource eligibility for an individual requiring long term care, the county welfare agency shall establish the combined countable resources of a couple as of the first period of continuous institutionalization beginning on or after September 30, 1989. This determination shall be made upon a request for a resource assessment in accordance with N.J.A.C. 10:71-4.9 or at the time of application for Medicaid benefits. The total countable resources of the couple shall include all resources owned by either member of the couple individually or together. The CWA shall establish a share of the resources to be attributed to the community spouse in accordance with this section. (No community spouse's share of resources may be established if the institutionalized individual's current continuous period of institutionalization began at any time before September 30, 1989.)

1. The community spouse's share of the couple's combined countable resources is based on the couple's countable resources as of the first moment of the first day of the month of the current period of institutionalization beginning on or after September 30, 1989 and shall not exceed \$60,000 unless authorized in 4 or 5 below. The community spouse's share of the couple's resources shall be the greater of:

i. \$12,000; or

ii. One half of the couple's combined countable resources.

2. In determining the resource eligibility of the institutionalized spouse, the community spouse's share of the resources is subtracted from couple's total combined resources as of the first moment of the first day of the month of application for Medicaid. If the remaining resources are less than or equal to \$2,000, the institutionalized spouse is resource eligible. If the remaining resources exceed \$2,000, eligibility may not be established.

i. In the case of an individual whose eligibility for institutional care is determined in accordance with the rules applicable for New Jersey Care (see N.J.A.C. 10:72 et seq.), resource eligibility will exist when the couple's combined resources, less the community spouse's share of the resources, are equal to or less than \$4,000.

3. To the extent that the community spouse's share of the combined resources are not already owned by the community spouse, the ownership of the community spouse's share of the resources must be transferred to the community spouse within 90 days of a determination of eligibility for institutional Medicaid services. The CWA may extend the transfer period if individual circumstances warrant a longer period to affect the transfer. Resources not transferred by the end of the 90-day period (or extension) shall be counted in the determination of eligibility for the institutionalized individual.

i. Eligibility for the institutionalized individual shall be established pending the actual transfer of the resources if he or she attests, in writing, that he or she intends to transfer the community spouse's share of the resources to the community spouse.

4. If a court of competent jurisdiction has ordered that resources be transferred to the community spouse in an amount higher than that authorized in (a)1 above, the higher court-ordered amount shall be recognized as the community spouse's share. Any resource transferred under such a court order shall not be subject to the resource transfer penalty described at N.J.A.C. 10:71-4.7.

5. If, in accordance with N.J.A.C. 10:71-5.7(d), additional resources have been authorized to be set aside for the community spouse in order to provide for a sufficient income maintenance level, such additional resources are not subject to the limitation in this section on the community spouse's share of the couple's combined resources. Any resource transferred to the community spouse under this provision shall not be subject to the resource transfer provision described at N.J.A.C. 10:71-4.7.

6. For purposes of this section, an institutionalized individual does not include any individual who is not likely to remain in a Title XIX facility for a period of 30 consecutive days. If a physician has not certified that the individual's stay in the facility is expected to be a period of 30 or more consecutive days, that individual's Medicaid eligibility will be determined as if he or she continued to reside in the

community until he or she has been in a Title XIX facility (or a combination of Title XIX facilities) for a period of 30 consecutive days.

7. For purposes of this section, a continuous period of institutionalization means 30 consecutive days of institutional care in a medical institution, and/or Medicaid funded home and community-based waiver services. Continuity is broken by absences from the institution for 30 consecutive days or the non-receipt of home or community based services for 30 consecutive days.

8. For purposes of determining the community spouse's share of the couple's resources only, countable resources of a couple shall include all resources not subject to exclusion under N.J.A.C. 10:71-4.4, except that one automobile shall be excluded without regard to the dollar limits set forth at N.J.A.C. 10:71-4.4(b)2 and personal effects and household goods shall be excluded without regard to the dollar limits set forth at N.J.A.C. 10:71-4.4(b)3.

9. In determining retroactive eligibility (the three-month period immediately preceding the month of application) based on the first Medicaid application in a continuous period of institutionalization, the community spouse's share of the resources shall be deducted from the couple's combined total resources. If the institutionalized individual subsequently files another Medicaid application for the same continuous period of institutionalization, retroactive eligibility will be based on all resources actually owned by the institutionalized individual.

#### 10:71-4.9 Resource assessment

(a) At the beginning of the first continuous period of institutionalization (beginning on or after September 30, 1989), the institutionalized spouse or the community spouse (or a representative of either spouse) may request an assessment of the couple's total countable resources. The purpose of the assessment is to establish the community spouse's share of the couple's total countable resources (see N.J.A.C. 10:71-4.8(a)).

(b) The county welfare agency shall, upon a request for a resource assessment, advise the requesting parties of the documentation and verification necessary to make the assessment. When the necessary documentation and verification is not submitted to the county welfare agency in a timely manner, the requesting parties shall be advised that the resource assessment cannot be completed. Upon receipt of all relevant documentation of resources from the couple the county welfare agency shall establish the total countable resources of the couple. The county welfare agency shall notify both members of the couple of the total value assigned to their combined countable resources and the community spouse's share of those resources. A copy of the notice shall be retained at the county welfare agency.

1. The county shall complete the resource assessment and notify the requesting parties of its results within 45 calendar days of the request unless third party verification has not been received by the county welfare agency or the requesting parties request a delay.

(c) At the time of providing the couple with a copy of the resource assessment, the county welfare agency shall advise the couple that there is no immediate right to a fair hearing on the county's resource assessment, but that there will be an opportunity to appeal the findings of the assessment when and if the institutionalized spouse applies for Medicaid.

#### 10:71-5.4 Includable income

(a) (No change.)

(b) Countable income: Income remaining after appropriate income exclusions shall be applied toward the applicable income eligibility standard. The applicant's living arrangement affects the method of treatment of income and its relationship to the standards as stated in the variations appearing below.

1. (No change.)

2. Applicant/recipient couple: In the case of an applicant/recipient couple, living together, the total amount of the husband's and wife's countable income shall be combined and applied to the appropriate income eligibility standard for a couple. Such individuals will continue to have their income combined until they have been separated for a period of six months.

i. One member of a couple institutionalized: When one member of an eligible couple is institutionalized and the other remains in the community, [income of both is combined for the first six months and

applied toward the amount of the Medicaid "Cap" plus the appropriate community living arrangement standard. The institutionalized individual's gross income is combined with the income (after exclusions) of the spouse in the community. In the determination of income available for medical reimbursement, only the income of the institutionalized spouse shall be considered. After six months of institutionalization, the couple shall be treated as separate individuals with no combining of income.] **no income of the community spouse will be used in the determination of income eligibility beginning in the month of admission into a Title XIX facility.**

ii. (No change.)

3. Applicant/recipient living with ineligible spouse: If the applicant/recipient lives with an ineligible spouse, the income of the ineligible spouse is deemed to the applicant/recipient (see N.J.A.C. 10:71-5.5). Such individual's income shall continue to be deemed until the husband and wife have been separated for one month. At such time the individuals will be considered to be living alone and deeming shall cease.

i. Effect of institutionalization: [If a physician has certified that the applicant's/recipient's duration of stay in Title XIX facility (or a combination of such facilities) is expected to be a full calendar month or more, the applicant/recipient shall be considered to be living alone and deeming shall cease at the time of such certification.] **Income of the community spouse shall not be considered in the determination of income eligibility of the institutionalized individual beginning with the month of admission into a Title XIX facility.**

4. (No change.)

#### 10:71-5.6 Income eligibility standards

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

(d) Institutional eligibility: For the purpose of the Medicaid Program, Title XIX approved facilities shall include acute care general hospitals, skilled nursing facilities, intermediate care facilities (level A, B, and C) and Title XIX psychiatric hospitals (for persons under the age of 21 and age 65 and over).

1.-3. (No change.)

**4. Temporary absence from the institution: Any temporary absence, during which the individual remains a patient of the institution, does not interrupt a continuous stay in the institution.**

[(e) Living allowance deductions: When an individual is in a Title XIX facility and program eligibility has been determined under the Medicaid "Cap", certain income deductions shall be made in the calculation of excess income available for payment to the facility. These amounts shall be clearly noted on Form PA-3L (Statement of Income Available for Long Term Care Facility Payment).

1. Personal needs allowance: An amount of \$25.00 per month for personal needs expenses plus the gross amount of additional income derived from work that is considered essential toward satisfying the individual's developmental need to achieve a certain degree of independence shall be deducted from the income available for payment to the facility. The combined total deduction may not exceed the community living standard established for a noninstitutionalized individual.

2. Maintenance of dependents: Living allowance deductions shall be provided in accordance with (e)2i and 2ii below. Such deductions shall be reduced dollar for dollar for any unearned income that the dependents in community may have. Earned income of the dependents shall be adjusted by subtracting only mandatory payroll deductions prior to applying such income against the allowance. Any deductions provided for in this section are to be applied only towards maintenance of dependents in the community and, in no event, may such deductions be accumulated by the institutionalized individual.

i. A maximum of the amount shown in Table B, Figure II for an individual shall be deducted per month for the maintenance of an eligible individual's spouse who resides in the community without dependent children, provided that the couple reside together immediately prior to institutionalization.

ii. For those dependent individuals who fit the basic definition of an AFDC eligible unit (see N.J.A.C. 10:81-1.3, et seq. of the Assistance Students Handbook), a monthly amount shall be deducted, not to exceed the AFDC-C allowance standard for the number of dependents.

iii. Efforts should be made to refer the individual's spouse or other dependent(s) remaining in the community to appropriate public assistance programs to apply for benefits on their own behalf.

3. Maintenance of a home: When a physician has certified that an eligible individual will be institutionalized for a temporary period only and is likely to return home within six months, a maximum of \$150.00 may be deducted from income for the maintenance of the individual's home in the community. This allowance shall be the actual cost of such maintenance (e.g., mortgage or lease payments, insurance, and other incidental costs) or \$150.00, whichever is less. The period of this maintenance deduction shall not exceed six months. This deduction shall be applied only after eligibility under the Medicaid "Cap" has been established and may not be utilized when an allowance has been deducted for the maintenance of a dependent spouse and/or children or if any person(s) residing in the home is able to provide such maintenance.

i. Any deduction provided for in this subsection is to be applied only toward the maintenance of a home in the community and in no event may such deduction be accumulated by the institutionalized individual.

4. Health insurance premiums: Health insurance premiums covering the recipient may also be deducted.

i. If the premium is not paid monthly, the amount shall be prorated over the period it is intended to cover.

ii. If the premium covers other individuals in addition to the recipient, only that portion attributable to the recipient shall be deducted.

(f) Temporary absence from the institution: Any temporary absence, during which the individual remains a patient of the institution, does not interrupt a continuous stay in the institution.

(g) Eligibility under life care and pay-as-you-go agreements: In a contractual agreement where the individual has transferred his available assets to the facility in exchange for full medical care in the institution, the institution has a legal responsibility to provide such care and Medicaid benefits are not payable for the institutional care. However, Medicaid eligibility may exist in the following circumstances. (See also N.J.A.C. 10:71-5.4(a)13.)

1. When it can be determined that no enforceable contract exists (e.g., because the facility is financially unable to fulfill its responsibilities under the contract and all terms of the agreement are thus void), the facility has a legal obligation to refund to the individual any assets which remain from the amount assigned at the time the contract was signed. The individual may be eligible for Medicaid Only as long as all other eligibility criteria (including resources) are met.

2. When a contract is not actually rescinded and the individual retains his/her right under the terms of the contract but, where his/her contract rights for care in the facility are not fully met, Medicaid benefits may be available for those medical expenses not being met by this facility if the individual meets eligibility requirements.

3. When the contractual agreement for care in the facility does not include all of the medical care (e.g., is limited to basic room and board), Medicaid benefits may be available for those medical expenses not covered by the contract as long as all eligibility criteria are met.

4. In those contractual situations above where Medicaid eligibility may exist, the value of in-kind room and board is not considered income.]

#### 10:71-5.7 Post-eligibility treatment of income; institutionalized individuals

**(a) The amounts specified in (b) through (h) of this section shall be deducted from the income of an institutionalized individual prior to the application of his or her income to the cost of the long term care. These deductions apply only after the individual is determined eligible for Medicaid and shall not be deducted in the determination of income eligibility.**

1. **Should the total deductions authorized under this section exceed the institutionalized individual's income, no assistance is available from the Medicaid program to make up the deficit. In such circumstances, available funds shall first be used to provide the institutionalized individual with his or her personal needs allowance. Any remaining deductible**

income may be distributed to the community spouse or other family members as decided by the institutionalized individual, not to exceed the amount authorized under this section for any individual.

2. The deductions authorized in (c) through (e) below for the maintenance of the community spouse and other family members apply only so long as there is a community spouse as defined in (c) below. Deductions for the community spouse and other family members shall cease in the first full-calendar month after the community spouse dies, becomes divorced, or is institutionalized.

(b) A personal needs allowance in the amount of \$35.00 shall be deducted from the institutionalized individual's income. In addition, gross income derived from employment that is considered essential toward satisfying the individual's developmental need to achieve a certain amount of independence shall be deducted from the individual's income. The combination of these deductions shall not exceed the amount in Table B for an individual living alone as found at N.J.A.C. 10:71-5.6(c)5.

(c) There shall be deducted from the institutionalized individual's income an amount for the maintenance of the community spouse. Except as specifically provided below, the deduction for the maintenance of the community spouse shall not exceed \$815.00. For purposes of this section, a community spouse shall be defined as an individual who is legally married to an institutionalized individual under the provisions of State law, who resided with the institutionalized individual immediately prior to the institutionalization, and who is not himself or herself institutionalized. In arriving at the amount that may be deducted for the maintenance of the community spouse, the deductions authorized by this section shall be reduced by the gross income of the community spouse. The community spouse deduction is authorized only to the extent that the income deducted is actually made available to (or for the benefit of) the community spouse. No amount of the community spouse's maintenance deduction may be retained by the institutionalized individual.

1. If the community spouse's average monthly shelter expenses for his or her principal place of residence exceed \$244.00, the amount of that excess shall increase the maximum community spouse maintenance deduction. Shelter expenses are limited to rent or mortgage (including principal and interest), taxes and insurance, a utility standard for the individual's utility expenses, and in the case of a condominium or cooperative, the monthly required maintenance charge.

2. A utility allowance shall not be authorized unless the community spouse directly incurs charges for utilities. A community spouse who directly incurs charges for heating fuel (in accordance with food stamp regulations at N.J.A.C. 10:87-5.10(a)5iv) separate and apart from their rent or mortgage payments, shall be entitled to a utility allowance in the amount specified as the "Heating Utility Allowance" at N.J.A.C. 10:87-12.1. If the community spouse does not directly incur heating fuel charges but does directly incur charges for a utility other than telephone, water, sewerage, or garbage collection, a utility allowance in the amount specified as "Standard Utility Allowance" at N.J.A.C. 10:87-12.1 shall be authorized. If the only direct utility charge incurred by the community spouse separate and apart from the rent or mortgage is the telephone amount specified at N.J.A.C. 10:87-12.1 as "Uniform Telephone Allowance" shall be added to the community spouse's monthly shelter costs. The telephone allowance shall not be used if either of the above utility allowances have been used because those standard allowances include telephone charges.

(d) When the institutionalized individual's income is insufficient to provide the maximum authorized deduction for the community spouse, either the institutionalized spouse or the community spouse can request a fair hearing in accordance with N.J.A.C. 10:71-8.4. If either member can establish at the fair hearing that the income generated from the community spouse's share of the couple's resources is inadequate to raise the community spouse's income (together with the community spouse maintenance deduction) to the maximum authorized level, additional resources (beyond the community spouse's share as established at N.J.A.C. 10:71-4.8) may be set aside for the community spouse. The amount of resources to be set aside shall be that amount that is determined sufficient to generate sufficient income to raise the community spouse's gross income to the maximum authorized level.

(e) If either the institutionalized spouse or the community spouse is dissatisfied with the determination of the amount of the community

spouse maintenance deduction, he or she may request a fair hearing in accordance with N.J.A.C. 10:71-8.4. If it is established at the fair hearing that the community spouse needs income above the amount established by the community spouse maintenance deduction due to exceptional circumstances resulting in financial duress, there shall be substituted for the community spouse maintenance deduction such amount as is necessary to alleviate the financial duress and for so long as directed in the final hearing decision.

(f) If a court has entered an order against an institutionalized spouse for monthly income for the support of a community spouse and the amount of the order is greater than the amount of the community spouse deduction, the amount so ordered shall be used in place of the community spouse deduction.

(g) A family member maintenance deduction shall be calculated for each family member of the institutionalized individual.

1. For purposes of this section, family members must reside with the community spouse and shall be limited to the following persons:

i. Children of either member of the couple who are under the age of 21;

ii. Children over the age of 21 who are claimed as dependents by either member of a couple for tax purposes under the Internal Revenue Code;

iii. Parents of either member of a couple who are claimed as dependents for tax purposes under the Internal Revenue Code as dependents by either spouse; or

iv. A brother or sister (including half-brothers and half-sisters and siblings gained through adoption) of either member of a couple and who are claimed as dependents for tax purposes under the Internal Revenue Code.

2. The family member deduction shall be computed as follows. The family member's gross income shall be subtracted from \$815.00. One-third of the remaining amount shall be the family member deduction for that family member.

(h) If a physician has certified that the individual will be institutionalized for a temporary period only and is likely to return to the residence within six months of the date of institutionalization, a maximum of \$150.00 may be deducted from the institutionalized individual's income for the maintenance of his or her home in the community. This deduction shall be limited to the actual costs of such maintenance (for example, mortgage or rent payments, taxes, insurance, and other incidental costs) or \$150.00, whichever is less. This deduction may be applied against the individual's income for no longer than six months. This deduction may not be applied if a deduction has been made for the maintenance of a community spouse or other family member residing in that residence.

1. This deduction must be applied to the costs of maintaining the residence and may not be accumulated by the institutionalized individual.

(i) If the institutionalized individual has health insurance covering himself or herself, the amount of the insurance premiums shall be deducted.

1. If the premium is billed other than monthly, the amount of the premium shall be prorated and deducted accordingly.

2. If the premium covers other individuals in addition to the institutionalized individual, only that portion of the premium attributable to the institutionalized individual shall be deducted.

#### 10:71-5.8 Eligibility under life care and pay-as-you-go agreements

(a) In a contractual agreement where the individual has transferred his available assets to the facility in exchange for full medical care in the institution, the institution has a legal responsibility to provide such care and Medicaid benefits are not payable for the institutional care. However, Medicaid eligibility may exist in the following circumstances (see also N.J.A.C. 10:71-5.4(a)13):

1. When it can be determined that no enforceable contract exists (for example, because the facility is financially unable to fulfill its responsibilities under the contract and all terms of the agreement are thus void), the facility has a legal obligation to refund to the individual any assets which remain from the amount assigned at the time the contract was signed. The individual may be eligible for Medicaid Only as long as all other eligibility criteria (including resources) are met.

2. When a contract is not actually rescinded and the individual retains his or her right under the terms of the contract but, where his or her contract rights for care in the facility are not fully met, Medicaid benefits may be available for those medical expenses not being met by this facility if the individual meets eligibility requirements.

3. When the contractual agreement for care in the facility does not include all of the medical care (for example, is limited to basic room and board), Medicaid benefits may be available for those medical expenses not covered by the contract as long as all eligibility criteria are met.

4. In those contractual situations above in which Medicaid eligibility may exist, the value of in-kind room and board is not considered income.

10:71-[5.7] 5.9 (No change in text.)

(a)

## DIVISION OF YOUTH AND FAMILY SERVICES

### Family Day Care Standards

#### Proposed New Rules: N.J.A.C. 10:126A

Authorized By: William Waldman, Acting Commissioner,  
Department of Human Services.

Authority: N.J.S.A. 30:4C-4.

Proposal Number: PRN 1990-8.

Submit comments in writing by February 1, 1990, to:

Kathryn A. Clark, Esq.  
Administrative Practice Officer  
Office of Legal and Regulatory Liaison  
Division of Youth and Family Services  
CN 717  
Trenton, N.J. 08625

The agency proposal follows:

#### Summary

The Department of Human Services, Division of Youth and Family Services, has reviewed the rules on Family Day Care Standards, N.J.A.C. 10:122B, which expired by operation of the provisions of Executive Order No. 66(1978) on September 10, 1989. With the recent adoption (November 7, 1988) of N.J.A.C. 10:126, Manual of Requirements for Family Day Care Registration, most of N.J.A.C. 10:122B became duplicative and, therefore, no longer necessary. However, part of one subsection, N.J.A.C. 10:122B-1.3(a)4, is still required and is hereby proposed as a new rule. Also proposed as a new rule is a requirement that any family day care services paid for by the Division be registered under N.J.A.C. 10:126. Another new rule allows for an increase in the number of children allowed to be cared for in a DYFS funded family day care home, up to the limits set by N.J.A.C. 10:126, but only if a provider assistant is present and only if the regional administrator approves the increase.

The proposed new rules deal with those family day care services purchased by the Division of Youth and Family Services, either directly or under a contract with a family day care provider. These new rules require that any such family day care provider meet the standards of N.J.A.C. 10:126, Manual of Requirements for Family Day Care Registration, and that they also be registered in accordance with that chapter. Further, requirements on the maximum number of children allowed in family day care homes funded by the Division are continued from the expired N.J.A.C. 10:122B-1.3(a)4. The Division's standards for family day care services for children under the Division's care are more stringent than the standards for services not funded by the Division because day care is utilized as part of a treatment plan for families and children who often have difficult situations in the home. Also, as the Division is providing the funding for the day care services, it is interested in seeing to it that the care provided be adequate to meet the needs of the children receiving the day care.

Specifically, the proposed new rules set a maximum of five children to be cared for in a DYFS-paid family day care home, regardless of age, fee-paying or non-fee-paying status, and relation to the provider, excluding the provider's children age six and older, and not more than two of these children can be age 23 months or younger. Exceptions are allowed upon the written approval of the regional administrator, provided that a provider assistant is present and the limits set by N.J.A.C. 10:126-6.1 are not exceeded. Generally, the Manual of Requirements for Family Day Care Registration, N.J.A.C. 10:126, allows a maximum of five fee-paying

children, but provides that up to eight children can be cared for under certain conditions. The exact standards regarding the maximum number of children allowed in a registered family day care provider home not receiving DYFS funding can be found at N.J.A.C. 10:126-6.1.

#### Social Impact

The proposed new rules will set standards for those family day care homes from which the Division of Youth and Family Services will purchase services, either directly or under contract. The standards are more stringent than those set for registered family day care providers in general by N.J.A.C. 10:126, the Manual of Requirements for Family Day Care Registration. The Division requires stricter standards for the children placed by the Division in family day care because such care is often utilized to relieve the effects of and prevent child abuse and neglect. Also, children may be placed in family day care to provide supervision or relief needed by the child's family.

In addition to meeting these more stringent standards, DYFS-funded family day care homes must be registered under N.J.A.C. 10:126. As such, the providers will have access to training and support, enabling them to improve their services to children. Further, parents will be assured that the registered providers have met State requirements and are subject to periodic monitoring.

#### Economic Impact

Since all DYFS-funded family day care providers must already be registered under the provisions of N.J.A.C. 10:126, no additional cost, either in registration fees or required safety improvements to the home, will be imposed by this program on the providers. As a part of the Division of Youth and Family Services' mission to assure the provision of adequate child care services for children who are under the Division's protective services supervision, the Division purchases such services from family day care providers. From July 1988 through June 1989, the Division utilized a total of 292 family day care provider homes, serving 642 children. During the same period, the Division paid \$482,135.98 to family day care providers for these services. The total amount the Division paid to providers for all partial care services (family day care, in-home day care, camps, day treatment services and center day care) in Fiscal Year 1989 was over \$4,000,000.

#### Regulatory Flexibility Analysis

These proposed new rules affect New Jersey registered family day care providers who receive funding from DYFS for the provision of day care services for children referred to them by DYFS. All of these providers fall within the definition of a small business, as defined in the State Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. It is not appropriate or necessary to establish different standards that would apply to larger or smaller homes, as all the regulated entities are small businesses. The providers are required to submit on a monthly basis a voucher on a DYFS-supplied form (DYFS 7-36) which asks for a certification of the number of DYFS-referred children for whom day care services were provided, the number of days and the hours. Payment is then made based on the information supplied. No other additional record-keeping will be required by the proposed rules.

Full text of the proposed new rules follows:

#### CHAPTER 126A

#### DYFS UTILIZATION OF FAMILY DAY CARE PROVIDERS

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 10:126A-1.1 Purpose and scope

This chapter outlines the standards under which the Division of Youth and Family Services will purchase family day care services, either directly or under a contract with a family day care provider. This chapter requires that any Division-purchased family day care services be provided by a family day care provider who meets and is registered in accordance with N.J.A.C. 10:126, Manual of Requirements for Family Day Care Registration. The standards set by this chapter are more stringent than those set by N.J.A.C. 10:126 for registered family day care providers in general because family day care is often utilized by the Division to relieve the effects of and prevent child abuse and neglect or to provide supervision or relief needed by the child's family.

10:126A-1.2 Definitions

The words and terms used in this chapter shall have the same meanings as defined in N.J.A.C. 126:1-2, Definitions, which definitions are hereby incorporated into this chapter by reference.

**SUBCHAPTER 2. DYFS FUNDED FAMILY DAY CARE SERVICES PROGRAM REQUIREMENTS**

10:126A-2.1 Eligible providers of DYFS funded family day care services

The Division shall utilize the services of only those family day care providers who meet the requirements of and are registered in accordance with the provisions of N.J.A.C. 10:126, Manual of Requirements for Family Day Care Registration.

10:126A-2.2 Maximum number of children

In any family day care home which receives payment from the Division, either directly or through contract, for family day care services for one or more children, the maximum number of children in the family day care home shall not exceed five children at a time, regardless of fee-paying or non-fee-paying status. The total of five children shall include the provider's foster children and own children, only if the foster children or own children are age five or younger. No more than two of the total number of children in the family day care home shall be age 23 months or younger.

10:126A-2.3 Exception to maximum number of children

(a) The regional administrator may approve, in writing, the presence of additional children in a family day care home which receives payment from the Division, provided all of the following conditions are met:

1. A provider assistant, as defined in N.J.A.C. 10:126-1.2, is present in the home;
2. The limits set by N.J.A.C. 10:126-6.1, Maximum number of children, have not been exceeded; and
3. The approval, in writing, of the regional administrator, has been obtained prior to the expansion of any Division-funded family day care home beyond the limits set by this chapter.

**CORRECTIONS**

**(a)**

**THE COMMISSIONER**

**Fiscal Management Grants**

**Proposed New Rules: N.J.A.C. 10A:2-10**

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

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

Proposal Number: PRN 1990-4.

Submit comments by February 1, 1990 to:  
 Elaine W. Ballai, Esq.  
 Special Assistant for Legal Affairs  
 Department of Corrections  
 CN 863  
 Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

The proposed new rules specify responsibilities of the Grants Manager of the Department of Corrections and establish the procedures for submitting and processing proposals, concept papers and other requests for funding projects with financial resources from non-State budgeted agencies.

**Social Impact**

The proposed new rules will establish a centralized procedure whereby proposals for grants may be reviewed and processed for submission to funding sources and expedite the acquisition of funding for projects from outside of the Department sources.

**Economic Impact**

The proposed new rules will have no significant economic impact because no additional financial resources are necessary to implement or maintain these new rules.

**Regulatory Flexibility Statement**

A regulatory flexibility analysis is not required because the proposed new rules do not impose reporting, record keeping or other compliance requirements on small businesses. The proposed new rules impact on inmates and the New Jersey Department of Corrections and have no significant effect on small businesses.

Full text of the proposal follows:

**SUBCHAPTER 10. GRANTS**

10A:2-10.1 Definitions

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

"Grant" means a specific amount of funds or services given to an administrative unit or correctional facility by a funding source to be used over a specific period of time for a specific purpose.

10A:2-10.2 Responsibilities of the Grants Manager

(a) The Grants Manager shall review and process proposals, concept papers and other requests for all grants from non-State budgeted agencies.

(b) The responsibilities of the Grants Manager shall include, but are not limited to:

1. Serving as the official liaison between the Department of Corrections and all sources which issue grants;
2. Reviewing, evaluating and coordinating all grant proposals for funding;
3. Providing technical and other assistance to applicants for grants, as indicated;
4. Ensuring that applicants for grants comply with Federal, State and Department of Corrections' guidelines and procedures relating to the use of grants; and
5. Transmitting all applications for grants to the Commissioner for review, approval and signature.

10A:2-10.3 Planning

For planning purposes, any correctional facility or administrative unit contemplating a non-State funded project shall submit a memorandum containing information on the major components of the contemplated project request to the Grants Manager as soon as this information is available.

10A:2-10.4 Procedures for processing grants

(a) The Grants Manager shall process all proposals, concept papers and funding requests to outside funding agencies. No grant application will be approved by the Commissioner unless it has been reviewed and processed by the Grants Manager.

(b) Before proposals, concept papers and grant applications are submitted to any outside agency for funding, the Grants Manager shall review them with regard to:

1. Duplication of project applications;
2. Compliance with Department of Corrections' policies and procedures; and
3. Providing current information regarding grants and funding to the Commissioner.

(c) After reviewing the proposal, the Grants Manager shall contact the Project Director regarding any problems that may have developed and may suggest appropriate solutions to resolve them.

(d) If the proposal is modified in any way, the final proposal shall be submitted to the Grants Manager for transmittal to the Commissioner for review, approval and signature.

(e) When approved by the Commissioner, the proposal shall then be submitted to the appropriate agency by the Grants Manager with a copy to the Project Director.

(f) If contracts are made with outside funding agencies, the Grants Manager must be aware of these contracts immediately.

(g) After a proposal is funded, all contracts, including correspondence, with the funding agency shall be reported immediately to the Grants Manager.

(h) Reports on the activities of funded projects shall be forwarded to the Grants Manager for transmittal to the funding agency.

(i) The Grants Manager shall be informed of the intentions of the Project Director regarding future requests for continued funding of the project.

10A:2-10.5 Reports

The Superintendent or agency head shall complete Form 950-I FISCAL REPORT OF GRANTS RECEIVED and Form 950-II REPORT OF PROGRESS OF PROJECTS FUNDED BY GRANTS and submit these forms to the appropriate Assistant Commissioner along with the Annual Report.

**(a)**

**THE COMMISSIONER**

**Notice of Withdrawal of Proposal  
Medical and Health Services  
Correctional Facility Infirmiry Care  
Proposed Amendment: N.J.A.C. 10A:16-2.9**

Take notice that the Department of Corrections is withdrawing its proposed amendment to N.J.A.C. 10A:16-2.9, Correctional facility infirmiry care, published at 21 N.J.R. 969(a) in the April 17, 1989 New Jersey Register.

Upon further consideration, the Department of Corrections believes the changes proposed would be in conflict with N.J.A.C. 13:37-6.2.

**INSURANCE**

**(b)**

**OFFICE OF THE COMMISSIONER**

**Insurance Producer Property and Casualty Advisory Committee**

**Proposed New Rule: N.J.A.C. 11:1-14.1**

Authorized By: Kenneth D. Merin, Commissioner, Department of Insurance.

Authority: N.J.S.A. 17:1C-6(e) and (i).

Proposal Number: PRN 1990-19.

Submit comments by February 1, 1990 to:  
Verice M. Mason, Assistant Commissioner  
Legislative and Regulatory Affairs  
Department of Insurance  
CN 325  
Trenton, NJ 08625

The agency proposal follows:

**Summary**

N.J.S.A. 17:1C-6(i) authorizes the Commissioner to "appoint such advisory committees as may be desirable to advise and assist the Department or a division thereof in carrying out its functions and duties." Under this authority, the Commissioner of Insurance has previously appointed an Insurance Producer Property and Casualty Advisory Committee ("Committee") whose function is to provide recommendations and suggestions to the Commissioner on matters subject to his or her regulatory control and within the expertise of the members of the Committee. The Committee has provided and continues to provide to the Commissioner advice and assistance concerning such matters as property and casualty insurance generally, insurance producer conduct and insurance producer-insurer relations for property and casualty insurance. The primary focus at this time is on automobile insurance.

The purpose of the proposed new rule is to formally establish the Committee and to create a formal procedure for the appointment of its members. The proposed new rule will help ensure the continued operation of the Committee.

**Social Impact**

As noted in the Summary, the Committee has previously rendered significant assistance to the Commissioner concerning matters subject to

his regulatory control and within the unique expertise of its members. By this new rule, members of the Committee will continue to provide their expertise respecting these matters. The Committee will continue to serve as a liaison between the Department of Insurance and the insurance producer industry which it regulates. The promulgation of this new rule will help insure the continued viability of this Committee by producing a formal mechanism for its continued operation.

**Economic Impact**

The Committee members will serve without compensation.

Since the Committee is advisory only, its actions will have no direct or appreciable economic impact on the public or the insurance producer or insurance industries.

**Regulatory Flexibility Statement**

Since this rule merely formalizes the existence of an advisory body to the Commissioner of Insurance, it does not impose any reporting, record-keeping or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

Full text of the proposed new rule follows:

**SUBCHAPTER 14. INSURANCE PRODUCER PROPERTY AND CASUALTY ADVISORY COMMITTEE**

**11:1-14.1 Insurance Producer Property and Casualty Advisory Committee**

(a) There is established an "Insurance Producer Property and Casualty Advisory Committee" (Committee). The Committee shall assist the Commissioner of Insurance (Commissioner) in the ways in which he or she may direct, including, but not limited to, the making of recommendations concerning matters subject to the regulatory control of the Department of Insurance (Department) which are within the expertise of its members. The Committee shall be advisory only and without effective authority to perform any governmental functions directly affecting the rights, duties, obligations or legal relations of any person, or to spend public funds.

(b) The Commissioner shall appoint the Committee, which shall consist of 12 persons who shall serve without compensation. The Commissioner shall appoint members of the Committee after receiving recommendations from the Professional Insurance Agents Association, the Independent Insurance Agents Association, the Independent Brokers Association and the National Association of Insurance Women, or their successor organizations. Each of the aforesaid trade associations shall recommend to the Commissioner five candidates who shall fairly reflect a statewide geographical distribution. The Commissioner shall select as members of the Committee three persons from the list provided by each trade association.

(c) The initial appointment of two members from each trade association shall be for a term of two years. The initial appointment of all other members shall be for a term of one year. After the initial appointments, all members shall be appointed for a term of two years and shall serve until their successors are appointed. All vacancies shall be filled in accordance with the provisions of (b) above and all such appointments shall be for the unexpired term of the member to be replaced.

(d) After the Committee has been appointed, it shall elect from its membership a chairman, vice-chairman and secretary for terms of one year.

(e) The Committee shall meet at least quarterly and as often as the Commissioner shall require.

**(c)**

**DIVISION OF PROPERTY/LIABILITY**

**Notice of Extension of Public Comment Period  
Orderly Withdrawal of Insurance Business**

**N.J.A.C. 11:2-29**

Take notice that the Department of Insurance hereby extends the public comment period for the proposed new rules N.J.A.C. 11:2-29, Orderly

Withdrawal of Insurance Business, published in the New Jersey Register on November 20, 1989, at 21 N.J.R. 3622(a). The new public comment deadline will be January 19, 1990.

Submit comments by January 19, 1990 to:

Verice M. Mason, Assistant Commissioner  
Legislative and Regulatory Affairs  
New Jersey Department of Insurance  
20 West State Street  
CN 325  
Trenton, New Jersey 08625-0325

## (a)

### DIVISION OF FINANCIAL EXAMINATIONS AND LIQUIDATIONS

#### Hospital Workers' Compensation Group Self-Insurance

#### Joint Insurance Funds for Local Governmental Units Proposed Amendments: N.J.A.C. 11:15-1.2, 2.2, 2.3, 2.4, 2.6, 2.9, 2.10 and 2.23

Authorized By: Kenneth D. Merin, Commissioner, Department of Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 34:15-77 et seq. and 40A:10-36 et seq.

Proposal Number: PRN 1990-15.

Submit comments by February 1, 1990 to:

Verice M. Mason, Assistant Commissioner  
Legislative and Regulatory Affairs  
Department of Insurance  
CN 325  
Trenton, New Jersey 08625

The agency proposal follows:

#### Summary

In 1983, N.J.S.A. 40A:10-36 et seq. was enacted to permit two or more local governmental units to establish a joint insurance fund for the purpose of insuring against liability, property damage and workers' compensation. Rules were adopted and became effective on December 3, 1984 to implement this statute (see N.J.A.C. 11:15-2). The Department of Insurance (Department) recently adopted amendments to these rules which became effective on September 18, 1989 which revise refund and fund transfer requirements and procedures. The Department also re-adopted N.J.A.C. 11:15 as a whole on October 26, 1989 which, pursuant to Executive Order No. 66(1978), was due to expire on December 3, 1989.

In addition, the Department has determined that additional changes to the existing rules are necessary. The purpose of these amendments is as follows:

1. To reflect changes in applicable statutes (see, for example, the N.J.A.C. 11:15-2.2 definition of "local unit" which is proposed for amendment to include a county vocational school or county college pursuant to N.J.S.A. 18A:18B-8 and 40A:10-50, and N.J.S.A. 18A:64A-25.40 and 40A:10-51, respectively);

2. To reflect current joint insurance fund practice (see, for example, the N.J.A.C. 11:15-2.2 definition of "indemnity and trust agreement" in which the categories of risk or liability are proposed for amendment to reflect the current joint insurance fund groupings of these allowed coverages, proposed N.J.A.C. 11:15-2.3, proposed N.J.A.C. 11:15-2.4(g), proposed N.J.A.C. 11:15-2.6(c)2 and proposed N.J.A.C. 11:15-2.6(c)7);

3. To create new filing practices or requirements (see, for example, proposed N.J.A.C. 11:15-2.3, proposed N.J.A.C. 11:15-2.9(b), proposed N.J.A.C. 11:15-2.10(a) and proposed N.J.A.C. 11:15-2.23(a)); and

4. To reflect current regulatory practice (see, for example, the N.J.A.C. 11:15-2.2 definition of "actuary" which is proposed for amendment to be consistent with the definition of "actuary" in the Loss Reserve Opinions rules at N.J.A.C. 11:1-21.1(a)2i. In the interest of consistency and uniformity, the definition of "actuary" in N.J.A.C. 11:15-1.2 is also amended to be consistent with the Loss Reserve Opinions rules.

The Department believes that these amendments will result in less confusion since current joint insurance fund practices will be reflected. Also, the amendments require joint insurance funds to submit additional information in their filings which will enable the Department to more

effectively regulate joint insurance funds and thereby protect the interests of insureds and taxpayers.

#### Social Impact

The proposed amendments will have a beneficial impact on joint insurance funds in that the rules will better reflect their current filing practices. The rules will also benefit the Department by requiring that more complete information be filed, thus better enabling the Department to maintain adequate regulatory oversight over joint insurance funds. This will help ensure the solvency of these funds, thereby protecting the interests of claimants and taxpayers. The rules continue to maintain, however, sufficient flexibility to permit the funds to operate in a cost effective manner.

#### Economic Impact

The Department believes that there will be little, if any, economic impact from the proposed amendments. Much of the additional data required is readily available to the joint insurance funds.

The Department, however, may experience an economic impact in reviewing the additional data submitted. Any additional costs to the Department will be absorbed within the current budget.

#### Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendments do not impose reporting, recordkeeping or other compliance requirements on small businesses. N.J.S.A. 40A:10-36 et seq. created a public entity composed of member municipalities. These are the entities that must comply with these rules. These public entities do not meet the definition of a "small business" as defined in the Regulatory Flexibility Act.

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

#### 11:15-1.2 Definitions

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

...  
"Actuary" means a person who is a [member of the American Academy of Actuaries qualified in loss reserves and rate making according to professional guides, recommendations, interpretations, and opinions of the Academy] **fellow in good standing of the Casualty Actuarial Society with three years recent experience in loss reserving or an associate in good standing of the Casualty Actuarial Society with five years recent experience in loss reserving.**  
...

#### 11:15-2.2 Definitions

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

"Actuary" means a person who is a [member of the American Academy of Actuaries qualified in loss reserves and rate making according to professional guides, recommendations, interpretations, and opinions of the Academy or a member of the Casualty Actuarial Society] **fellow in good standing of the Casualty Actuarial Society with three years recent experience in loss reserving or an associate in good standing of the Casualty Actuarial Society with five years recent experience in loss reserving.**  
...

"Automobile and equipment liability" means **liability resulting from the use or operation of motor vehicles, equipment or apparatus owned by or controlled by the local unit or owned by or under the control of any subdivisions thereof including its departments, boards, agencies, commissions or other entities which the local unit may provide coverage for under N.J.S.A. 40A:10-2.**  
...

"Indemnity and trust agreement" means a written contract signed by the members of the joint insurance fund under which each agrees to jointly and severally assume and discharge the liabilities of each and every party to such agreement arising from their participation in the fund.

1. The agreement shall also create a trust and govern the operation thereof under which monies shall be held by the fund commissioners as fiduciaries for the benefit of fund claimants.

2. Where the fund shall provide for the retention on a self-insured basis of any or all of the risks or liabilities specified in i through iv below, the agreement shall require and provide for the establishment of separate trust accounts from which monies shall be disbursed solely for the payment of claims, allocated claim expenses and excess insurance or reinsurance premiums for each such risk or liability:

- i. Workers' compensation and employers' liability;
- ii. Liability, other than motor vehicle;
- iii. Property damage, [other than motor vehicle] **including automobile physical damage;**
- iv. [Motor vehicle] **Automobile liability.**

...  
 "Local unit of government" or "local unit" means a county [or], municipality, county vocational school (pursuant to N.J.S.A. 18A:18B-8 and 40A:10-50) or county college (pursuant to N.J.S.A. 18A:64A-25.40 and 40A:10-51).

["Motor vehicular and equipment liability" means liability resulting from the use or operation of motor vehicles, equipment or apparatus owned by or controlled by the local unit or owned by or under the control of any subdivisions thereof including its departments, boards, agencies or commissions.]

"Property damage" means any loss or damage, however caused, on property, motor vehicles, equipment or apparatus owned by the local unit or owned by or under the control of any of its departments, boards, agencies [or], commissions, or other entities which the local unit may provide coverage for under N.J.S.A. 40A:10-2.

#### 11:15-2.3 Agreement to join joint insurance fund; duration

Pursuant to Section 1 of P.L. 1983, c.372, the governing body of any local unit of government may [by resolution or ordinance, as appropriate,] agree to join together with any other local unit or units to establish a joint insurance fund as defined herein. **Counties which operate pursuant to the Optional County Charter Law (N.J.S.A. 40:41A-13 et seq.) and all municipalities shall first adopt an ordinance to authorize the creation and/or participation in a joint insurance fund; all other counties or participating local units shall first adopt a resolution to authorize the creation and/or participation in a joint insurance fund.** The resolution or ordinance shall provide for execution of a written agreement specifically providing for acceptance of the fund's bylaws as approved and adopted pursuant to section 4 of the Act. The agreement shall specify the extent of the local unit's participation in the fund with respect to the types of insurance coverage to be provided by the fund and shall include the duration of fund membership, which in no event shall exceed three years, pursuant to N.J.S.A. 40A:11-15(6). **The agreement shall also specify that the fund members have never defaulted on claims if self-insured and have not been cancelled for nonpayment of insurance premiums for a period of at least two years prior to application.** Members may renew their participation by the execution of a new agreement to join the joint insurance fund. **If the existing ordinance or resolution did not specify the duration of fund membership, the member shall affirm the new membership agreement by resolution. If the existing ordinance or resolution specified the duration for fund membership, the member shall either amend the existing ordinance or resolution, or adopt a new ordinance or resolution, as appropriate, to authorize the continued participation in the joint insurance fund prior to the execution of the new membership agreement.**

#### 11:15-2.4 General requirements

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

(g) Except as provided at N.J.A.C. 11:15-2.22[(g)](e), all books, records, files and other documents of the joint insurance fund shall be retained by the secretary of the fund or fund administrator as designated by the fund commissioners or executive committee.

(h) (No change.)

(i) A joint insurance fund shall provide its members with periodic reports covering the activities and status of the fund for the reporting period. Such reports shall be made at least quarterly and may be made more frequently at the discretion of the joint insurance fund commissioners and shall include, but not be limited to, the minutes, the executive director's report and a summation of fund activity, including comments on previously reported claims and newly reported claims.

**Such reports shall be submitted to the Department within 30 days following the close of the quarter.**

(j)-(k) (No change.)

#### 11:15-2.6 Bylaws and plan of risk management; contents

(a) The commissioners of a joint insurance fund shall prepare and, after the approval, by resolution, of the governing body of each participating local governmental unit, shall adopt bylaws for the joint insurance fund. The bylaws shall include, but not be limited to:

1. Procedures for the organization and administration of the joint insurance fund, the insurance fund commission **and alternates** and, if appropriate, the executive committee of the fund **and alternates**. The procedures may include the designation of one member local unit to serve as the lead agency to be responsible for the custody and maintenance of the assets of the fund and such other duties as may be assigned by the commissioners of the fund;

2.-10. (No change.)

(b) In addition, the bylaws shall:

1. 4. (No change.)

5. Where self-insured, provide a plan for specific and aggregate excess insurance or reinsurance and/or for retention in accordance with sound actuarial principles and the plan of risk management;

6.-8. (No change.)

9. Be accompanied by a sample copy of the resolution or ordinance and written agreement adopted by each participating local unit as specified at N.J.A.C. 11:15-2.3. Within 30 days of approval, the fund shall send certified copies of the resolution or ordinance and written agreement **from each participant** to the Commissioner and the Department of Community Affairs;

10. Be accompanied by a sample copy of its indemnity and trust agreement as defined in N.J.A.C. 11:15-2.2, and in a form satisfactory to the Commissioner. Within 30 days of approval, the fund shall send certified copies of the indemnity and trust agreement **from each participant** to the Commissioner and the Department of Community Affairs;

11. Provide a plan satisfactory to the Department for the establishment and maintenance of reserves for unearned assessments, loss reserves and [claim] expense reserves and for the determination and distribution of assessment and/or investment refunds which shall include a statement from an actuary that the fund's proposed plan is actuarially sound;

12. (No change.)

(c) The bylaws shall be accompanied by the following information and documentation:

1. (No change.)

2. Copies of the fund's prospective **and executed** agreements or contracts with any administrator [or], servicing organization, attorney, auditor, treasurer or actuary. Copies of the above shall be accompanied by a list of all parties having or deriving any interest, right or benefit in the servicing organization or administrator;

3.-6. (No change.)

7. [A letter from each of the fund members certifying that such members:

i. Have never defaulted on claims if self-insured;

ii. Have not been cancelled for nonpayment of insurance premiums for a period of at least two years prior to application.]

**A list of commissioners, officers and executive committee members, updated annually;**

**8. Biographical data forms for the individuals within the administrator and servicing organizations who are responsible for providing services to the fund; and**

**9. Copies of each commercial insurance policy purchased by the fund.**

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

#### 11:15-2.9 Approval of non-member local units

(a) (No change.)

(b) The application approved by the fund shall be concurrently filed with the Department and the Department of Community Affairs and shall be accompanied by a revised budget with assessment detail, the name of the new member's insurance fund commissioner, an actuarial statement regarding the adequacy of the member's assessment to

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cover anticipated losses and such amendments to the fund's bylaws and plan of risk management as may be necessary.

(c) (No change.)

11:15-2.10 Termination and/or withdrawal of fund members

(a) A member of the fund must remain a member for the full term of membership, as provided in the fund's bylaws, unless earlier terminated by the fund for nonpayment of assessments, **noncompliance with risk management or underwriting standards or other reasons acceptable to the Commissioner of Insurance as causes for expulsion.** However, such member shall not be deemed terminated for [non-payment] any reason until:

1.-3. (No change.)

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

11:15-2.23 Excess insurance and/or reinsurance

(a) Each fund providing coverage on a self-insured or **commercially insured** basis shall secure excess insurance or reinsurance in a form, in an amount and by an insurance company acceptable to the Commissioner, **if commercially available and not unreasonably priced, as determined by the fund's executive committee, and as approved by the Department of Insurance and the Department of Community Affairs.**

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

## LAW AND PUBLIC SAFETY

(a)

### BOARD OF ARCHITECTS AND LANDSCAPE ARCHITECT EXAMINATION AND EVALUATION COMMITTEE

#### New Jersey State Board of Architects Rules

#### Proposed Readoption: N.J.A.C. 13:27

Authorized By: State Board of Architects, Barbara S. Hall, Executive Director.

Authority: N.J.S.A. 45:3-3 and 7 and N.J.S.A. 45:1-3.2.

Proposal Number: PRN 1990-16.

Submit written comments by February 1, 1990 to:

Barbara S. Hall, Executive Director  
Board of Architects and Landscape Architect  
Examination and Evaluation Committee, Room 511  
1100 Raymond Boulevard  
Newark, New Jersey 07102

The agency proposal follows:

#### Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 13:27 is scheduled to expire on April 1, 1990. The Board of Architects and the Landscape Architect Examination and Evaluation Committee have reviewed the current rules and have found them to continue to be reasonable, necessary and effective for the purposes for which they were originally promulgated. Therefore, there will be no changes to the current text.

The current rules proposed for readoption have had an advantageous impact on the regulation and conduct of the architecture and landscape architecture professions by enabling the Board and the Committee to have in place procedures which serve and protect the public's best interests.

This chapter contains nine subchapters. Subchapter 1 sets forth the purpose and scope of the rules. Subchapter 2 describes the operating methods of the State Board of Architects. Subchapter 3 has been reserved. Subchapter 4 describes an exemption to acts considered to be the practice of architecture and sets forth title, title block and sealing requirements. Subchapter 5 sets forth eligibility requirements for licensure, including education and experience equivalents, and outlines Board fees. Subchapter 6 describes the permissible division of responsibility in preparing and submitting site plans and major subdivision plats. Subchapter 7 sets forth requirements relating to the issuance and reinstatement of license certificates. Subchapter 8 contains the regulations governing the Landscape Architect Examination and Evaluation Committee. Subchapter 9 sets forth rules of professional conduct.

A summary of each section in subchapter 8, relating entirely to Landscape Architects, follows:

## PROPOSALS

N.J.A.C. 13:27-8.1 sets forth definitions; N.J.A.C. 13:27-8.2 and 8.3 define the Committee's office and organization; N.J.A.C. 13:27-8.4 describes approved curricula and credentials; N.J.A.C. 13:27-8.5 and 8.6 list the requirements necessary to apply for certification; N.J.A.C. 13:27-8.7 details the required examinations and N.J.A.C. 13:27-8.8 lists applicants who are exempt from examination; N.J.A.C. 13:27-8.9 and 8.10 set forth requirements relating to the issuance, renewal and duplication of license certificates; N.J.A.C. 13:27-8.11 sets forth seal and title block requirements; N.J.A.C. 13:27-8.12 sets forth continuing education requirements and reporting procedures; N.J.A.C. 13:27-8.13 contains rules of professional conduct; N.J.A.C. 13:27-8.14 sets forth titles approved for use by unlicensed persons; N.J.A.C. 13:27-8.15 outlines Board fees for landscape architect certification matters; and N.J.A.C. 13:27-8.16 sets forth the licensee's duty to advise the Board of an address change and defines adequate notice for service of process.

#### Social Impact

The Board of Architects and the Landscape Architect Examination and Evaluation Committee endeavor to maintain the highest possible level of professionalism for the benefit and protection of the public. The rules proposed for readoption provide various procedures for the orderly administration of the operation of the Board and the Committee and the conduct of examinations in order to ensure that truly qualified individuals are licensed to practice architecture and landscape architecture.

#### Economic Impact

The readoption of these rules will have no adverse economic impact upon candidates or licensees; the fees set forth in N.J.A.C. 13:27-5.8 and 8.15 are reasonable. Since the operation of the Board and the Committee is partially funded by the fee structure now in place, failure to readopt would place the operation of the Board and the Committee in jeopardy.

#### Regulatory Flexibility Analysis

The New Jersey State Board of Architects and the Landscape Architect Examination and Evaluation Committee license and certify over 6,500 individual architects and landscape architects. The specific number of small businesses is impossible to determine, since the Board and the Committee license and certify individuals and not entities. The rules proposed for readoption do contain reporting, recordkeeping and compliance requirements relating to licensure and practice which may affect licensees who practice as small businesses. Because these rules seek to promote and protect the public welfare through regulation of the professions of architecture and landscape architecture, no differentiation in compliance can be made relating to business size.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:27.

(b)

### STATE BOARD OF VETERINARY MEDICAL EXAMINERS

#### General Provisions; Fees

#### Proposed Amendment: N.J.A.C. 13:44-4.1

Authorized By: New Jersey State Board of Veterinary Medical Examiners, Maurice W. McQuade, Executive Director.

Authority: N.J.S.A. 45:16-3.

Proposal Number: PRN 1990-17.

Submit written comments by February 1, 1990 to:

Maurice W. McQuade, Executive Director  
State Board of Veterinary Medical Examiners, Room 513  
1100 Raymond Boulevard  
Newark, New Jersey 07102

The agency proposal follows:

#### Summary

The Board of Veterinary Medical Examiners is proposing to amend its fee schedule, N.J.A.C. 13:44-4.1(a). The proposed amendment deletes reference to the \$100.00 reexamination fee and rescinds the late registration fee of \$20.00 charged for each biennial period that the licensee has not renewed his or her registration since its lapse.

Reference to the \$100.00 reexamination fee is being deleted since the Board is of the view that the fee for taking the practical examination should be uniform for all applicants on examination or reexamination.

This is especially so since the administrator of the practical examination charges the Board a fixed cost per candidate and does not differentiate between those being examined for the first time and those being reexamined.

The Board is proposing to rescind the \$20.00 late registration fee in order to encourage more applicants to seek license reinstatement. The Board has found that in some instances former licensees who have not renewed their licenses for many years are faced with large fees upon seeking reinstatement, since they must pay \$20.00 for each biennial period that they have not renewed their registration. It is hoped that rescission of the late registration fee, which will decrease the amount required to be paid upon reinstatement, will encourage more reinstatement applications.

**Social Impact**

No social impact will be felt as a result of the amendment to N.J.A.C. 13:44-4.1(a)3, which deletes reference to the \$100.00 reexamination fee, since it is merely a technical change to the Board's fee schedule to provide for a uniform fee for taking the practical examination.

The proposed amendment to N.J.A.C. 13:44-4.1(a)10, which rescinds the \$20.00 late registration fee, will have a beneficial impact on some former licensees and on the general public. Former licensees who have not sought reinstatement because they have found reinstatement fees to be prohibitive will now be able to renew their licenses at less cost. Since the Board anticipates that more former licensees will seek reinstatement if the late registration fee is rescinded, the public will be assured of the availability of a larger field of licensed veterinarians.

**Economic Impact**

The proposed amendment to N.J.A.C. 13:44-4.1(a)3, which deletes reference to the \$100.00 reexamination fee, will have no economic impact on current licensees since it is merely a technical change to the Board's fee schedule to provide for a uniform fee for taking the practical examination. The amendment will have a slight economic impact only on those individuals who have failed the practical examination and must be reexamined, since they will now have to pay the standard fee of \$125.00, rather than \$100.00, to be reexamined. However, this amendment is necessary to cover the Board's expenses in connection with the administration of the practical examination.

The proposed amendment to N.J.A.C. 13:44-4.1(a)10, which rescinds the \$20.00 late registration fee, will have a positive economic impact on former licensees who have not renewed their licenses for many years, since their costs upon reinstatement will now be much less. There will be no economic impact on the public as a result of the proposed amendments to the Board's fee schedule.

**Regulatory Flexibility Statement**

Since the proposed amendment does not impose reporting, recordkeeping or other compliance requirements upon small businesses, the analysis mandated by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., is not required. The amendment affects a technical change regarding reexamination of individuals, and deletes the late registration fee.

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

- 13:44-4.1 General provisions
  - (a) The following fees shall be charged by the board:
    - 1.-2. (No change.)
    - [3. Reexamination (Practical Examination) ..... 100.00]
    - Recodify existing 4.-9. as **3.-8.** (No change in text.)
    - [10.] **9.** [Late registration (reinstatement) fee \$20.00 per biennial period that the licensee has not renewed his registration since its lapse]
    - Reinstatement fee** ..... [\$.75.00 [plus]
    - Recodify existing 11.-13. as **10.-12.** (No change in text.)

**TRANSPORTATION**

(a)

**DIVISION OF TRANSPORTATION ASSISTANCE  
OFFICE OF FREIGHT SERVICES**

**Trucks**

**Proposed Readoption: N.J.A.C. 16:32**

**Proposed Repeal: N.J.A.C. 16:32-2**

Authorized By: Robert A. Innocenzi, Acting Commissioner,

Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6.

Proposal Number: PRN 1990-3.

Submit comments by February 1, 1990 to:

Charles L. Meyers  
Administrative Practice Officer  
Department of Transportation  
1035 Parkway Avenue  
CN 600  
Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

Under the "sunset" and other provisions of Executive Order No. 66(1978), N.J.A.C. 16:32, Trucks, will expire on April 15, 1990. Additionally, the Department of Transportation (NJDOT) is required to review its existing rules periodically to determine their continuing usefulness and necessity. Accordingly, NJDOT has undergone such a review of its rules contained in N.J.A.C. 16:32, by the staff of the Office of Freight Services, Division of Transportation Assistance, which revealed that the rules should be readopted as they were found to be necessary and required for the purpose for which promulgated, with the repeal of subchapter 2, which was adopted for a five-year period and is no longer required.

The chapter prescribes the requirements of the New Jersey Department of Transportation governing the designation of routes for double trailer truck combinations and 102-inch standard trucks in the State of New Jersey. It has been adopted to establish comprehensive rules governing the movement of trucks within the State of New Jersey and is established consistent with both the State and Federal laws concerning the legal width of trucks as part of broader changes dealing with the regulation of trucks.

The chapter is summarized as follows:

N.J.A.C. 16:32-1 establishes routes for double trailer truck combinations, defines double trailers, width restrictions, access to terminals and other facilities and the appeal process to be followed.

N.J.A.C. 16:32-3 outlines the general provisions for 102-inch standard trucks and establishes routes therefor.

The Department therefore proposes to readopt N.J.A.C. 16:32 with the repeal of subchapter 2.

**Social Impact**

The rules proposed for readoption will continue to impact on double trailer truck combinations, household good carriers and their personnel involved in interstate and intrastate commerce, in that they will be required to comply with and be knowledgeable of the provisions of the rules. Interstate and intrastate operations will also continue to be subject to these provisions.

The impact of the general public will be beneficial in that the safety of the populace and safe transportation of double trailer truck combinations and 102-inch standard trucks will be assured along the highway system of New Jersey.

**Economic Impact**

The rules proposed for readoption will have no significant economic impact on the trucking industry or household good carriers since the readoption does not effect any additional changes required to bring the rules of New Jersey consistent with the Federal regulations. Interstate and intrastate carriers are already subject to these rules under Federal law.

**Regulatory Flexibility Analysis**

The rules proposed for readoption do not place any bookkeeping or recordkeeping requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. They do,

however, place compliance requirements on truckers and household good carriers, who may be small businesses. No differentiation in requirements or exceptions can be provided as these requirements are imposed under Federal law, and are related to public safety.

Full text of the proposed re Adoption may be found in the New Jersey Administrative Code at N.J.A.C. 16:32-1 and 3.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 16:32-2.

**(a)**

**DIVISION OF CONSTRUCTION AND MAINTENANCE  
ENGINEERING SUPPORT**

**Snow and Ice Control**

**Proposed Repeal: N.J.A.C. 16:40**

Authorized By: Robert A. Innocenzi, Acting Commissioner,  
Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 27:7 et seq.

Proposal Number: PRN 1990-7.

Submit comments by February 1, 1990 to:

Charles L. Meyers  
Administrative Practice Officer  
Department of Transportation  
CN 600  
Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

In accordance with the "sunset" and other provisions of Executive Order No. 66(1978), the Department of Transportation (NJDOT) is required to review its existing rules periodically to determine their continuing usefulness and necessity. Accordingly, NJDOT has undergone such a review of its rules contained in N.J.A.C. 16:40, Snow and Ice Control. Said rules were reviewed by the staff of the Bureau of Maintenance Support, Division of Construction and Maintenance Engineering Support which revealed that the rules should be repealed since the terms set forth are contractual in nature between the Department and individual contractors, and thus subject to substantial variation through negotiation of individual agreements. The Department does not consider such contractual items properly rules.

The chapter is summarized as follows:

N.J.A.C. 16:40-1, provides the general requirements for agreements for snow plowing.

N.J.A.C. 16:40-2, outlines the reports and invoices required in the fulfillment of the contract.

N.J.A.C. 16:40-3, prescribes and outlines responsibility of snow removal from sidewalks and driveways.

The Department therefore proposes to repeal N.J.A.C. 16:40.

**Social Impact**

The proposed repeal will comply with the requirements of Executive Order No. 66(1978), in that the Department has removed rules no longer needed. Contracts are negotiated between the Department and individual contractor, and this process shall continue.

**Economic Impact**

The proposed repeal will have no major economic impact since it is procedural in nature and did not establish any fees. Contracts will continue as negotiated agreements. The Department will incur direct and indirect costs for personnel in the rulemaking requirements.

**Regulatory Flexibility Statement**

The proposed repeal does not place any bookkeeping, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Snow removal contracts between the Department and contractor will continue to be negotiated agreements.

Full text of the chapter proposed for repeal can be found in the Administrative Code at N.J.A.C. 16:40.

**(b)**

**CONSTRUCTION AND MAINTENANCE  
DIVISION OF CONSTRUCTION AND MAINTENANCE  
ENGINEERING SUPPORT  
BUREAU OF MAINTENANCE SUPPORT**

**Permits**

**Permits for Driveways (Access); Street Intersection**

**Proposed Amendment: N.J.A.C. 16:41-2.4**

Authorized By: Robert A. Innocenzi, Acting Commissioner,  
Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7A-11, and 27:7A-17.

Proposal Number: PRN 1990-9.

Submit comments by February 1, 1990 to:

Charles L. Meyers  
Administrative Practice Officer  
Department of Transportation  
1035 Parkway Avenue  
CN 600  
Trenton, NJ 08625

The agency proposal follows:

**Summary**

On October 2, 1989, the Department of Transportation proposed amendments to N.J.A.C. 16:41-2.2 through 2.4 and 7.1 through 7.3, concerning "Permits for Driveways (Access); Street Intersection" which appeared at 21 N.J.R. 3063(a). Said amended rules were adopted with substantive technical changes not requiring additional public notice and comment on November 8, 1989 by the Department, effective December 4, 1989 (see 21 N.J.R. 3778(a)). The rules were further reviewed by the Staff of the Division of Transportation Policy which recommended changes to clarify the Department's intent to effect a reduction in both application and permit fees applicable to set aside for low and moderate income housing.

The Department therefore proposes to amend N.J.A.C. 16:41-2.4 to clarify the Department's intent.

**Social Impact**

The proposed amendment will provide an adjustment of a 20 percent reduction in application and permit fees wherein the developments contain at least 20 percent set aside for low and moderate income housing. By adding a decrease in the application fee, reflected as an additional permit fee reduction to the 20 percent already allowed, the Department seeks to promote the State's low and moderate income housing objectives.

**Economic Impact**

Property owners and developers who qualify will directly benefit through the affected 20 percent application fee reduction. The fee loss to the Department is justified in furtherance of the State's affordable housing goals.

**Regulatory Flexibility Statement**

The proposed amendment will not impose any additional bookkeeping, recordkeeping, or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. However, it adjusts the permit fee for those applicants providing low or moderate income housing. The amendment primarily effects administrative changes.

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

16:41-2.4 Permit provisions

(a)-(q) (No change.)

(r) Upon receipt of the required application fee and affidavit as described herein and upon Department approval for the requested highway access, the permit fee will be [waived] **adjusted** for applicants providing low or moderate income housing units to be constructed pursuant to the Fair Housing Act, P.L. 1985, c.222 (N.J.S.A. 52:27D-301 et seq.) or under court settlement. The permit fee will be [reduced by] **adjusted to reflect a reduction to both the application and permit fee** of 20 percent where an affidavit from the municipal approving authority is received with the application, which certifies to the Department that the development contains at least a 20 percent

set aside for low and moderate income housing, pursuant to the Fair Housing Act P.L. 1985, c.222 (N.J.S.A. 52:27D-301 et seq.) or under court settlement.

## (a)

**POLICY AND PLANNING  
DIVISION OF TRANSPORTATION ASSISTANCE  
OFFICE OF FREIGHT SERVICES**

**Transportation of Hazardous Materials**

**Proposed Readoption: N.J.A.C. 16:49**

Authorized By: Robert A. Innocenzi, Acting Commissioner,  
Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, Hazardous Materials  
Transportation Act, Pub. L. 93-633 (49 U.S.C. 1801 et seq.),  
and 39:5B-25 et seq. (P.L. 1983, c.401).

Proposal Number: PRN 1990-6.

Submit comments by February 1, 1990 to:

Charles L. Meyers  
Administrative Practice Officer  
Department of Transportation  
1035 Parkway Avenue, CN 600  
Trenton, NJ 08625

The agency proposal follows:

**Summary**

Under the "sunset" and other provisions of Executive Order No. 66(1978), N.J.A.C. 16:49, Transportation of Hazardous Materials, will expire on March 18, 1990. Additionally, the Department of Transportation (NJDOT) is required to review its existing rules periodically to determine their continuing usefulness and necessity. Accordingly, NJDOT has undergone such a review of its rules contained in N.J.A.C. 16:49, by the staff of the Office of Freight Services, Division of Transportation Assistance, which revealed that the rules should be readopted as they were found to be necessary and required for the purpose for which promulgated.

The chapter prescribes the requirements of the New Jersey Department of Transportation governing the transportation of hazardous materials in the State of New Jersey. It has been adopted to establish comprehensive regulation of the shipping, packaging, marking, labelling, placarding, handling, and transportation of hazardous materials, and is established consistent with the regulations issued by the United States Department of Transportation.

The chapter is summarized as follows:

N.J.A.C. 16:49-1 prescribes the general requirement of the rules, their applicability, the penalty for violations of the regulations, locations where documents are available and the office which affords local assistance as required.

N.J.A.C. 16:49-2 outlines those portions of Title 49—Transportation, Code of Federal Regulations, adopted by reference as applicable.

The Department therefore proposes to readopt N.J.A.C. 16:49.

**Social Impact**

The proposed readoption will continue the impact on shippers, motor carriers, and their personnel involved in interstate or intrastate commerce who transport hazardous materials in and between the State(s), in that they will be required to comply with and be knowledgeable of the provisions of the rule. Interstate operations will also continue to be subject to these provisions.

The impact on the general public will be beneficial in that the safe transportation of hazardous materials will be assured along the highway and rail system of New Jersey.

**Economic Impact**

The rules proposed for readoption have an economic impact on shippers, motor carriers, and their personnel in interstate and intrastate commerce who transport hazardous materials in and between the State(s). The impact is the cost of compliance with the requirements of N.J.A.C. 16:49-1.3 and 2, and the imposition of penalties for non-compliance pursuant to N.J.A.C. 16:49-1.4. These costs will vary widely depending upon the materials shipped and the motor carriers' carrying capabilities. While compliance with these rules increases shipping costs, compliance

is required under Federal law, and such increase is justified by the need to protect the public from the hazardous materials transported.

For the public-at-large, these rules reduce the danger posed by transportation of hazardous materials, and the possibility of economic loss due to spillage of such materials. Enforcement and administration of these rules by the Department are provided for in its operating budget.

**Regulatory Flexibility Analysis**

The rules proposed for readoption impose reporting, recordkeeping and compliance requirements on shippers, motor carriers, and their personnel involved in interstate or intrastate commerce who transport hazardous materials in and between the State(s). An undetermined number of the entities affected may be small businesses, as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. No differentiation in requirements or exemptions can be afforded such businesses due to the requirements Federally-mandated nature and their object to protect the health and safety of the public.

Full text of the rule proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 16:49.

**TREASURY-GENERAL**

## (b)

**STATE INVESTMENT COUNCIL**

**Common and Preferred Stocks and Issues  
Convertible into Common Stock  
Limitations**

**Proposed Amendment: N.J.A.C. 17:16-17.3**

Authorized By: State Investment Council, Roland M. Machold,  
Director, Division of Investment.

Authority: N.J.S.A. 52:18A-91.

Proposal Number: PRN 1990-1.

Submit comments by February 1, 1990 to:

Roland M. Machold  
Administrative Practice Officer  
Division of Investment  
349 West State Street  
CN 290  
Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

The proposed amendment is initiated in response to a recommendation of the Division's independent auditors, Ernst and Young. The amendment would clarify the Council's limitation on individual stock holdings to four percent of a pension fund's assets, but not to Common Pension Fund A, which is a pooled fund for the pension fund stock investments and only a part of the whole pension fund investment program. Common Pension Fund A has not been subject to this limitation, and this amendment makes clear that circumstance.

**Social Impact**

The proposed amendment provides greater clarity of the limitations rule so that it expressly reflects the actual circumstances concerning Common Pension Fund A.

**Economic Impact**

The proposed amendment does not present any economic impact.

**Regulatory Flexibility Statement**

The rule is intended to insure diversification of pension fund assets as a matter of prudence, and creates a finite limit on the amount of any one stock that can be held by the pension funds. Only the Director of the Division of Investment is affected by the rule as amended.

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

17:16-17.3 Limitations

(a) (No change.)

(b) Not more than four percent of the book value of any pension fund shall be invested in the common and preferred stock of any one

corporation, except that this limitation for the Trustees for the Support of Public Schools shall be 10 percent. **This four percent limitation shall not apply to Common Pension Fund A included in the list of applicable funds listed in N.J.A.C. 17:16-17.2.**

(c) (No change.)

**OTHER AGENCIES**

**(a)**

**ELECTION LAW ENFORCEMENT COMMISSION**

**Office Hours and Copying Fees**

**Proposed Repeal: N.J.A.C. 19:25-2.2**

**Proposed Amendment: N.J.A.C. 19:25-2.4**

Authorized By: The Election Law Enforcement Commission,

Frederick M. Herrmann, Ph.D., Executive Director.

Authority: N.J.S.A. 19:44A-6.

Proposal Number: PRN 1990-11.

Submit written comments by February 1, 1990 to:

Gregory E. Nagy, Legal Director  
 Election Law Enforcement Commission  
 National State Bank Building, 12th Floor  
 CN 185  
 Trenton, New Jersey 08625-0185

The agency proposal follows:

**Summary**

The Election Law Enforcement Commission (hereafter, the "Commission") proposes to repeal N.J.A.C. 19:25-2.2, Hours of operation, and to amend N.J.A.C. 19:25-2.4, Copies of documents; fees.

The Commission currently has no plans to change or curtail its hours of operation as described in N.J.A.C. 19:25-2.2. However, the possibility of substantial budget cuts may compel the Commission to curtail many of its operations at a future date, including its hours of operation for purposes of public access. Should that unfortunate necessity arise, the Commission must be in a position to implement cost saving measures expeditiously. Therefore, the Commission believes N.J.A.C. 19:25-2.2 should be repealed so that it does not present any impediment to immediate action.

The Commission has not made any adjustment in its copying fees since 1984 (see 16 N.J.R. 1044(a) and 2154(a)). The amendment increases the fees for photocopies and computer-generated data to reflect increased costs to the Commission in materials and equipment. The Commission also is proposing a specific price for a computer tape with campaign finance data at \$125.00 per tape. The copying fee for microfilm records is proposed for elimination because microfilm records are no longer in use.

**Social Impact**

The increase in copying fees and the possible future curtailment of hours of operation will make access to campaign finance records somewhat more expensive and difficult for candidates, treasurers, the press and other users of this information. However, the Commission believes that the increase in copying fees is relatively modest and justified by inflation and increased costs of materials and copying equipment. The Commission hopes it will not become necessary to curtail its hours of operation.

**Economic Impact**

The costs of obtaining copies of documents and computer-generated records will be higher for persons desiring such copies. However, the Commission believes these costs remain relatively modest. While the costs to candidates or political entities for receiving copies of Commission documents and records will rise, the amount of funds being contributed to candidates and political entities has risen dramatically and these increases should not prove overly burdensome.

**Regulatory Flexibility Statement**

The proposed repeal and amendment do not impose any requirements on small businesses, as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rule changes affect users of Commission information and data.

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

19:25-2.2 [Hours of operation] (**Reserved**)

[The office of the commission is open for the filing of documents and for other commission business (except for public inspection of documents) from 9:00 A.M. to 5:00 P.M., Monday through Friday, holidays excepted. The office of the commission is open for public inspection of documents from 9:15 A.M. to 4:45 P.M., Monday through Friday, holidays excepted. The public may obtain information or make submissions or requests concerning any commission matter at the commission offices, or by telephone.]

19:25-2.4 Copies of documents; fees

[(a) Any person shall, upon request, be provided copies of the documents referred to in N.J.A.C. 19:25-2.3 at the following rates:

1. \$0.15 per page up to the first 50 pages of photocopying, and \$0.10 per page thereafter;
2. \$0.40 per page for records produced from microfilm; and
3. At cost to the commission for production of information in computer printout or tape format.]

**(a) Photocopies of documents maintained by the Commission pursuant to N.J.A.C. 19:25-2.3 shall be provided at a fee of \$0.15 per page, and for purposes of establishing fees under this section a two-sided photocopy shall be deemed as two pages.**

**(b) Computer-generated data shall be provided at the following fees:**

1. **\$0.10 per page (approximately 15 inches by 8-1/2 inches) of computer-printed data;**
2. **\$0.10 per computer-printed gummed, address label; and**
3. **\$125.00 per magnetic, 9-track computer tape (approximately 3,600 feet).**

**(c) The above fees shall be due and payable at such time as the photocopies or computer-generated data has been prepared.**

**(b)**

**CASINO CONTROL COMMISSION**

**Applications**

**Employee Licenses**

**Obligation to Pick Up Renewed License Credentials**

**Proposed Amendment: N.J.A.C. 19:41-1.3**

Authorized By: Casino Control Commission, Joseph A. Papp,

Executive Secretary.

Authority: N.J.S.A. 5:12-69 and 70c.

Proposal Number: PRN 1990-5.

Submit comments by February 1, 1990 to:

Mark Neary, Assistant Counsel  
 Casino Control Commission  
 3131 Princeton Pike, Building 5  
 CN 208  
 Trenton, N.J. 08625

The agency proposal follows:

**Summary**

The Casino Control Commission's rules require every casino key employee and casino employee to wear their license credential at all times while employed in the casino area (see N.J.A.C. 19:41-1.3(d)). The purpose of this rule is to enable casino supervisory personnel and the regulatory agencies to ensure that only properly qualified individuals are employed in the operation of casino gaming activity.

Under current practice, any employee whose license renewal application has not been acted upon by the Commission by the expiration date printed on the license is permitted, in accordance with section 11 of the Administrative Procedure Act (N.J.S.A. 52:14B-11), to continue working under the existing license until the Commission finally determines the renewal application. In such cases, the license credential which must be worn pursuant to N.J.A.C. 19:41-1.3(d) appears on its face to have expired.

Experience has demonstrated that many employees in this situation fail to report to the Commission to obtain their new license credential after they are notified that their license has been renewed. As a result, individ-

uals who could be displaying current and valid licenses continue to be challenged by enforcement personnel. The proposed amendment to N.J.A.C. 19:41-1.3(h) would require a renewal applicant to pick up his or her new license credential within 30 days of written notification that it is available. Any employee who failed to meet this requirement would be prohibited from working in the licensed position until the new license credential was obtained by appearing at the Commission's office.

Various other amendments to N.J.A.C. 19:41-1.3 are being proposed to conform this section to recent amendments to the Casino Control Act.

**Social Impact**

The proposed amendment to N.J.A.C. 19:41-1.3(h) will have a positive social impact to the extent that it will better permit the regulatory authorities to fulfill the statutory objective of requiring strict regulation of all persons involved in the operation of casino gaming.

**Economic Impact**

The proposal should not have any significant economic impact on casino licensees or the regulatory agencies. Individual employees could be adversely affected by the proposed amendment if they fail to pick up their new license credential since they will have to cease working until the new credential is obtained.

**Regulatory Flexibility Statement**

No regulatory flexibility statement is required since the proposal will only affect casino licensees and their employees, none of which qualify as small businesses within the scope of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

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

19:41-1.3 Employee licenses

(a) No natural person shall be employed in the operation of a licensed casino in a supervisory capacity or be empowered to make discretionary decisions which regulate casino operation or the management of an approved hotel unless he or she is [shall be] over 18 years of age and holds a current and valid [unless a] casino key employe license authorizing employment in the particular position. [of employment shall have first been issued to him in accordance with section 89 of the Act. While excluding casino employees and casino hotel employees as defined in the Act, this category includes] The following positions, without limitation, shall require a casino key employe license:

- 1. Pit bosses;
- 2. Shift bosses;
- 3. [Supervisors] Credit executives;
- 4. [Cashiers] Casino cashier supervisors;
- 5.-10. (No change.)

11. Any other employee [whatsoever] of a casino licensee so designated by the Commission for reasons consistent with the policies of the Act.

(b) No natural person shall be employed in the operation of a licensed casino or in a position whose employment duties require or authorize access to [the] restricted casino areas unless he or she is [shall be] over 18 years of age and holds a current and valid [unless a] casino employee license authorizing employment in the particular position. [of employment shall have first been issued to him in accordance with Section 90 of the Act. While excluding principal employees, casino key employees and casino hotel employees are defined in the Act, this category includes] The following positions, without limitation, shall require a casino employee license:

- 1. [Boxmen] Boxpersons;
- 2. Dealers;
- 3. Croupiers;
- 4. [Floormen] Floorpersons;
- [5. Bartenders;]
- [6.] 5. Waiters and waitresses who access restricted casino areas;
- [7. Waitresses;]
- [8.] 6. Any natural person employed by a casino or its agent to provide physical security in a casino hotel; and
- [9.] 7. Any employee whatsoever of a casino licensee so designated by the Commission.

(c) No natural person shall be employed [by a licensed casino hotel] to perform services or [custodial] duties [not directly relating

to operations of the casino] in the conduct of the business of an approved hotel which are not included within the definition of casino employee or casino key employee unless [a casino hotel employee license shall have first been issued to him by the Chairman in accordance with section 91 of the Act. This category includes] he or she holds a current and valid casino hotel employee registration. The following positions, without limitation, require a casino hotel employee registration:

- 1.-6. (No change.)
- (d) (No change.)
- (e) No casino licensee [or permittee] shall permit any casino key employee or casino employee, except those approved by the Chairman, to work in the casino area without the wearing of their license credential as required herein.
- (f) Each casino licensee [or permittee] shall provide each such employee with a holder for the Commission license credential which shall contain the name of the casino[/]hotel complex, shall be numerically controlled and shall permit the prominent display of the information contained on the license credential. Thirty days prior to the use of any such holder, a casino licensee [or permittee] shall submit a prototype to the Commission along with a narrative description of the proposed manner in which employees will be required to wear such holder.

(g) (No change.)  
 (h) [For any violation of subsections (d) and (e) of this section, the Commission may impose the sanctions authorized by the Act.] The Commission shall notify an applicant for renewal of an employee license in writing when a renewal application is granted and the applicant shall appear in person at the Commission's Casino Employee License Information Unit in Atlantic City within 30 days of the notice to obtain his or her new license credential. Should the applicant fail to appear as required by this subsection, the Commission shall notify casino licensees that the applicant can no longer be employed in the licensed position after the expiration date of the applicant's current license credential until the applicant appears as required and receives his or her new license credential.

**(a)**

**CASINO CONTROL COMMISSION  
 Gaming Equipment  
 Gaming Plaques; Physical Characteristics  
 Proposed Amendment: N.J.A.C. 19:46-1.2**

Authorized By: Casino Control Commission, Joseph A. Papp,  
 Executive Secretary.  
 Authority: N.J.S.A. 5:12-63(c).  
 Proposal Number: PRN 1990-14.

Submit comments by February 1, 1990 to:  
 Deno R. Marino, Deputy Director—Operations  
 Casino Control Commission  
 CitiCenter Building, 4th floor  
 1300 Atlantic Avenue  
 Atlantic City, NJ 08401

The agency proposal follows:

**Summary**

The proposed amendment to N.J.A.C. 19:46-1.2(b) would allow the Commission to authorize shapes for gaming plaques other than oval, rectangular, or square.

**Social Impact**

The proposed amendment merely alters the possible authorized shapes permitted by the Commission and would have no social impact of any significance.

**Economic Impact**

The proposed amendment merely alters the possible authorized shapes permitted by the Commission and would have no economic impact of any significance.

**Regulatory Flexibility Statement**

This proposed amendment will only affect the operation of casino licensees and, therefore, will not impact on any business protected under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

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

19:46-1.2 Gaming plaques; physical characteristics

(a) (No change.)

(b) **Unless otherwise authorized by the Commission**, [Each] each gaming plaque shall be square, rectangular, or oval in shape and no smaller than three inches in length by two inches in width which, in the case of oval gaming plaques, shall be measured at the points of greatest length and width. Each denomination of gaming plaque utilized by a casino licensee shall be of a different shape.

(c)-(e) (No change.)

**(a)**

**CASINO CONTROL COMMISSION**

**Gaming Equipment  
State Seals**

**Proposed Amendment: N.J.A.C. 19:46-1.24**

Authorized By: Casino Control Commission, Joseph A. Papp,  
Executive Secretary.

Authority: N.J.S.A. 5:12-63(c).

Proposal Number: PRN 1990-12.

Submit comments by February 1, 1990 to:

Deno R. Marino, Deputy Director—Operations  
Casino Control Commission  
CitiCenter Building, 4th Floor  
1300 Atlantic Avenue  
Atlantic City, NJ 08401

The agency proposal follows:

**Summary**

The proposed amendment to N.J.A.C. 19:46-1.24(a) would change the location of the State seal from outside the glass on the front of the machine to an area on either side of the slot machine cabinet.

**Social Impact**

The proposed amendment merely changes the location of the State seal affixed to slot machines and would have no social impact of any significance.

**Economic Impact**

The proposed amendment merely changes the location of the State seal affixed to slot machines and would have no economic impact of any significance.

**Regulatory Flexibility Statement**

This proposed amendment will only affect the operation of casino licensees and, therefore, will not impact on any business protected under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

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

19:46-1.24 State seals

(a) Each slot machine located within this State shall have a seal affixed to it by the [commission] **Commission** which shall be located [outside the glass on the front] **on either side** of the slot machine cabinet.

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

# RULE ADOPTIONS

## AGRICULTURE

### (a)

#### DIVISION OF MARKETS

#### Equine Advisory Board Rules

#### Adopted New Rules: N.J.A.C. 2:34-2

Proposed: August 7, 1989 at 21 N.J.R. 2151(a).

Adopted: November 29, 1989 by Arthur R. Brown, Jr., Secretary,  
Department of Agriculture.

Filed: December 8, 1989 as R.1990 d.15, **with substantive changes**  
not requiring additional public notice and comment (see  
N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 5:5-88.

Effective Date: January 2, 1990.

Expiration Date: January 2, 1995.

#### Summary of Public Comments and Agency Responses:

##### No comments received.

The Department has revised N.J.A.C. 2:34-2.1(b) to reflect current practice with regard to what constitutes a transient mare for the purpose of a foal being considered a New Jersey bred horse.

**Full text** of the adoption follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks **\*[thus]\***):

#### SUBCHAPTER 2. EQUINE ADVISORY BOARD RULES

##### 2:34-2.1 Qualifications for year-end non-racing breeder awards

(a) With the exception of futurities, and non-parimutuel racing, in order to qualify for year-end non-racing breeder awards, a horse must enter at least three different New Jersey horse shows under three different judges. Furthermore, there must be at least two horses entered, shown and judged in each class.

1. If a horse is entered in a New Jersey horse show with only one horse in its class, it will not receive any points towards breeder awards, but the show will count as one of its three required New Jersey horse shows.

2. If a designated breeding class at a pointed horse show does not fill, the Grand or Reserve Champion class may be counted for New Jersey bred points at the discretion of the breed organization, if the organization has made this decision at the beginning of the year.

(b) A New Jersey bred horse is:

1. Any foal dropped in the State of New Jersey, except for **\*the foals of\*** transient mares. A **\*[transient mare is any mare arriving in the State of New Jersey solely for the purpose of dropping a foal]\*** **\*mare will be considered to be a transient mare if she does not reside in the State of New Jersey for at least 120 consecutive days including the day of foaling. The owner of a mare may be asked to submit proof of such residence to the individual bred groups\***;

2. Any foal resulting from an embryo transfer from a mare **\*[residing the full season]\*** **\*who resides 120 cumulative days\*** in the State of New Jersey, providing blood typing of the mare, stallion and foal is carried out to authenticate parentage\*. **A mare must donate only in New Jersey\***, and embryo transfer is agreeable to the national registry of the breed;

3. The get of any stallion standing only in New Jersey during the breeding season of the year in which the foal was conceived. Stallions standing in New Jersey must breed only in New Jersey for any yearly breeding season; or

4. Foals resulting from the transport of semen from a stallion standing the full season in the State of New Jersey, providing blood typing of the stallion, mare and foal is carried out to authenticate parentage, and semen transport is agreeable to the national registry of the breed.

(c) In order to qualify for New Jersey non-racing breeder awards, at least one owner shall be a member in good standing of the New

Jersey breed association, represented on the New Jersey Equine Advisory Board, which represents the particular breed group in which the breeder is competing. In the case of a leased horse, the lessee shall hold such membership. Nominations for Jersey Breds should not close before one month prior to the New Jersey All Breed Horse Show.

(d) Individual breed groups are responsible for the certification of eligible horses and the tabulation of breeder award points, and must submit them to the New Jersey Department of Agriculture no later than November 30 of the year in which they are earned.

(e) Individual breed groups may require that additional conditions be met to qualify for non-racing breeder awards. Such conditions must not be in opposition to the intent of this section and must be approved and recorded by the New Jersey Equine Advisory Board and the New Jersey State Board of Agriculture each year prior to the show and the breeding season.

(f) Each breed's share of the year-end money is determined by:

1. The number of animals shown at the New Jersey All Breed Horse Show;

2. The number of horses entered in specific breed futurities. For a futurity run by a New Jersey breed group at a separate location, each New Jersey Bred horse's owner must sign an owner's eligibility certification form which, along with a photocopy of the entry blank, must be sent by the breed group to the New Jersey Department of Agriculture within two weeks of the show;

3. The number of animals who race at the Trotting Bred Association. All owners must sign an eligibility certification form which, along with a photocopy of the entry blank, must be sent by the Trotting Bred Association to the Department of Agriculture within two weeks of the race.

(g) For the purpose of obtaining a year-end total of competitors for each breed group, no animal is to be counted more than once by one breed group and horses who are registered with more than one breed group may be entered in any division for which they are qualified.

(h) Individual breed groups are responsible for supervising and certifying to the adherence to the provisions of this section.

(i) The New Jersey Department of Agriculture will accept the decisions of the individual breed groups regarding which horses are qualified to receive non-racing breeder awards, as well as the tabulation of breeder award points. Any disagreement with the decisions of the breed groups must be presented to the officers and/or directors of the particular group in question. The New Jersey Department of Agriculture will abide by the decision of the breed group officers and/or directors unless fraud or misfeasance is shown.

##### 2:34-2.2 Conduct of the New Jersey Bred All Breed Horse Show

(a) The New Jersey All Breed Horse Show, or any other show conducted by the New Jersey Department of Agriculture, shall be governed as follows:

1. Any questions arising which are not covered in the following rules shall be referred to the Equine Advisory Board Breeder Incentive Committee for final decision.

2. For any entry to be accepted, the horse or pony must be registered with its New Jersey breed association and be a certified New Jersey Bred. In addition, the owner or one lessee shall be a member in good standing with his or her New Jersey breed association represented on the New Jersey Equine Advisory Board. Every horse shall be entered under its registered name and the name of its rightful owner or lessee.

3. No entry will be accepted without a photocopy of a negative Coggins test of the date accepted by the New Jersey Department of Agriculture. Foals six months and under are allowed to use the Coggins test of their dam.

4. Copies of the Coggins test report and the horse's registration papers shall be attached to all entry forms along with the owner's Eligibility Declaration Form.

5. Foals dropped later than two months prior to show date will not be accepted as entries. No horse under three years of age may compete in under saddle classes.

6. No entries or stall reservations will be accepted unless payment by check or money order is received by the show secretary.

7. Post entries will be accepted at two times the regular fee after the closing date of entries.

8. Each breed will be judged according to the rules and regulations of its national breed association. Those breeds which do not have a national affiliation will be judged by their New Jersey State organization rules.

9. No horse shall be shown in any class at this show if it has been administered, in any manner, any foreign substance. A foreign substance is any medication. There will be spot testing by urinalysis and/or blood testing. Any entry found positive will be disqualified and will forfeit all awards for the New Jersey Bred All Breed Horse Show and New Jersey Bred year-end awards in the current year. Refusal to allow testing will automatically subject the horse to disqualification.

10. Classes designated as combined may be split if entries warrant; full prize money will be paid in both categories, providing the breed organization has not exceeded the designated prize money; otherwise, prize money will be split.

11. Two horses are required to fill a class at the All Breed Horse Show. If Classes with A and B sections do not have two entries each, A and B sections will be combined. Other classes will be combined only as specified in the prize list. Two horses are required to be shown and judged in order to receive both prize money and points.

i. Prize money will be paid as follows:

Four horses or more in class ..... \$100.00; 50.00; 30.00; 20.00  
 Three horses in class ..... \$100.00; 50.00; 30.00  
 Two horses in class ..... \$100.00; 50.00;  
 One horse in class ..... \$100.00; no points

ii. Prize money for A and B classes over the 12 class limit is as follows:

Four horses or more in class ..... \$50.00; 25.00; 15.00; 10.00  
 Three horses in class ..... \$50.00; 25.00; 15.00  
 Two horses in class ..... \$50.00; 25.00  
 One horse in class ..... \$50.00; no points

iii. If only one horse reports for judging, show money will be paid but no points will be given. However, that horse shown and judged will receive credit for the All Breed Horse Show—one of the horse's required three New Jersey shows.

12. In all classes, all riders and handlers appearing in the ring shall be neatly and properly attired according to the requirements of their national breed organization. Protective headgear is required in all jumping classes.

13. Any act of discourtesy or disobedience to the judges or officials by owner, trainer, rider or groom shall disqualify the horse, and the owner shall forfeit his or her entry and other fees.

14. The veterinarian and/or the steward shall be responsible for measuring height of entries and weight of shoes.

15. Prize money will be mailed to winners at a later date. No money can be paid without the winner's Social Security number.

(b) Any appeal from the provisions of this section shall be made within 20 days of the horse show date, or within 20 days of notification to owners of a decision.

1. All appeals to the New Jersey Department of Agriculture or breed groups are final if decided in accordance with this section or the breed group rules. Should there be a conflict between rules, this section shall be deemed superior and superseding of all other rules.

2. It is the policy of the New Jersey Department of Agriculture to accept the decisions of the individual breed groups regarding which horses are qualified to enter and to show at the New Jersey Bred All Breed Horse Show, and to receive non-racing breeder awards, as well as the tabulation of breeder award points. Such decisions and tabulations must not be in opposition to the intent of this section. Any disagreement with the decisions of the groups must be presented to the officers and/or directors of the particular breed group in question. The New Jersey Department of Agriculture will abide by the decision of the group's officers and/or directors.

**COMMUNITY AFFAIRS**

(a)

**LOCAL FINANCE BOARD**

**Local Authorities**

**Readoption: N.J.A.C. 5:31**

Proposed: October 2, 1989 at 21 N.J.R. 3046(a).  
 Adopted: November 21, 1989 by the Local Finance Board, Harry L. Mansmann, Executive Secretary.  
 Filed: December 1, 1989 as R.1990, d.4, **without change**.  
 Authority: N.J.S.A. 40A:5A-26.  
 Effective Date: December 1, 1989.  
 Expiration Date: December 1, 1994.

**Summary of Public Comments and Agency Responses:**

**No comments received.**

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 5:31.

(b)

**DIVISION OF LOCAL GOVERNMENT SERVICES**

**Urbanaid Program**

**State Aid for Planning Local Effectiveness Program**

**Adopted Repeals: N.J.A.C. 5:33 and 5:35**

Proposed: October 2, 1989 at 21 N.J.R. 3046(b).  
 Adopted: November 30, 1989 by Anthony M. Villane, Jr., D.D.S., Commissioner, Department of Community Affairs.  
 Filed: December 11, 1989 as R.1990, d.16, **without change**.  
 Authority: N.J.S.A. 52:27D-3 and 52:27D-56.  
 Effective Date: January 2, 1990.

**Summary of Public Comments and Agency Responses:**

**No comments received.**

(c)

**GOVERNOR'S COUNCIL ON PHYSICAL FITNESS AND SPORTS**

**Volunteer Coaches' Safety Orientation and Training Skills Programs**

**Minimum Standards**

**Adopted New Rules: N.J.A.C. 5:52**

Proposed: August 7, 1989 at 21 N.J.R. 2159(a).  
 Adopted: December 5, 1989 by the Governor's Council on Physical Fitness and Sports, Ralph A. Dougan, Executive Director.  
 Filed: December 8, 1989 as R.1990, d.12, **without change**.  
 Authority: N.J.S.A. 2A:62A-6.  
 Effective Date: January 2, 1990.  
 Expiration Date: January 2, 1995.

**Summary of Public Comments and Agency Responses:**

COMMENT: At the public hearing, a representative of the Little League program asked why they had to learn about football injuries if they are only concerned with baseball.

RESPONSE: The Council has outlined a generic program and additions may be made by individual training programs to make them more sport specific.

COMMENT: Other Little League representatives were concerned because there is not any time limit on the certification.

RESPONSE: The Council believes this is a good point but it will necessitate a further proposal since it goes beyond the scope of the current proposal.

## ADOPTIONS

## COMMUNITY AFFAIRS

COMMENT: A New Jersey borough administrator asked to have colleges and universities included as possible providers of the training.

RESPONSE: N.J.A.C. 5:52-1.1(b) states, "The programs may be provided by local recreation departments, non-profit organizations, and national/state sport training organizations." Non-profit organizations would include most colleges and universities.

COMMENT: The borough administrator suggested that three hours training is not sufficient.

RESPONSE: The Council has set minimum standards. Groups can make the course any length they desire.

COMMENT: A recreation association official requested certification of his program.

RESPONSE: The Council does not have the statutory power to certify programs, just to set minimum standards. P.L. 1988, c.87, §2 states, "A coach, manager, or official shall be deemed to have satisfied the requirements of this subsection if the safety orientation and skills training program attended by the person has met the minimum standards established by the Governor's Council on Physical Fitness and Sports in consultation with the Bureau of Recreation within the Department of Community Affairs."

COMMENT: The same official also asked that the problem of insurance coverage be addressed.

RESPONSE: As before, the Council has been charged with setting minimum standards for volunteer coaches' safety orientation and training skills program. Insurance coverage is beyond the scope of the Council.

COMMENT: An official from a chiropractic society offered six recommendations. First, he suggested organized parental involvement.

RESPONSE: This is outside of what the law allows the Council to address.

COMMENT: The second recommendation was to include minimum standards of nutrition education.

RESPONSE: This is also outside of what the law allows the Council to address.

COMMENT: The third recommendation was better communication between parent, coach, league and physical health care professionals.

RESPONSE: The Council believes this has been addressed under N.J.A.C. 5:52-1.2, Medical, legal and first aid aspects of coaching, and N.J.A.C. 5:52-1.4, Psychological aspects of coaching.

COMMENT: The fourth recommendation was that orientation training programs should be delivered or directed by volunteer qualified professionals as opposed to league representatives whose professional training is unrelated to sports injury prevention.

RESPONSE: The Council has established minimum standards; however, this does not preclude anyone from entering this into their program.

COMMENT: The fifth recommendation was to provide advanced "spin-off" courses, for example, sports-specific conditioning programs.

RESPONSE: As with the previous issue, the Council has established minimum standards and any program sponsors can include "spin-off" courses if they so desire.

COMMENT: The sixth recommendation was to "encourage compliance" through recognition via credentials and recognition and to devise training programs that are fun rather than an obligation.

RESPONSE: This issue is addressed under N.J.A.C. 5:52-1.1(c).

Full text of the adoption follows.

### CHAPTER 52

### GOVERNOR'S COUNCIL ON PHYSICAL FITNESS AND SPORTS

#### SUBCHAPTER 1. MINIMUM STANDARDS FOR VOLUNTEER COACHES' SAFETY ORIENTATION AND TRAINING SKILLS PROGRAMS

##### 5:52-1.1 Introduction

(a) The minimum standards set forth in this subchapter identify the major topics which must be addressed in volunteer coaching/managing/officiating programs for a safety orientation and training skills program required for civil immunity according to N.J.S.A. 2A:62-6 et seq. The topics must be presented within the context of an educational program that addresses the perspective of the specific population(s) of athletes served (for example, young, senior, disabled, novice and skilled athletes).

(b) In order to be covered by the provisions for civil immunity as prescribed by New Jersey P.L. 1988, c. 87 (N.J.S.A. 2A:62A-6 et

seq.), the volunteer athletic coach, manager or official must attend a safety orientation and skills training program of at least a three-hour duration which meets the minimum standards set forth in this subchapter. The programs may be provided by local recreation departments, non-profit organizations and national/state sports training organizations. The standards apply to all volunteer athletic programs in New Jersey regardless of population served.

(c) Any organization providing a safety orientation and skills training program pursuant to these rules, shall issue a certificate of participation to each participant who successfully completes the program.

##### 5:52-1.2 Medical, legal and first aid aspects of coaching

(a) Every volunteer coach/manager educational program shall include basic knowledge and skills in the recognition and prevention of athletic injuries and knowledge of first aid. To ensure the standards are achieved, the following topics shall be included:

1. Legal and ethical responsibilities of the coach;
2. Recognizing common sports injuries specific to the populations served by the sports program;
3. Safety plans and procedures for injury prevention;
4. Safety issues specific to the population serviced;
5. Plans and procedures for emergencies; and
6. Care and treatment of injuries generally associated with athletic activities.

##### 5:52-1.3 Training and conditioning of athletes

(a) Every volunteer athletic coach/manager educational program shall include instruction in procedures for training and physical conditioning for participation in athletic activities appropriate for the population served. To ensure the standards are achieved, the following topics shall be included:

1. General principles of fitness and conditioning; and
2. Safety issues specific to environmental conditions in sport (for example, age, skill level, overtraining and staleness).

##### 5:52-1.4 Psychological aspects of coaching

(a) Every volunteer athletic coach/manager educational program shall stress the importance of fostering positive social and emotional environments for all sports' participants. To ensure the standards are achieved, the following topics shall be included:

1. Philosophy of coaching;
2. Psychological understanding of the individual athlete; and
3. Sportsmanship.

##### 5:52-1.5 General coaching concepts

(a) Every volunteer athletic coach/manager educational program shall include general concepts of teaching and coaching athletic activities. To ensure the standards are achieved, the following topics shall be included:

1. Goals and objectives appropriate for the population served;
2. Teaching and coaching methods;
3. Planning and managing practices and competitions;
4. Coaching fundamental sports skills; and
5. The importance of playing rules.

##### 5:52-1.6 General officiating concepts

(a) Every volunteer athletic officials educational program shall be designed to prepare the official to conduct a safely officiated, competitive experience based upon the rules of the game and the maturity level and proficiency of the athletes involved. To ensure the standards are achieved, the following topics shall be included:

1. Legal and ethical responsibilities of the official;
2. Safety issues under the control of the official;
3. Mechanics of officiating; and
4. Plans and procedures for medical emergencies.

**EDUCATION**

**(a)**

**THE COMMISSIONER**

**Criteria for Evaluation of Building Principals in State-operated School Districts**

**Adopted New Rules: N.J.A.C. 6:7**

Proposed: November 6, 1989 at 21 N.J.R. 3352(a).  
 Adopted: December 7, 1989 by Saul Cooperman, Commissioner, Department of Education.  
 Filed: December 8, 1989 as R.1990, d.13, **without change**.  
 Authority: N.J.S.A. 18A:1-1, 18A:4-15, 18A:7A-45.  
 Effective Date: January 2, 1990.  
 Expiration Date: January 2, 1995.

**Summary of Public Comments and Agency Responses:**

Only one written comment was received.  
**COMMENT:** While endorsing the concept of community relationships, the writer strongly suggested that instead of the principal merely demonstrating the importance of community involvement, the principal "establish parent-school relations which include open public meetings for community input and school response to the issues raised".  
**RESPONSE:** Evaluation criteria need not be so specific as to include types of community involvement that are most effective. A part of the evaluation process itself will be to determine the appropriateness and effectiveness of the types and methods of community involvement that are selected by individual principals.

Full text of the adoption follows.

**CHAPTER 7  
 STATE-OPERATED SCHOOL DISTRICTS**

**SUBCHAPTER 1. PROCEDURE FOR EVALUATION OF BUILDING PRINCIPALS IN STATE-OPERATED SCHOOL DISTRICTS**

**6:7-1.1 Inefficiency defined**

The word "inefficiency" when used in this subchapter shall mean the failure to demonstrate satisfactory performance in any one of the areas of school building leadership/management identified in N.J.A.C. 6:7-2.2.

**6:7-1.2 Procedure for evaluation**

(a) Upon appointment, the State district superintendent shall establish an assessment unit which shall conduct on-site evaluations of each building principal in the State-operated school district.

(b) No fewer than three evaluations pursuant to N.J.A.C. 6:7-2.2 shall be performed for each building principal within six months following the reorganization of the State-operated school district.

(c) Upon completion of each evaluation, the assessment unit shall provide a written evaluation report for the State district superintendent and the building principal.

**6:7-1.3 Additional procedures relating to the evaluation of tenured building principals**

(a) When, after review of at least two written evaluation reports, the State district superintendent determines that the evaluations support a charge of inefficiency against a tenured principal, the State district superintendent shall provide that principal with written notice of the alleged areas of inefficiency specifying the nature thereto, and provide at least 90 days in which to correct or overcome the areas of inefficiency.

(b) A principal who is given notice of the inefficiency pursuant to (a) above shall have at least one evaluation conducted after the expiration of the time period given to correct or overcome the areas of inefficiency. That evaluation shall include an assessment of the principal's performance with respect to correcting areas of inefficiency.

(c) After review of an evaluation performed pursuant to (b) above, the State district superintendent shall notify the principal if all the

inefficiencies have been corrected or, in the alternative, which of the inefficiencies have not been corrected.

(d) In the event that certain charges of inefficiency have not been corrected, the affected employee shall have an opportunity to respond within 15 days of the receipt of said notification of inefficiency by filing a statement of evidence under oath in opposition to those charges.

(e) Upon receipt of such written statement of evidence under oath or upon expiration of the allotted 15-day time period, the State district superintendent shall determine within 45 days whether there is probable cause to credit the evidence in support of the charges and that such charges, if credited, are sufficient to warrant a dismissal. If the State district superintendent determines that dismissal is not warranted, he or she shall notify the principal that he or she shall be retained. The notification shall be in writing and shall be given no later than 15 days after the expiration of the 45 day period noted in this subsection.

(f) In the event the State district superintendent finds that such probable cause exists and that the charges, if credited, are sufficient to warrant a dismissal, then the State district superintendent shall file such written charges and the required certificate of determination with the Commissioner together with proof of service upon the employee. The format of the certificate shall be as set forth in N.J.A.C. 6:24-5.2 except that the State district superintendent shall act as the board of education in all respects.

(g) No tenured building principal shall be dismissed on grounds other than incapacity or unbecoming conduct prior to the completion of an assessment cycle of not less than 12 months. An assessment cycle in a State-operated school district shall begin on the date the State district superintendent establishes the assessment unit or the effective date of these rules, whichever is later.

(h) Unless otherwise provided by statute, dismissals of a tenured building principal shall be conducted in accordance with the procedures in N.J.S.A. 18A:6-10, 11, 13, 14, 16, 17 and 18A:7A-45d except that the State district superintendent shall act as the board of education in all respects.

**SUBCHAPTER 2. CRITERIA FOR EVALUATION OF BUILDING PRINCIPALS IN STATE-OPERATED SCHOOL DISTRICTS**

**6:7-2.1 Definitions**

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

"Assessment of Pupil Progress" means a system of evaluating pupil performance in school programs.

"Community Relationships" means the interaction of school personnel with parents and other residents.

"Curriculum/Program" means the sum total of all programs of study in the school.

"School Climate" means the physical and social environment of the school.

"Staff Development" means a planned program that ensures the continual growth of school staff.

"Supervision of Instruction" means a process of assessment of the professional staff.

**6:7-2.2 Criteria for evaluation of building principals in State-operated school districts**

(a) An evaluation shall include, but not be limited to, an examination of the principal's performance based on the following criteria within the identified areas of school building leadership/management established pursuant to N.J.S.A. 18A:7A-45a:

1. Curriculum/Program: The principal exhibits consistent and effective leadership in curriculum and program by directing efforts to meet students' academic needs.

2. Supervision of Instruction: The principal exhibits consistent and effective leadership in the supervision of instruction by demonstrating that the observation of teaching and learning is a major priority.

3. Staff Development: The principal exhibits consistent and effective leadership in promoting staff development by utilizing time, human and material resources to construct a quality program.

4. Assessment of Pupil Progress: The principal exhibits consistent and effective leadership in establishing and maintaining an assessment program that measures individual and group achievement.

5. Community Relationships: The principal exhibits consistent and effective leadership in community relationships by successfully communicating school programs and priorities to the community and by demonstrating an understanding of the importance of community involvement; and

6. School Climate: The principal exhibits effective and consistent leadership in creating a positive school climate by ensuring that pupil and teacher behaviors support a productive learning environment.

(b) The areas in (a) above shall not be read to limit the State district superintendent's examination of the principal's performance. The State district superintendent may examine other areas of leadership and management that are generally accepted to be the responsibility of the school building principal.

**ENVIRONMENTAL PROTECTION**

**(a)**

**DIVISION OF ENVIRONMENTAL QUALITY**

**Notice of Change of Operative Date  
Air Civil Administrative Penalties and Adjudicatory Hearings**

**N.J.A.C. 7:27A-3**

Take notice that the Department of Environmental Protection has discovered that the operative date for adopted new rules N.J.A.C. 7:27A-3, published in the December 4, 1989 New Jersey Register at 21 N.J.R. 3751(a) as May 6, 1990, is erroneous, as it is not the operative date for the rules contemplated by the Department pursuant to N.J.S.A. 26:2C-8. The Department is, therefore, by this notice, changing the operative date of this subchapter to **January 5, 1990**.

**HIGHER EDUCATION**

**(b)**

**STUDENT ASSISTANCE BOARD**

**Garden State Scholarships  
Academic Requirements**

**Adopted Amendment: N.J.A.C. 9:7-4.2**

Proposed: November 6, 1989 at 21 N.J.R. 3408(a).  
Adopted: December 8, 1989 by the Student Assistance Board, M. Wilma Harris, Chairperson.  
Filed: December 8, 1989 as R.1990 d.14, **without change**.  
Authority: N.J.S.A. 18A:71-26.8 and 18A:71-26.12.  
Effective Date: January 2, 1990.  
Expiration Date: February 28, 1993.

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

Full text of the adoption follows.

9:7-4.2 Academic requirements

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

(c) Distinguished Garden State Scholars shall be selected on the basis of the following criteria:

1. Class rank within the top 10 percent of the graduating class at the end of the junior year; and
2. SAT scores of 1200 or above at the end of the junior year; or
3. Class rank of one, two or three in the graduating class at the end of the junior year.

(d)-(i) (No change.)

**(c)**

**BOARD OF DIRECTORS OF EDUCATIONAL OPPORTUNITY FUND**

**Duration of Student Eligibility**

**Adopted Amendment: N.J.A.C. 9:11-1.8**

Proposed: July 17, 1989 at 21 N.J.R. 1963(a).  
Adopted: November 29, 1989 by the Board of Directors of the Educational Opportunity Fund, Judith Cambria, Chairperson.  
Filed: November 29, 1989 as R.1990 d.1, **without change**.

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

Effective Date: January 2, 1990.

Expiration Date: April 17, 1994.

Summary of Public Comments and Agency Responses:

**No comments received.**

Full text of the adoption follows.

9:11-1.8 Duration of student eligibility

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

(c) Students attending four-year institutions will receive ten terms of E.O.F. payment to complete four class levels. Additional term awards up to the maximum allowable terms are available to students who are making satisfactory academic progress as stipulated in N.J.A.C. 9:1-1.10 and will be able to meet the institution's graduation requirements in these two additional semesters.

(d) Students attending two-year institutions will be eligible to receive six terms of E.O.F. payment to complete two class levels. Additional term awards up to the eight maximum allowable terms are available to students who are making satisfactory academic progress as stipulated in N.J.A.C. 9:1-1.10 and will be able to meet the institution's graduation requirements in these two additional semesters.

(e) Formal written request from the institution and approval by the Executive Director of E.O.F. is required for students in an established five year course of study who require additional terms awards up to the 14th maximum allowable term.

(f) Graduating seniors in their last semester of study, and sophomores in their last semester at a county college, may take less than 12 credits (full-time status) and remain eligible for E.O.F.

**CORRECTIONS**

**(d)**

**THE COMMISSIONER**

**Notice of Administrative Correction  
Records**

**Procedures for Expungement of Records**

**N.J.A.C. 10A:22-4.1**

Take notice that the Department of Corrections has discovered an error in the adopted text of N.J.A.C. 10A:22-4.1(a) as published in the November 20, 1989 New Jersey Register at 21 N.J.R. 3665(b). The abbreviation for Bureau of Correctional Information and Classification Services, proposed and adopted as "C.I.I.S.", is incorrect. The proper abbreviation is "C.I.C.S." This notice of administrative correction is published pursuant to N.J.A.C. 1:30-2.7.

Full text of the corrected rule follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

10A:22-4.1 Procedures for Expungement of Records

(a) Pursuant to N.J.S.A. 2C:52 et seq., whenever a correctional facility, Bureau Chief or an administrative unit head receives an Order from the Courts or from the Bureau of Correctional Information and Classification Services [(C.I.I.S.)] C.I.C.S. directing the expungement of inmate records, all records and information that are

subject to said Order of Expungement shall be removed from the files and forwarded to the Bureau of Correctional Information and Classification Services.

(c)-(h) (No change.)

## INSURANCE

### (a)

#### DIVISION OF FINANCIAL EXAMINATIONS

#### Admission Requirements for Foreign and Alien Insurance Companies

##### Appeals

##### Adopted Amendment: N.J.A.C. 11:1-10.7

Proposed: November 6, 1989 at 21 N.J.R. 3418(a).

Adopted: December 12, 1989 by Kenneth D. Merin, Commissioner, Department of Insurance.

Filed: December 12, 1989 as R.1990 d.17, **without change**.

Authority: N.J.S.A. 17:1c-6(e) and (i); 17:32-2, and 15; 17:32-1 et seq.; 52:14B-1 et seq. 17:17-1 et seq.

Effective Date: January 2, 1990.

Expiration Date: February 3, 1991.

##### Summary of Public Comments and Agency Responses:

**No comments were received.**

Full text of the adoption follows.

11:1-10.7 Review procedures; appeals

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

(f) When the Commissioner rejects an application, the notice of rejection shall include a statement specifying the reasons for the rejection.

1.-3. (No change.)

4. If, after reviewing the record, the Commissioner determines that the applicant has failed to qualify, the Commissioner shall promptly so inform the applicant.

### (b)

#### DIVISION OF ENFORCEMENT AND CONSUMER PROTECTION

#### Standards of Conduct for Insurance Producers and Limited Insurance Representatives

##### Adopted New Rules: N.J.A.C. 11:17A, 17B, 17C and 17D

##### Adopted Repeals: 11:1-3, 11:1-7, 11:1-8 and 11:1-13

Proposed: May 15, 1989 at 21 N.J.R. 1317(a).

Adopted: December 6, 1989 by Kenneth D. Merin, Commissioner, Department of Insurance.

Filed: December 6, 1989 as R.1990 d.11, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 17:22A-1 et seq.; 17:22A-3, -17a(4), (5), (15), (17), (18), -17b and -17c, -24; 17:29B-7, 17B:30-13 and 15 and 17:1C-6(e).

Effective Date: January 2, 1990.

Expiration Date: January 2, 1995.

##### Summary of Public Comments and Agency Responses:

The following is a list of commenters who filed responses to the notice of proposal published in the May 15, 1989 New Jersey Register, which responses were fully considered upon adoption of the new rules.

1. CIGNA
2. State Farm
3. Prudential
4. Keystone Automobile Club

5. Motor Club of America
6. American Council of Life Insurance
7. Independent Insurance Agents (New Jersey)
8. Professional Insurance Agents (New Jersey)
9. The Travelers
10. New Jersey Insurance Department Producer Advisory Council
11. Mutual Benefit Life
12. Blue Cross and Blue Shield of New Jersey
13. Paul S. Bunkin, Inc.
14. New Jersey Land Title Association
15. Family Life Insurance Company
16. Chubb and Sons, Inc.
17. New Jersey Manufacturers

NOTE: CODIFICATION REFERENCES TO SECTIONS PROVIDED IN THE HEADINGS BELOW ARE TO THE RULE AS PROPOSED RATHER THAN AS ADOPTED.

I. Concerning Proposed N.J.A.C. 11:17A, Producer Conduct: Marketing

1. N.J.A.C. 11:17A-1.2:

COMMENT: Several commenters objected to the inclusion of insurance identification cards and certificates of insurance within the definition of "effectuate" on the ground that these documents are more properly classified as "evidence" of insurance and do not constitute or make operable an insurance contract. A commenter also stated that the definition of "insurer" should not properly include "purchasing group". A commenter suggested that this section and N.J.A.C. 11:17A-1.3 be amended to clarify that the proposed new rules do not apply to "managing general agents" since they are not "insurance producers."

RESPONSE: The Department agrees that identification cards and certificates should be deleted from the definition of effectuate for the reasons noted by the commenter. This change is made in the rule as adopted and is consistent with N.J.A.C. 1:30-4.3 since it merely corrects an error of fact in the proposed rule. The Department cannot amend the definition of "insurer" to eliminate "purchasing groups" since the definition is tied to the definition of "insurer" in the relevant statute (see N.J.S.A. 17:22A-2i). The Department notes that persons who solicit insurance for purchasing groups must be licensed in conformity with 15 USC 3903(c). The Department believes that the appropriate place to clarify whether "managing general agents" need to be licensed as insurance producers is the underlying statute (N.J.S.A. 17:22A-1 et seq.) since the statute employs the terms "manager" and "general agents" (see N.J.S.A. 17:22A-3). However, under the present statutory language, if these persons do not solicit, negotiate or effect insurance, they will likely not have to be licensed. The Department also notes that this comment was previously responded to in the April 18, 1988 New Jersey Register (at page 904).

2. N.J.A.C. 11:17A-1.3:

COMMENT: Several commenters argued that the exemption from licensure for certain salaried officers and employees of insurers is unworkable. They argue that this exemption should be eliminated or altered to apply to similar employees of insurance producers. Another comment states that the exemption is unduly narrow in that it is unavailable to employees of an insurer whose compensation depends in part upon their volume of business even though the insurer still maintains control over the employee and the employee transacts insurance through licensed insurance producers and registered limited insurance representatives.

Another comment argues that the section as proposed would erroneously require licensure of policyholders and sponsors of group insurance engaged in enrollment and administrative activities. Commenters also note that the rule will require the licensure of persons who were previously unlicensed, with attendant burdens.

RESPONSE: The Department is deleting the exemption as proposed. Upon careful review and consideration of this matter, the Department believes that this exemption is legally unworkable. The law requires licensure of all persons or entities who or which perform the functions of an insurance producer regardless of the form of compensation received (see N.J.S.A. 17:22A-3). In response to another comment, the Department notes that no exemption can be made for employees of an insurer whose compensation depends in part or in whole on their volume of business, even if the insurer maintains control over the employee and the employee transacts insurance through licensed insurance producers, since this would conflict with N.J.S.A. 17:22A-2 and 3. The Department generally agrees with the comment respecting persons engaged in enrollment and administrative activities with regard to group insurance. In the Department's opinion, these persons would not be required to be licensed,

consistent with the provisions of N.J.S.A. 17:22A-1 et seq., since they do not solicit, negotiate or effect insurance contracts within the intent of the Insurance Producer Licensing Act (N.J.S.A. 17:22A-1 et seq.) or these rules. In such cases, the solicitation occurs between the insurer and the group policyholder when the master contract is first issued, and the enrolling clerk performs an administrative function only. No advice regarding the quality of coverage is given, nor is any description of the benefits provided other than pre-printed materials. However, a determination must be based upon the facts of each case and, if such persons perform the functions of an insurance producer, within the meaning of the statute and these rules, then they would have to be licensed. The Department agrees with the comment that the rules generally, and this section in particular, may result in the licensure of persons not previously licensed, but this is largely the result of the underlying statutory requirements and the simple fact that many persons who should be (and should have always been) licensed by the nature of their activities, have improperly avoided licensure.

Since the Department is deleting the exemption as proposed, and consistent with N.J.S.A. 17:22A-23e, the Department is providing a one-year phase-in period to enable those persons exempted from licensure in the proposal to secure licensure as an insurance producer or registration as a limited insurance representative (see N.J.A.C. 11:17A-1.3(e)).

3. N.J.A.C. 11:17A-1.4:

COMMENT: Commenters generally stated that this section is too broad in that it defines "solicitation" to require licensure in cases where it should not be required. These commenters provided amendatory language to the provisions of this section to accomplish this general purpose. A commenter also noted that the section should be amended so as not to prohibit insurance producers and limited insurance representatives from soliciting or effectuation coverages under policies which, by statute, are not subject to filing requirements. A commenter stated that this section should be amended to provide that the solicitation must be done with the "intent" of initiating the purchase or renewal of insurance through the person making the solicitation, lest the rule require that, for example, newspapers running insurance advertisement be required to be licensed or registered. Another comment questions whether the Department intends to require that telephone solicitors hired by an insurance producer to generate appointments must themselves be licensed. A commenter requests that the rule be amended so as to eliminate from the licensure requirement the activities performed by application clerks in title insurance agencies.

RESPONSE: The definition of "solicitation" has been left by the Legislature to the Department's sound discretion. In the Department's opinion, the definition and its particular application in the new rules represent a reasonable exercise of this discretion and is consistent with its experience and knowledge of the industry. The Department agrees with the comment concerning the solicitation and effectuation of unfilled forms and has made the appropriate change upon adoption, consistent with statutory law. The Department also agrees with the comment (and the supporting reasons) to require that solicitation be done with the purpose of initiating the purchase of insurance. No changes in the proposal appear to be necessary, however, since the definition of "solicitation" contains this requirement. The Department believes that telephone solicitors hired by an insurance producer to generate appointments must themselves be licensed as insurance producers, even if they receive an hourly wage, if they solicit, negotiate or effectuate insurance. See *Boise Cascade v. New Jersey Real Estate Commission*, 121 N.J. Super. 228 (App. div. 1972); N.J.A.C. 11:17A-1.4 (concerning solicitation) and N.J.S.A. 17:22A-3. The Department has amended the rule upon adoption to eliminate the licensure requirements for application clerks in title insurance agencies and others who merely "receive" applications for insurance, since this is not determined to be "solicitation".

4. N.J.A.C. 11:17A-1.5:

COMMENT: A commenter argued that quoting rates is a mechanical and clerical function and that it should not require licensure. Another commenter stated that this section should be revised so as not to prohibit insurance producers and limited insurance representatives from negotiating policies of insurance where, by statute, the policies are not subject to filing requirements.

RESPONSE: The Department does not wish to discourage shopping for the best insurance rate in certain lines of insurance or to require licensure for the performance of a purely mechanical and administrative duty. However, the Department believes that quoting rates should be considered solicitation or negotiation except where the rate is secured by the mere reference to a published table of rates where no subjective or

discretionary duties are performed by the individual. As a general rule, this rule may allow unlicensed persons to quote rates in personal lines insurance, but not for commercial insurance. The particular circumstances of each case will have to be considered before a determination as to whether licensure is required can be made. Accordingly, the rule as proposed is amended upon adoption to allow unlicensed persons to quote insurance rates in certain cases. In response to another comment, the Department agrees that the prohibition on negotiation in subsection (c) should not include cases where policies of insurance need not be filed by law.

5. N.J.A.C. 11:17A-1.6:

COMMENT: A commenter stated that the section be revised to provide that the activities in subsection (b) encompass "effectuation" only "when subject to the discretion of the person performing the activity." Another commenter stated that proposed paragraph (b)3 be amended so as not to prevent transmittal of certain insurance documents by an unlicensed person (for example, a courier). Comments also recommended that the words "or insurance identification cards" be deleted from paragraph (b)3 since the identification card is not an insurance policy and its issuance does not provide or effectuate any insurance coverage.

RESPONSE: The Department discerns no statutory support, nor is any provided, for amendatory language to subsection (b) limiting "effectuation" to activities performed "subject to the discretion of the person performing the activity". Such qualifying language is inconsistent with the language, intent and purpose of the underlying statute. The Department has amended the rule upon adoption to clarify, consistent with its original intent, that physical delivery of a policy can be made by an unlicensed person (for example, a courier). The Department has also amended the rule to delete the requirement that the mere issuance or delivery of insurance identification cards is "effectuation" for which licensure is required. Rather, "effectuation" is now determined to exist upon authorization and not upon delivery.

6. N.J.A.C. 11:17A-1.4, 1.5 and 1.6

COMMENT: A commenter argued that these sections should be amended to add "or limited insurance representative" after "licensed insurance producer", for clarification purposes.

RESPONSE: The Department has made this change upon adoption. This was the original intent of the rule as proposed, which included the phrase "unless otherwise specifically provided . . ."

7. N.J.A.C. 11:17A-1.7:

COMMENT: A commenter stated that employees of an insurance producer should be able to answer a policyholder's questions regarding policy provisions or coverage and that other provisions of the proposed new rules will adequately protect the policyholder from the mere answering of questions being turned into a sales solicitation for which a license is required.

RESPONSE: The Department disagrees. Policy provisions and coverage information comprise the very heart of an insurance transaction and require specialized knowledge. The Department has not been provided with a description of any other provisions of the rules which would protect the insured in the necessary manner.

8. N.J.A.C. 11:17A-1.4, 1.6 and 1.7:

COMMENT: It is suggested that these sections be amended to provide that activities commonly performed by "third party administrators" and others not be the basis for licensure.

RESPONSE: The Department has not been provided with a detailed description of the activities and functions of "third party administrators". In any event, if their activities include the solicitation, negotiation or effectuation of insurance, then, by statute, as implemented by these rules, licensure would be required. Such a provision as is requested should more properly be addressed in the underlying statute.

9. N.J.A.C. 11:17A-1:

COMMENT: A commenter requests more latitude in situations where licensure is required for an insurance producer's clerical staff. They recommend a compromise whereby such clerical staff take the insurer's three-week licensing course, final exam and product knowledge course rather than be required to sit for the State licensing examination. Other commenters generally argued that the proposed new rules will increase the circumstances where licensure or registration is required, with attendant burdens, financial and otherwise, on insurance producers and their employees. It is requested that long-time employees be provided with a "grandfather" exception.

A comment suggests that this subchapter be amended to permit the registration as a limited insurance representative of salespersons employed by a title insurance company. They also comment that settlement

clerks and closers in title insurance transactions should not be subject to licensure except when a settlement or closing fee is charged pursuant to the Rate Manual.

**RESPONSE:** The Department cannot agree to the "compromise" offered by the commenter since it is without the statutory authority to do so. Although the statute exempts from licensure those persons who perform strictly clerical duties, N.J.S.A. 17:22A-3, clerical duties do not include the solicitation, negotiation or effectuation of insurance contracts as these terms are defined in these rules. The fact that there will be an increased burden on insurance producers and employees of insurance producers who may not have had to be licensed as insurance producers is largely the consequence of the statutory language and requirements, and the fact that many people have been and are presently performing, without licensure, activities for which licensure is (and always has been) required. A "grandfather" exception would require a statutory basis, which does not exist. The Department cannot allow salespersons of title insurance companies to be registered as limited insurance representatives while still requiring licensure for salespersons of title insurance companies to be registered as limited insurance representatives, since this would require a statutory change. The designation of all title insurance salespersons as limited insurance representatives would be necessary within the current statutory framework. Such designations are made within N.J.A.C. 11:17-2.10 and would not be appropriately addressed within the instant rules. Whether settlement clerks and closers for title insurance have to be licensed as insurance producers would depend upon the precise function which they perform and the manner by which they are compensated. No such information has been provided to the Department.

10. N.J.A.C. 11:17A-1.8:

**COMMENT:** Comments generally requested that this section be amended to clarify and increase the number of activities for which licensure is not required in conformity with the commenters' other request that the rules describing the activities for which licensure is required be amended to decrease the number of such activities.

**RESPONSE:** Consistent with its deletion of certain activities from the lists of activities for which licensure is required, the Department has made several changes upon adoption to address the commenters' concerns that more activities be allowed for which licensure is not required. As effectuated in this adoption, licensure will not be required for persons who merely record information from an applicant. The Department believes that relaxation of the requirements of this rule is appropriate in the areas of change made upon adoption, since an insurance producer is ultimately responsible for the activities or inactivities of its employees and because these rules also require that each place of business be under the direct supervision of an insurance producer (N.J.A.C. 11:17A-1.6).

11. N.J.A.C. 11:17A-1.9:

**COMMENT:** It is suggested that this section be amended to add (in subsection (c)) a provision that licensed officers be vicariously liable for the insurance-related conduct of their employees, the organizational licensee and other licensed officers or partners only "when it can be determined that such officer had direct knowledge of said insurance related conduct, or had given actual or implied consent to engage in such conduct."

**RESPONSE:** The suggested amendment is inconsistent with N.J.S.A. 17:22A-8b and is therefore inappropriate.

12. N.J.A.C. 11:17A-2.2:

**COMMENT:** One commenter stated that their organization supports the exemption of items worth \$10.00 or less from the definition of "inducement." Another commenter stated that this figure is "unrealistic." They suggest that the application of the rules concerning rebates and inducements (see proposed N.J.A.C. 11:17A-2.3 and 2.4) be modified so as to limit the application of the rules to situations where the "inducement" or "rebate" is given in connection with a particular transaction or title order. The rules should not apply to general business development or customer relations, or to any business or social function where all or part of the expense is legally deductible under the Internal Revenue Code.

**RESPONSE:** The Department believes that the \$10.00 figure is realistic and would encompass items generally distributed by insurance producers (for example, calendars, pens). Of necessity, this figure must be somewhat arbitrary and responsive to the Department's enforcement interests. In defining "value," the Department is attempting to balance the legitimate business needs of insurance producers with the statutory prohibition against inducements for the protection of the insurance consumer. The statute will not permit the application of the inducement prohibition to only particular transactions, and clearly applies whether or not a "deal" has been made. The Internal Revenue Code is irrelevant in this context.

13. N.J.A.C. 11:17A-2.3, 2.4 and 2.5:

**COMMENT:** Commenters supported the inclusion of anti-rebating provisions and tie-in provisions. However, it was recommended that the disclosure form in N.J.A.C. 11:17A-2.5(a) be amended for clarification purposes. Another commenter supports the tie-in provisions, but wants them to be applicable to all financial institutions rather than just those holding an insurance producer license, or those registered as a limited insurance representative. Another commenter suggests that the insurance producer and the "rejected" company should receive notice when a financial institution rejects the insurance furnished by the borrower (see N.J.A.C. 11:17A-2.5(a)1).

**RESPONSE:** The Department has amended the disclosure form for clarification purposes. The tie-in provisions cannot be made to apply to all financial institutions whether or not they are licensed as insurance producers or registered as limited insurance representatives since this would be beyond the scope of the Department's regulatory authority. Such an amendment would have to be made by statute. The Department does not agree that N.J.A.C. 11:17A-2.5 (a)1 should be amended to include the requirement that notice be given to the insurance producer and "rejected" company, since the borrower (and his protection), rather than the interests of the insurance producer and insurance company, is the focus of the rule. Such a requirement is burdensome and unnecessary.

14. N.J.A.C. 11:17A-2.7:

**COMMENT:** It is suggested that this section be amended to allow for "field underwriting" as to insurability and insurable interest (for example, to allow for physical impairment and marital status in certain situations where they are relevant and legally permissible underwriting factors).

**RESPONSE:** The Department agrees with this comment and has made the appropriate change upon adoption.

15. N.J.A.C. 11:17A-3.1:

**COMMENT:** A commenter stated that the Department should include a reference to misleading or disparaging advertising in the rules concerning unfair trade practices.

**RESPONSE:** Such a reference exists at N.J.A.C. 11:17A-3.1(a)5.

16. N.J.A.C. 11:17A-4.1:

**COMMENT:** A commenter stated that this rule should be amended to provide that premium finance companies be required to make their checks or drafts for residual market premiums payable to the residual market or the residual market insurer, and not the insurance producer, to avoid the problem with insurance producers converting premium monies. Another commenter requested that subsection (a) be amended to provide that where an insurer takes reasonable steps to assure that no apparent authority exists, the rule providing that premiums received by an insurance agent shall be deemed to be received by the insurer should not be applied.

**RESPONSE:** The Department does not regulate premium finance companies and cannot make the suggested change. The Department does not wish to change the requirements in subsection (a) since it believes that the comment can best be addressed by the application of the adopted rule to the particular facts of each case. This approach would make the suggested amendment unnecessary.

17. N.J.A.C. 11:17A-4.2:

**COMMENT:** A commenter seeks clarification that the signature witnessing provision does not mean that an insurance producer attests that the information contained in the application is truthful or that he has verified the identity of the applicant. The commenter also questions who determines whether an applicant's signature is required, other than (as for personal auto) where a statutory requirement exists.

**RESPONSE:** The Department does not intend this rule to mean that an insurance producer attests to the veracity of the information contained in the application or to an applicant's identity, except where the application or the insurance producer's contract imposes such an obligation. Such attestation as is required is directed at remedying situations where, for example, nonlicensed persons complete insurance applications and then present them for execution by a licensee at a subsequent time. The determination as to whether an applicant's signature is required should be based upon legal or contractual requirements.

18. N.J.A.C. 11:17A-4.3:

**COMMENT:** A commenter recommends that this section be amended to provide that an insurance producer may notify a policyholder or applicant, "or his authorized agent or representative or attorney," of any modification in the policy coverage, whether by endorsement or otherwise, to reflect title insurance practices. Another commenter objects to the proposed provision as requiring a new category of legal document reflective of insurance coverage and raising related legal questions and problems for the insurance producer. It is suggested that this section be

redrafted to reflect that what is required is only a written confirmation that the insurance producer has processed the client's request. This section should not require the promulgation of a document that paraphrases, summarizes or makes representations concerning the insurance contract. Another commenter states that this section as written required an insurance producer to send out written conformations on "every single transaction" in addition to the policy, endorsement, etc., and that this is over-regulation. This commenter also notes that the rule is burdensome because most insurance companies do not return items within 10 days. It is also commented that since this obligation is not required for insurers, it is discriminatory.

**RESPONSE:** The Department will not amend the rule upon adoption to provide that an insurance producer may notify a policyholder or applicant, "or his authorized representative or attorney", of any modification in the policy coverage to address circumstances particularly relevant to title insurance. The Department believes that an insured should be directly notified in all cases, even where, as in title insurance, he is represented.

Respecting the second comment, the Department agrees that the intention of this rule is merely to require a written confirmation that the insurance producer has processed the client's request. The Department believes that the proposed language is clear. However, the suggested clarification is provided upon adoption. This rule will indeed require an insurance producer to send out written conformation on "every single transaction" because the Department believes that this is necessary to protect all parties (including the insurance producer) involved in an insurance transaction. Finally, the Department believes that the 10 day requirement is fair and reasonable. In this regard, the commenter is advised that the rule does not require an insurance producer to provide a policy or endorsement in 10 days, but only to confirm that he has processed the client's request.

19. N.J.A.C. 11:17A-4.6:

**COMMENT:** Several commenters noted that this section would effectively prohibit an insurance producer from advancing premiums, which practice is specifically acknowledged at proposed N.J.A.C. 11:17C-2.2(d). Another commenter questions the purpose of the proposed new rule.

**RESPONSE:** This section was never intended to prohibit an insurance producer or limited insurance representative from advancing premiums pursuant to N.J.A.C. 11:17C-2.2(d). The purpose of the rule is to protect insureds from the inducement to purchase insurance for reasons not related to the insurance contract or the value of insurance producer services. The rule would also protect the insured from an unfair trade practice (for example, "tie-in"). The Department has prosecuted cases where loans were improperly intertwined with an insurance transaction. Additionally, the Department notes that the rule does not prohibit loans, but rather regulates them. However, since the rule generally recites legal requirements which otherwise exist in law (for example, that a lender be authorized and that the terms of the loan be lawful) and impinges upon the regulatory control of the Department of Banking, it is deleted upon adoption.

20. N.J.A.C. 11:17A-4.7:

**COMMENT:** A commenter states that "there is no good reason why the licensed person must make delivery and that delivery can be made by a messenger". It is also commented that 10 days is an unreasonable length of time for the delivery of an insurance policy, especially in cases where errors need to be corrected. Another commenter notes that this provision is unfair since there is no similar requirement for direct writing companies.

**RESPONSE:** The Department never intended this rule to disallow a messenger or other noninsurance producer from effecting the physical delivery of a policy. The Department discerns no reason why an insurance producer cannot deliver a policy within 10 calendar days of its receipt, even where errors need to be corrected. This is considered to be a good business practice. Moreover, the rule provides that an insured may consent to a longer period of time. This provision is not discriminatory against insurance producers (in favor of "direct writers") since it does not require the insurance producer's insurance company deliver the policy in 10 days, but rather requires the producer to do so once he receives it for his company.

21. N.J.A.C. 11:17A-4.9 and 11:17D-2.2:

**COMMENT:** A commenter states that these sections should be amended to insure that an insurance producer has more time in which to answer any inquiry from the Department of Insurance.

**RESPONSE:** The Department considers these requirements to be entirely reasonable and necessary to assist it in its regulatory functions.

22. N.J.A.C. 11:17A-4.10:

**COMMENT:** This section is impractical and does not reflect current varied claim procedures. Many insurance producers have draft or settlement authority for various dollar amounts. Report of such claims to the insurer in five days would be redundant and confusing.

**RESPONSE:** The rule is essentially the same as that which has existed for many years and which was previously codified at N.J.A.C. 11:1-8.2. However, the Department has amended the rule upon adoption to accommodate situations where the insurance producer has settlement authority.

23. N.J.A.C. 11:17A-4.11:

**COMMENT:** This section should be deleted or amended for clarificatory purposes. The term "commercial and professional honor" is too subjective and no justification exists for holding insurance producers to a higher standard than the "prudent man" standard.

**RESPONSE:** The Department has amended this section upon adoption for clarification purposes. The Department notes that the requirement that an insurance producer act in a fiduciary capacity is a product of case law. *In re Parkwood Co.*, 98 N.J. Super. 263 (App. Div. 1967).

II. Concerning N.J.A.C. 11:17B, Producer Conduct: Commissions and Fees

1. N.J.A.C. 11:17B-2.1:

**COMMENT:** In subsection (c), change "can" to "shall". Another comment notes that this section improperly prohibits payment to any individual or organization whose license or registration has subsequently been revoked or suspended for services rendered while duly licensed or registered.

**RESPONSE:** "Can" has been changed to "shall" upon adoption. Subsection (c) is amended upon adoption since the Department agrees that it improperly prohibits payment to any individual or organization whose license or registration has been suspended or revoked for services rendered while duly licensed or registered. This is inconsistent with N.J.S.A. 17:22A-3, which prohibits payment to unlicensed persons, rather than to currently unlicensed persons who legitimately performed services while duly licensed.

2. N.J.A.C. 11:17B-3.1:

**COMMENT:** Concerning paragraph (c)3, one commenter notes that there is no statutory requirement that commission payments be disclosed. Another comment suggests that subsections (a) and (b) should be amended to clarify that the payment of fees by insurance companies is not prohibited, and that the provisions only restrict the charging of fees to policyholders or insureds.

**RESPONSE:** The rule should not be interpreted to require disclosure of the "amount" of commission, but, rather, only that a commission will be paid. The Department believes that an insured or prospective insured should be advised that an insurance producer is being paid from two sources. Too, the rule should not be interpreted to mean that the payment of fees by insurance companies is prohibited and the rule is so amended upon adoption.

3. N.J.A.C. 11:17B-3.2:

**COMMENT:** Subsection (b), precluding insurance producers acting as insurance agents from charging a service fee for services rendered in the sale of life and health insurance, should be deleted since it is without legal support. The comment states that an agent may be justified in charging a fee where, for example, he prepares various proposals for consideration by the client.

**RESPONSE:** The basis for prohibiting agents from collecting fees other than commissions is statutory (see N.J.S.A. 17:22A-17a(18)). Additionally, the fee about which the commenter writes is not a service fee as defined in the rules. It is a cost of doing business and should comprise part of the commission.

4. N.J.A.C. 11:17B-3.3:

**COMMENT:** Paragraph (b)1 unfairly prohibits an insurance producer acting as a motor club representative from commingling motor club fees with charges for automobile insurance premiums. The commenter also questions whether paragraph (b)4 provides that while an insurance producer cannot enter into more than one motor club contract per automobile insurance policy, the one permitted agreement may cover more than one automobile, with a lesser fee for additional automobiles.

**RESPONSE:** The Department agrees that the rule improperly prohibits the commingling of funds in the cited case (see N.J.A.C. 11:17C-2.5). Accordingly, paragraph (b)1 is deleted upon adoption. The Department agrees with the commenter's interpretation of paragraph (b)4.

III. Concerning N.J.A.C. 11:17C, Producer Conduct: Management of Funds

## 1. N.J.A.C. 11:17C-2.2:

COMMENT: Subsection (d) should be amended to delete the words "the provisions contained in the agreement between the insured and the insurance producer" since they are redundant. Another comment recommends the inclusion of a requirement allowing a producer, by telephone, to initiate cancellation when the insured has made payment to the producer with a check issued on an account with insufficient funds. The commenter notes that it is unreasonable to make the producer suffer a time delay. Another comment suggests that subsection (b) be amended since the five-day provision does not provide adequate time for check preparation and delivery of refunds due an insured. Another comment requests that subsection (a) be amended to provide for more than five business days for producer remittance to the insurer of premium funds since time is needed to review applications before they are forwarded to the insurer and for other reasons.

RESPONSE: The Department has deleted the noted redundancy upon adoption. The Department opposes the suggestion that an insurance producer be allowed to initiate cancellation by telephone since the requirement that the process proceed in writing is necessary to protect the maintenance of coverage and to document the existence of coverage. The rule will aid the Department in its enforcement function. In weighing the equities, the Department believes that the time delay and inconvenience to the insurance producer is outweighed by the desirability of the rule as noted above. Respecting the five day requirement for the refund of premiums, in subsection (b), the Department believes that five days is adequate time for remittance and is necessary to protect the applicant. The Department believes that the five day requirement for the remittance of premiums to the insurer, in subsection (a), is also reasonable and necessary.

## 2. N.J.A.C. 11:17C-2.3:

COMMENT: Commenters objected to the trust account requirement as beyond the letter and intent of the statutory authority and as unnecessary. A commenter noted that the purpose of the trust account could more easily be accomplished by requiring all insurers to notify the Department of Insurance after an insurance producer has been late in rendering his accounts payable to that company. Such a producer would then be required to post a bond to demonstrate his ability to pay. Further, a trust account would not be a realistic safeguard unless audited monthly and would generally impose unnecessary burdens and expense on insurance producers. Another comment requests that the name be changed to "premium account" since the use of "trust account" might cause banks to place special provisions or apply special interest rates to these accounts. Another comment suggests that since investment of insurer funds is a matter of private contract it should not be restricted to investments only in New Jersey banks. Another comment requests clarification that the possession of a contract or written agreement allowing a producer to retain premiums pursuant to N.J.A.C. 11:17C-2.2(a)3 constitutes the approval required under subsection (g) of this section. Other comments suggest that the rule allow the unique arrangements as an exception to the trust account where, for example, the agent deposits premiums received, other than checks or drafts, into a separate account owned and controlled by the insurer, or where permitted by contractual arrangement.

RESPONSE: The Department has considered the comments and believes that a trust account is the best method to assure compliance with good business practices and with the requirements of law (see, for example, N.J.S.A. 17:22A-17a.(5), (15), (17) and (20) and 17:22A-17c). Moreover, such a system will enable the Department of Insurance to most appropriately perform its enforcement and regulatory functions. Additionally, since insurance producers act as fiduciaries with a responsibility to the insured and the insurance company whose monies they hold, this requirement is reasonable and not without precedent. There is no reason why insurance producers should be allowed to manage funds differently from attorneys or other fiduciaries. The use of the name "premium account" is inappropriate and misleading since the account may contain more than insurance premiums. The requirement that investments be limited to New Jersey banks is necessary since the Department may need to exercise subpoena power for access to records and may otherwise need to secure legal authority in an efficient manner. The Department notes, however, that nonresident licensees do not have to maintain their accounts in New Jersey banks. The Department does not intend for the approval required under subsection (g) of this section to be satisfied when a contract or written agreement exists allowing an insurance producer to retain premiums pursuant to N.J.A.C. 11:17C-2.2(a)3. These two sections concern different matters. The requirement concerning remittance of premiums merely enables an insurance

producer to hold premiums due an insurer for more than five business days where there is an agreement to this effect. N.J.A.C. 11:17C-2.3(g) (recodified as (f) upon adoption), concerns the retention of interest by an insurance producer of trust funds upon the written authorization of the principal (insurer or applicant/policyholder). These two sections require different agreements. Respecting another comment, concerning the issue of "unique arrangements", the insurance producer would not have to establish a trust account where a check is made payable to the insurer, or where a check made payable to the insurance producer is signed over to the insurer within five days, or where cash is held for five days or less. As to the final comment, the Department notes that while an insurance producer may, by contractual arrangement, maintain premiums for more than five days (see N.J.A.C. 11:17C-2.2(a)3), he may still not maintain the premiums in other than a trust account (notwithstanding any contractual arrangements between an insurer and a producer to the contrary), since such an account is considered necessary to protect the insured and for general regulatory purposes.

## 3. N.J.A.C. 11:17C-2.4:

COMMENT: Commenters objected to the requirement to keep a receipt book. One comment suggests that receipt books should be maintained for two years rather than five. Other comments argue that receipts should be required for cash only since a check serves as its own receipt, and because the requirement is burdensome. Comments also request modification of the requirements in (b)1 through 12 concerning the maintenance of receipts and receipt books since they are burdensome, unnecessary and not applicable to insurers.

RESPONSE: The requirement that a record of receipts be maintained and the five year retention requirement for receipt books in paragraph (d)3 have been determined to be necessary for enforcement and regulatory purposes. The Department disagrees with the comment that receipts should be required for cash payments only, rather than for all payments made in person by cash or check as proposed. The Department believes that a receipt can serve a vital and valid regulatory function (for example, to determine when coverage was effected). Although a check is its own receipt, they are not always maintained and, unlike receipts, they are not required to be maintained by insurance producers subject to the regulatory control of the Department. The Department has made several amendments to the requirements in subsection (b) concerning the maintenance of receipts and receipt books in an effort to respond to the concerns of the commenters, including the addition of a new provision (subsection (e)) enabling insurance producers to use a document other than a receipt or receipt book (for example, certain computer print-outs) to comply with this section. Moreover, N.J.A.C. 11:17C-2.4(c) limits the requirements to be followed in cases where a receipt is part of an application.

## 4. N.J.A.C. 11:17C-2.5:

COMMENT: Comments suggested that the "five year from termination of the business relationship" record retention requirement in subsection (h) is too burdensome. Another comment suggests that this section be modified as to the format by which records must be maintained since it is more applicable to a "stand alone agency" than to one which is part of a diverse corporation and does most business with a direct writer. It is argued that transactions performed in the insurer's home office are not always known. A commenter suggests that the maintenance of a register in addition to a receipt book is redundant. Another commenter objects to the requirement that applications and correspondence be maintained since they are on file at the insurer's home office and because the creation of additional and unnecessary copies increases the chances that unauthorized persons can obtain access to private information.

RESPONSE: In response to the comments, the Department has amended subsection (h) to require retention for a period of five years from the termination of coverage rather than the longer period of time that was proposed. The rule is only intended to apply to transactions on the agency's premises and for which it is involved, so that transactions performed at the home office and that are unknown to the insurance producer need not be recorded. The receipt book and register serve different functions and are not redundant. The register contains far more comprehensive requirements (for example, transactions concerning interest bearing accounts). Moreover, a receipt is issued for premiums or fee payments made in person or upon request only, while a register is maintained for all monies received, deposited, disbursed or withdrawn in connection with an insurance transaction, including payment by means other than cash. A receipt book is intended to serve as evidence and to identify for business purposes the allocation of funds and their disburse-

ment. However, in recognition of the data available from the register, the Department has eliminated some of the items required on the receipts. Finally, the Department believes that correspondence and applications should be kept by the insurance producer (see paragraphs (h)1 and 4) because such records originate with the insurance producer and are not always maintained at the insurer's offices. This requirement is also easier for the Department respecting its enforcement duties.

5. N.J.A.C. 11:17C-2.4 through 2.6:

COMMENT: A commenter questions what compliance would be required where an agent changes agencies or companies, or dies, or moves to another state, or surrenders his license.

RESPONSE: When an agent who is an employee of an agent or agency changes agencies or companies or dies, the agency or company by which he was employed is required to keep the records he produced. Where an agent who is not an employee of an agent or agency dies, the requirements of N.J.S.A. 17:22A-13 and N.J.A.C. 11:17C-2.9 apply or, alternatively, the records would become the property of the insurer underwriting the policy for which the record is created. Where a transfer of the business occurs, the records become the responsibility of the purchaser. Where an insurance producer retires without the sale of his business, he must continue to maintain the records pursuant to this section.

6. N.J.A.C. 11:17C-2.6:

COMMENT: A commenter suggested that paragraph (c)3 be amended to permit the continued storage and maintenance of records on electronic media (for example, disc or tape) so long as the media is accompanied by certification, rather than to require that records maintained electronically be reproduced in hard copy every 30 days.

RESPONSE: The Department has amended this requirement to afford insurance producers the option of maintaining records on an electronic medium for the entire five year retention period, rather than to require insurance producers to reproduce them in hard copy every 30 days, in cases where the Commissioner first determines, in writing, that the system is sufficiently unalterable.

#### IV. Concerning N.J.A.C. 11:17D, Producer Conduct: Administrative Procedures and Penalties

1. N.J.A.C. 11:17D-2.4:

COMMENT: Commenters questioned the amount of the fine imposed by this section for the payment of license or processing fees with a check later returned for insufficient funds or because the account is closed. Comments questioned the amount of the fine for the failure to renew a license. Another comment suggested that a fine be imposed only where copies of employment contracts and agency contracts are not maintained "in at least one office" rather than in every office. A commenter questions generally the statutory support and appropriateness of the penalty provisions.

RESPONSE: The Department will not change the amount of the fine for the payment of a license or processing fee with a check later returned for insufficient funds or because the account is closed. The problem and regulatory concerns addressed by this provision are significant, and the Department believes that a reduction is therefore unwarranted. The fine for the failure to renew a license prior to its expiration has been deleted, since the possible consequences of this section, acting as an insurance producer without a license, is already susceptible to sanctions under law. The Department has amended paragraph (a)6 to require that employment contracts be maintained in "at least one office" with an address on file with the Department, rather than in each such office, to impose less of a burden upon insurance producers. The Department finds abundant statutory support for fines in N.J.S.A. 17:22A-17(b) and other provisions of law.

2. N.J.A.C. 11:17D-2.5:

COMMENT: One comment suggested that subsection (c) be amended to enable the Department of Insurance to employ its discretion to enable licensed individuals or organizations to conduct insurance business using the legal or business name of any person whose license has been revoked. Another comment suggests that subsection (c) be amended to include the phrase "unless agreed to by the Department of Insurance." Another comment requests an amendment to subsection (f) to delete the prohibition of employment in any capacity with an insurance company or an insurance producer.

RESPONSE: The Department cannot legally allow the use of the name of a person whose license has been revoked (see N.J.S.A. 17:22A-12 and N.J.A.C. 11:17-2.7). The Department does not understand the reason for the suggested change to subsection (c), which would be in violation of N.J.S.A. 17:22A-12. The Department has amended subsection (f) to delete the prohibition on employment (for persons whose licenses have been

suspended or revoked) in any capacity with an "insurance company", but cannot do so with respect to employment in any capacity by an insurance producer, pursuant to N.J.S.A. 17:22A-18.

#### Summary of Agency Initiated Changes

NOTE: CODIFICATION REFERENCES ARE TO THE RULE AS PROPOSED.

1. N.J.A.C. 11:17A-1.2 ("insurance contract" and "person") are amended for clarity and, for the definition of "person" for consistency with its use in the rules. "Transaction of the business of an insurance producer" was deleted because the listed activities were merged in the new N.J.A.C. 11:17A-1.4. This transaction was not intended to be viewed as a separate activity. A definition of "limited insurance representative," identical to that in N.J.A.C. 11:17A-2.2, was added for clarity.

2. N.J.A.C. 11:17A-1.3(f), concerning an exemption for licensure for certain representatives of fraternal benefit societies, is deleted since this regulatory action would be in derogation of the statutory law, which repealed a similar exemption as part of the enactment of the "New Jersey Insurance Producer Licensing Act," and which allows for no such exemption (see N.J.S.A. 17:22A-3(e)).

3. N.J.A.C. 11:17A-1.4(b)8 is recodified as (b)7 and is amended to clarify that licensure is not required where a person merely disseminates a Buyer's Guide or an application for insurance.

4. N.J.A.C. 11:17A-1.5(b)2 is amended for grammatical reasons.

5. N.J.A.C. 11:17A-1.6(b)2 is deleted since the amendment to proposed N.J.A.C. 11:17A-1.6(b)3 makes it unnecessary.

6. N.J.A.C. 11:17A-1.7(b)1 is amended for grammatical reasons.

7. N.J.A.C. 11:17A-1.4 through 1.7 have been consolidated and recodified to avoid the occasional difficulties inherent in categorizing an activity as only one of these terms. This recodification is a technical change only and does not affect the requirements for licensure, since the performance of any of the listed activities, whether determined to be "solicitation", "negotiation" or "effectuation" would require licensure. However, the distinct definitions of these terms are kept to cover situations where an activity is not specifically listed in the rules.

8. N.J.A.C. 11:17A-1.8(a) is amended to clarify the Department's intent that licensure is not required for clerical duties when performed by office employees of an insurance producer as an insurer, consistent with N.J.S.A. 17:22A-3. Paragraph (a)8 is amended for clarity. Paragraphs (a)13 and 14 are added to enable unlicensed persons to perform certain duties which were not clearly permitted in the proposed rule.

9. N.J.A.C. 11:17A-2.1(a) is amended to clarify that the subchapter applies to "limited insurance representatives", consistent with N.J.A.C. 11:17A-2.1(b).

10. N.J.A.C. 11:17A-2.2 ("inducement") is amended by deleting the word "special" before "favor," since this word has no particular meaning or relevance and by inserting the words "money or" to define inducement to include the payment of any money. This language was inadvertently deleted from the proposal and its inclusion is both contextually and legally/historically supported.

11. In N.J.A.C. 11:17A-2.5(a)1, concerning "tie-ins," the Department amended the notice requirement to require that a "written" notice be provided to a borrower in cases where a financial institution rejects the insurance furnished by the borrower.

12. N.J.A.C. 11:17A-2.5(a) is amended to substitute the word "borrower" for "obligee" for other technical reasons.

13. N.J.A.C. 11:17A-2.5(a)2 is amended for technical reasons.

14. N.J.A.C. 11:17A-2.5(d) and (f) are amended to prohibit tie-in activities by insurance producers or limited insurance representatives that "result in or reasonably could result in" certain circumstances. This standard is consistent with the Department's original intent and provides the necessary conformity between these two similar provisions.

15. The Department amended N.J.A.C. 11:17A-2.5(e) to enable insurance producers to require the purchase of a collateral policy of insurance from a source other than the insurance producer or limited insurance representative, including a person or entity with whom he or she is associated, if such a condition precedent is based upon appropriate underwriting guidelines of the insurer.

16. N.J.A.C. 11:17A-2.5(e), (f) and (g) have been amended to expressly make them applicable to limited insurance representatives, as was originally intended, and as is clear from the context of the instant rules and the entire proposal generally.

17. N.J.A.C. 11:17A-2.6(a) is amended for clarity.

18. N.J.A.C. 11:17A-2.7 is amended to add the phrase "or for any reason which is contrary to Federal or State law" for clarity.

19. N.J.A.C. 11:17A-4.7 is amended for clarity.

20. N.J.A.C. 11:17A-4.12, concerning severability, is added because it was inadvertently omitted from the proposal. Its addition is consistent with the drafting structure of the new rules generally.

21. N.J.A.C. 11:17B-1.1 is amended to clarify that the chapter applies to insurance producers and limited insurance representatives who may sell both commercial and personal lines insurance.

22. N.J.A.C. 11:17B-2.1(a) and (b) are amended by deleting "person" and adding "individual or organization" for clarity. Subsection (c) is amended by adding clarificatory language indicating that the rule does not preclude the right of "setoff" against a licensee or registrant whose license has been revoked.

23. N.J.A.C. 11:17B-3.1(b) is reworded for clarity.

24. N.J.A.C. 11:17B-3.1(c) is amended for clarity.

25. N.J.A.C. 11:17B-3.1(c)2 is amended for clarity.

26. N.J.A.C. 11:17B-3.1(e) is amended for clarity.

27. N.J.A.C. 11:17B-3.2(a)3 is amended for clarity.

28. N.J.A.C. 11:17B-3.3(a)1 and (a)2 are amended for clarity.

29. N.J.A.C. 11:17C-2.2(b) and (b)2 are amended for clarity and 2.2(a)3 is amended to correct a citation error.

30. N.J.A.C. 11:17C-2.2(d) is amended for clarity.

31. N.J.A.C. 11:17C-2.3(a) and (d) are amended for clarity purposes.

32. N.J.A.C. 11:17C-2.3(i) and (j) are amended for clarity.

33. N.J.A.C. 11:17C-2.4(a) is amended to require that a receipt be issued upon the request of an insured. This requirement is consistent with general and good business practices and, accordingly, is consistent with N.J.A.C. 1:30-4.3.

34. N.J.A.C. 11:17C-2.5(b)1 is amended for technical reasons.

35. N.J.A.C. 11:17C-2.5(e)4 is amended for clarity.

36. N.J.A.C. 11:17C-2.5(h)2 is amended for clarity.

37. N.J.A.C. 11:17D-1.2 ("administrative penalty" and "person") are amended for clarity and, for the definition of "person", for consistency with its use in the rules.

38. In N.J.A.C. 11:17D-1.2, the definition of "market conduct examination" is deleted as unnecessary since it was erroneously placed in the rule. A definition of "limited insurance representative" is added.

39. N.J.A.C. 11:17D-2.1(d)1 is amended to correct a typographical error.

40. N.J.A.C. 11:17D-2.1(d)2i and iv are amended for clarity.

41. N.J.A.C. 11:17D-2.1(d)4 is amended for clarity.

42. N.J.A.C. 11:17D-2.1(d)6iii is amended for grammatical reasons.

43. N.J.A.C. 11:17D-2.2(b) is amended to clarify that "day" refers to "calendar" day.

44. N.J.A.C. 11:17D-2.4(a)1 is amended to clarify that "day" refers to "calendar" day and to clarify that the 60 day period for the imposition of a fine for the failure to provide the Department with a new business or home address includes the 20 day notification period.

45. N.J.A.C. 11:17D-2.5(f) is amended for grammatical reasons.

46. N.J.A.C. 11:17D-2.6(c) and 2.7(b) are amended to improve sentence structure and to delete unnecessary language.

47. N.J.A.C. 11:17D-2.7(c)6 is amended for grammatical reasons.

48. N.J.A.C. 11:17D-2.7(c)2 and 3 are amended for grammatical reasons.

49. N.J.A.C. 11:17D-2.7(c)7 is amended for clarity.

50. The chapter titles are amended for clarity.

51. N.J.A.C. 11:17C-2.2(a)3 is amended to delete reference to 11:17C-2.3(g), since contracts or agreements can exist between insurance producers and insurers other than as allowed by that section.

**Full text** of the adoption follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposed indicated in brackets with asterisks **\*[thus]\***):

#### CHAPTER 17A

#### **\*[PRODUCER CONDUCT]\* \*INSURANCE PRODUCER AND LIMITED INSURANCE REPRESENTATIVE STANDARDS OF CONDUCT\*: MARKETING**

#### **SUBCHAPTER 1. ACTIVITIES FOR WHICH A PERSON MUST BE LICENSED AS AN INSURANCE PRODUCER \*OR REGISTERED AS A LIMITED INSURANCE REPRESENTATIVE\***

11:17A-1.1 Purpose; scope

(a) The purpose of this subchapter is to implement the provisions of N.J.S.A. 17:22A-1 et seq. generally, and 17:22A-3 in particular,

by identifying the insurance-related activities that require licensure as an insurance producer **\*or registration as a limited insurance representative\***.

(b) This subchapter applies to all persons performing the functions of licensed insurance producers.

#### 11:17A-1.2 Definitions

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

"Commissioner" means the Commissioner of the Department of Insurance of the State of New Jersey.

"Effectuate" or "effectuation" means the act of insuring or making operable and effective an insurance contract, including all binders\*[,]\* **\*and\*** endorsements\*[,], insurance identification cards and certificates related thereto]\*.

"Insurance contract" means **\*a\*** contract\*[s]\*, **\*[policies]\* \*policy\*** or application\*[s]\*, where applicable, of life insurance, health insurance, **\*[annuities,]\*** indemnity, property and casualty, fidelity, surety, guaranty and title insurance\*, **or an annuity\***.

"Insurance producer" means any person engaged in the business of an insurance agent, insurance broker or insurance consultant as defined in N.J.S.A. 17:22A-2.

"Insurer" means any company that underwrites or issues an insurance policy or contract including fraternal benefit societies as defined in N.J.S.A. 17:44A-1 et seq. and risk retention groups and purchasing groups as defined in 15 U.S.C. §3901.

**\*"Limited insurance representative" means a person who is authorized to solicit, negotiate or effect contracts for a particular line of insurance as an agent for an insurance company authorized to write that line in this State which by the nature of the line of business and the manner by which it is marketed to the public does not require the professional competency demanded for an insurance producer license.\***

"Negotiate" or "negotiation" means the act of conferring with a prospective purchaser of a contract of insurance concerning any of the substantive benefits, terms of, or the premium to be charged for, the contract.

"Person" means any individual, corporation, partnership or **\*[other]\*** legal entity.

"Solicit" or "solicitation" means any activities which are designed to initiate the purchase of a contract of insurance that is being offered for sale by or through the person making the solicitation.

**\*["Transaction of the business of an insurance producer" means to solicit, negotiate or effect an insurance contract, for a fee, commission, compensation or other consideration, including the transaction of matters subsequent to execution of the insurance contract and arising out of it.]\***

#### 11:17A-1.3 Who must be licensed; exceptions

(a) No person shall act as an insurance producer or maintain or operate any office in this State for the transaction of the business of an insurance producer, or receive any commission, brokerage fee, compensation or other consideration for services rendered as an insurance producer, without first obtaining a license from the Commissioner granting authority for the kind of insurance transacted.

(b) Unless otherwise specifically provided by N.J.S.A. 17:22A-1 et seq., any person who solicits, negotiates or effects contracts of insurance in New Jersey shall be considered to be transacting the business of insurance in New Jersey so as to require licensure as an insurance producer.

(c) Engaging in a single act or transaction of the business of an insurance producer, or holding oneself out to the public or an insurance producer as being so engaged, shall be sufficient proof of engaging in the business of an insurance producer as to require licensure pursuant to N.J.S.A. 17:22A-1 et seq.

(d) No licensed insurance producer shall permit or allow any unlicensed person to transact the business of an insurance producer.

(e) **\*[A person who is a salaried officer or employee of an insurer authorized to do business in this State and who performs any of the acts set forth in N.J.A.C. 11:17A-1.4, 1.5, 1.6 and 1.7, in the name of and on behalf of the insurer, shall not be considered to be transacting the business of insurance so as to require licensure as an insurance producer if the person:**

1. Does not receive any compensation contingent upon the sale of a policy, contract or certificate of insurance;
2. Does not transact the business of insurance outside of his or her relationship with the insurer; and
3. Transacts the business of insurance under the control of the insurer.]\* **\*Salaried officers or employees of insurers authorized to do business in this State and who solicit, negotiate or effectuate insurance in the name of and on behalf of the insurer, for compensation of any type, shall have secured licensure as an insurance producer, or registration as a limited insurance representative, as appropriate, on or before January 1, 1991.\***

\*[(f) A part-time representative of a fraternal benefit society who, in one year, procures life insurance contracts on behalf of the society in an amount of insurance not in excess of \$50,000 and on the persons of not more than 25 individuals, shall not be required to be licensed as an insurance producer.]\*

11:17A-1.4 Solicitation\*, **negotiation, effectuation\*** of an insurance contract

(a) \*Unless otherwise specifically provided by N.J.S.A. 17:22A-1 et seq., no]\* **\*No\* person shall solicit\*, negotiate or effect\*** an insurance contract in New Jersey unless he or she is a licensed insurance producer **\*or a registered limited insurance representative\*.**

(b) Solicitation\*, **negotiation and effectuation\*** of an insurance contract includes, but is not limited to, the following activities:

1. Discussing the effect of age, health or other risk-related conditions of the prospective policyholder;
2. Urging or advising any prospective purchaser to buy any particular policy or to insure with any particular company;
3. Initiating sales over the telephone or otherwise;

\*[4. Urging additional business when receiving payment for existing business;]\*

\*[5.]\***\*4.\*** Completing **\*or signing\*** **\*[or receiving]\*** applications for insurance **\*if the person is other than the applicant's authorized representative\*;**

\*[6.]\***\*5.\*** Collecting premiums **\*in person\*** at other than **\*[the]\* \*a\*** recorded place of business;

\*[7.]\***\*6.\*** Making or proposing to make an insurance contract;

\*[8.]\***\*7.\*** **\*[Dissemination of]\* \*Disseminating\*** information as to coverages **\*[or rates]\*** in general or for any particular policy\*, **except that this shall not prohibit the dissemination of Buyer's Guides or applications for coverage in response to requests from prospective policyholders\*;** **\*[and]\***

**\*8. Disseminating information as to rates in general or for any particular policy where the rate cannot be secured by referring to a published or printed list of standard rates\*;**

9. Inquiring as to the terms of existing coverage\***[.]\*;**

\*[(c) No insurance producer or limited insurance representative shall solicit in New Jersey any insurance contract which has not first been filed in New Jersey.]\*

\*[11:17A-1.5 Negotiation of an insurance contract

(a) Unless otherwise specifically provided by N.J.S.A. 17:22A-1 et seq., no person shall negotiate an insurance contract in New Jersey unless he or she is a licensed insurance producer.

(b) Negotiation of an insurance contract includes, but is not limited to, the following activities:

1. Discussing the premium cost of a proposed contract of insurance with a prospective policyholder, including the quoting of rates;]\*

\*[2.]\***\*10.\*** Discussing or describing the coverages or terms of a proposed contract of insurance with a prospective policyholder, including counseling as to which coverages to buy; **\*[or]\***

\*[3.]\***\*11.\*** Recommending or independently initiating additions or deletions to an insured's policy\***[.]\*;**

\*[(c) No insurance producer or limited insurance representative shall negotiate in New Jersey any insurance contract which has not first been filed in New Jersey.]\*

\*[11:17A-1.6 Effectuation of an insurance contract

(a) Unless otherwise specifically provided by N.J.S.A. 17:22A-1 et seq., no person shall effectuate an insurance contract in New Jersey unless he or she is a licensed insurance producer.

(b) Effectuation of an insurance contract includes, but is not limited to, the following activities:]\*

\*[1.]\***\*12.\*** Signing binders, **\*[certificates of insurance,]\*** endorsements\***[, insurance identification cards]\*** and insurance policies;

\*[2. Indicating that the requested coverage is or will be bound or issued; or]\*

\*[3.]\***\*13.\*** **\*[Issuing or delivering]\*\*Authorizing the issuance or delivery of\*** certificates of insurance, endorsements, binders, **\*or\*** insurance policies or insurance identification cards\***[.]\*;**

\*[11:17A-1.7 Transaction of the business of an insurance producer

(a) Unless otherwise specifically provided by N.J.S.A. 17:22A-1 et seq., no person shall transact the business of an insurance producer in New Jersey unless he or she is a licensed insurance producer.

(b) Transacting the business of an insurance producer includes the activities denoted in N.J.A.C. 11:17A-1.4, 1.5 and 1.6 and further includes, but is not limited to, the following additional activities:]\*

\*[1.]\***\*14.\*** Adding or deleting coverages; **\*[or]\* \*and\***

\*[2.]\***\*15.\*** Responding to a policyholder's questions regarding policy provisions or coverage.

**\*[(c) No insurance producer or limited insurance representative shall negotiate or solicit in New Jersey any insurance contract which has not first been filed in New Jersey where such contract is required to be filed.\***

11:17A-1.\*[8]\*\*5\* Activities for which licensure not required

(a) **\*[Employees of an insurance producer]\*\*Office employees\*** who perform strictly clerical duties shall not be required to be licensed as an insurance producer. Such clerical duties shall include, but are not limited to, the following activities:

1. Receiving requests for coverage for transmittal to a licensed insurance producer;

2. Mailing billings;

3. Scheduling appointments with insurance producers;

4. Office filing;

5. Marketing research or prospecting so long as no attempt is made to solicit or to discuss a specific insurance product or to encourage replacement of an existing policy;

6. **\*[Typing]\*\*Recording information from an applicant or policyholder and typing\*** for an insurance producer's review and signature all binders, certificates, endorsements, identification cards or policies pursuant to instructions from the insurance producer;

7. **\*[Typing]\*\*Recording information from an applicant or policyholder and typing\*** an application for insurance pursuant to instructions from and for the review of an insurance producer;

8. Taking a message from a policyholder or prospective policyholder to give to an insurance producer for his or her response\*, **or giving a message to a policyholder or prospective policyholder at the direction of an insurance producer\*;**

9. Taking and noting an insured's request concerning any additions or deletions to a policy, typing the appropriate endorsements and giving the endorsement to the insurance producer for final action;

10. Opening mail;

11. Receiving premiums at the recorded place of business where the payment is being made on a binder, endorsement or existing policy; **\*[and]\***

12. Taking factual information relative to a claim\***[.]\*;**

**\*13. Communicating with the policyholder or prospective policyholder in order to obtain factual information necessary for an insurance producer to complete a review; and**

**14. Informing the insured as to his coverages as indicated in policy records.\***

11:17A-1.\*[9]\*\*6\* Duty to have insurance producer at each place of business

(a) Each place of business maintained by an insurance producer for the purpose of transacting the business of insurance shall be under the direct supervision of an insurance producer.

(b) Any insurance producer who has established one or more places of business for the purpose of transacting the business of insurance shall assign at least one separate insurance producer to

each location and shall register as a branch office in accordance with N.J.A.C. 11:17-2.8.

(c) Licensed officers shall be held responsible for all insurance related conduct of the organization licensee, its other licensed officers or partners, and its employees.

#### 11:17A-1.\*[10]\*\*7\* Penalties

(a) The Commissioner shall impose penalties for violations of this subchapter in accordance with the provisions of N.J.S.A. 17:22A-1 et seq. and any other applicable law.

(b) For the purpose of determining the existence of a violation and assessing a penalty under this subchapter, a separate violation shall be deemed to exist, and a separate penalty therefor shall be assessed, for each violation of the provisions of this subchapter.

#### 11:17A-1.\*[11]\*\*8\* Severability

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the remainder of the subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

### SUBCHAPTER 2. UNFAIR TRADE PRACTICES

#### 11:17A-2.1 Purpose; scope

(a) This subchapter implements the provisions of N.J.S.A. 17:29A-15, 17:29B-4 and 17B:30-13 and 15 by prohibiting insurance producers **\*and limited insurance representatives\*** from engaging in certain practices in connection with the business of insurance.

(b) This subchapter applies to all insurance producers or limited insurance representatives.

#### 11:17A-2.2 Definitions

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

"Commissioner" means the Commissioner of the Department of Insurance of the State of New Jersey.

"Effectuation of an insurance contract" or "effectuate" is defined at N.J.A.C. 11:17A-1.2

"Financial institution" means any State or Federal banking institution, bank holding company, credit union, savings and loan association, finance company, mortgage loan company, or any other institution, association, partnership, company, corporation, individual or individuals whose principal business is the lending of money or the extension of credit.

"Inducement" means **\*money or\*** any **\*[special]\*** favor, advantage, object, valuable consideration or anything other than money which has an intrinsic value or a redeemable value greater than \$10.00.

"Insurance producer" means any person engaged in the business of an insurance agent, insurance broker or insurance consultant as defined in N.J.S.A. 17:22A-2.

"Limited insurance representative" means a person who is authorized to solicit, negotiate or effect contracts for a particular line of insurance as an agent for an insurance company authorized to write that line in this State which by the nature of the line of business and the manner by which it is marketed to the public does not require the professional competency demanded for an insurance producer license.

"Negotiation of an insurance contract" or "negotiate" is defined at N.J.A.C. 11:17A-1.2.

"Person" means any individual, corporation, partnership or other legal entity.

"Rebate" means the return or promise to return of any monetary sum, or discount, abatement, credit or reduction in premium other than that plainly expressed in the insurance contract.

"Solicitation of an insurance contract" or "solicit" is defined at N.J.A.C. 11:17A-1.2.

#### 11:17A-2.3 Rebates and inducements: prohibited practices

(a) No insurance producer shall offer, make or give, or permit to be offered, made or given, to any person directly or indirectly, an inducement to purchase insurance other than that plainly expressed in the insurance contract.

(b) No insurance producer shall offer, pay or give, or permit to be offered, paid or given, to any person, directly or indirectly, any rebate of premiums payable on a contract of insurance, other than that plainly expressed in the contract or provided for in ratings systems filed by or on behalf of the insurer writing the contract and approved by the Commissioner.

(c) No insurance producer shall offer, pay or give, or permit to be offered, paid or given, to any person, directly or indirectly, anything of value in return for that person's agreement not to purchase insurance from another insurance producer or insurer.

(d) No insurance producer shall offer, pay or give, or permit to be offered, paid or given, to any person, directly or indirectly, anything of value as compensation for being unable to offer a comparable or better insurance program at less cost.

(e) The provisions of this section shall apply whether or not a contract of insurance is ultimately effected.

#### 11:17A-2.4 Rebates and inducements: determination of value

(a) For the purpose of determining the value of any item pursuant to N.J.A.C. 11:17A-2.3, an insurance producer shall retain the original invoice for such item for five years beyond the later of the date the offer is discontinued or the date the last item is given.

(b) The value of any **\*[special]\*** favor, advantage, valuable consideration or any other item or service shall be determined by the Commission or his or her designee.

#### 11:17A-2.5 Tie-ins; coercion

(a) No financial institution licensed as an insurance producer or registered as a limited insurance representative shall, as a condition precedent, concurrent or subsequent to the lending of money or the extension of credit, or **\*[a]\* \*the\*** renewal of the loan or extension of credit, require that the **\*[obligee of the money or credit]\* \*borrower\*** acquire, finance or negotiate a policy or contract of insurance through any particular insurer, insurance producer, or limited insurance representative, or cancel insurance with another insurance producer, limited insurance representative or insurer.

1. A financial institution licensed as an insurance producer or registered as a limited insurance representative shall accept the insurance policy provided by a borrower unless a reasonable basis exists to disapprove the insurance policy. For the purpose of this paragraph, disapproval shall be deemed unreasonable if it is not based solely on reasonable standards as determined by the Commissioner, uniformly applied, relating to the extent of coverage required and the financial soundness and services of an insurer. Such standards shall not discriminate against any particular type of insurer, nor shall such standards call for the disapproval of an insurance policy because such policy contains coverage in addition to that required. If a financial institution rejects the insurance furnished by the borrower, it shall provide the borrower with a clear and complete **\*written\*** statement of reasons for the rejection.

2. Pursuant to and consistent with (a) and (a)1 above, all financial institutions licensed as insurance producers or registered as limited insurance representatives shall issue a written disclosure to prospective insureds which shall inform them of their right to acquire insurance coverage from and through sources independent of the financial institution **\*[or]\* \*and\*** its subsidiaries when such insurance coverage is required to secure a loan, credit or mortgage, or any renewal thereof. The written disclosure required by this paragraph shall be **\*worded\*** as follows, **\*and printed\*** in a type size not less than 10 point type, and shall be maintained by the insurance producer or limited insurance representative for at least five years. A copy of this disclosure shall be given to the borrower at the time the issue of insurance first arises.

#### DISCLOSURE NOTICE

The Insurance Laws of New Jersey provide that the lender may not require the borrower to take insurance through any particular insurer, insurance producer (e.g., agent or broker) or limited insurance representative.

The borrower has the right to have the insurance placed with or through an insurance producer, limited insurance representative and insurer of his choice, provided that they meet the reasonable requirements of the lender. Subject to the rules adopted by the Com-

missioner of Insurance, the lender has the right to designate reasonable requirements as to the insurer, the insurance producer and limited insurance representative, and as to the adequacy of the coverage. The lender cannot require the borrower to cancel insurance with another insurance producer, limited insurance representative and insurer unless the continuation of such coverage and relationship would be unreasonable within the meaning of this notice and N.J.A.C. 11:17A-2.5.

I have read the foregoing statement and understand my rights and privileges and those of the lender relative to the placing of insurance.

I have selected *\*[the]\** \_\_\_\_\_ (insert name) *\*[Insurance Company to write the required \_\_\_\_\_ (insert type of insurance). I have selected \_\_\_\_\_ (insert name) insurance producer or limited insurance representative to sell me this insurance]\** **\*as the Insurance Company/Agency/Insurance Producer or Limited Insurance Representative to provide the required \_\_\_\_\_ (insert type) insurance\*.**

\_\_\_\_\_  
Name of Borrower

\_\_\_\_\_  
Name of Borrower

\_\_\_\_\_  
Date

(b) No financial institution licensed as an insurance producer or registered as a limited insurance representative shall require, directly or indirectly, that any borrower, mortgagor, purchaser, insurer or other insurance producer or limited insurance representative pay a separate charge in connection with the handling of any insurance policy required as security for a loan or the extension of credit, or pay a separate charge to substitute the insurance policy of one insurer for that of another.

(c) No financial institution licensed as an insurance producer or registered as a limited insurance representative shall require any procedure or condition of an insurer, insurance producer or limited insurance representative not customarily required of insurers insurance producer or limited insurance representative that are affiliated or connected with the financial institution.

(d) No insurance producer or limited insurance representative shall engage in any conduct which **\*reasonably could result in or\*** results in:

1. Leading a person to believe that his or her credit-worthiness, or that the extension of credit, is conditioned upon the purchase of insurance through a particular insurance producer, limited insurance representative or insurer; or

2. An unlicensed financial institution either soliciting, negotiating, or effecting insurance business acting on behalf of the insurance producer, or limited insurance representative.

(e) No insurance producer **\*or limited insurance representative\*** shall require an applicant or policyholder, or a member of the applicant's or policyholder's family, to purchase **\*from him or her\*** a collateral policy of insurance as a condition precedent to securing **\*or renewing\*** a policy of insurance **\*[unless such condition precedent is based upon the legitimate underwriting requirements of the insurer]\***. **\*Nothing in this subsection shall prevent an insurance producer or limited insurance representative from requiring the purchase of a collateral insurance policy from a source other than the insurance producer or limited insurance representative, including a person or entity with whom he or she is associated, if such a condition precedent is based upon appropriate underwriting guidelines of the insurer.\***

(f) No insurance producer **\*or limited insurance representative\*** engaged in a business other than the business of insurance shall engage in any conduct which reasonably could result in **\*or which results in\*** coercing an applicant or policyholder into purchasing insurance as a condition precedent, concurrent or subsequent to securing any other goods or service.

(g) No insurance producer **\*or limited insurance representative\*** shall restrict the sale or issuance of an insurance policy, or participate in the restriction of the sale or issuance of an insurance policy, to persons who enter into, or agree to enter into, premium financing agreements with any particular premium finance service company.

(h) No insurance producer acting as a motor club representative or who receives any compensation, directly or indirectly, for or on account of the sale of a motor club service contract, shall require the purchase of a motor club contract as a condition to securing an insurance contract and/or premium finance agreement.

11:17A-2.6 Identification of insurance producer

(a) An insurance producer who solicits insurance shall be required to identify the following information **\*to the person he or she is soliciting\*** prior to commencing his or her solicitation:

1. His or her name as it appears on his or her insurance producer license;

2. The name of the insurer, if known, or insurance producer, that he or she is representing; and

3. The nature of the relationship between the insurance producer and the insurer or insurance producer being represented.

(b) In addition to (a)1 through 3 above, an insurance producer shall maintain his or her license at the business address on file with the Department and shall display the **\*[license]\*** **\*license\*** to an insured or prospective insured upon their request.

11:17A-2.7 Unfair discrimination

No insurance producer or limited insurance representative shall refuse to **\*[provide his or her services to]\*** **\*take an application from\*** a policyholder or prospective policyholder for any reason based in whole or in part upon the race, color, creed, religion, sex, marital status or physical impairments of an applicant or policyholder, or for any arbitrary, capricious, or unfairly discriminatory reason**\*[.]\*\***, or for any reason which is contrary to Federal or State law. **Nothing in this section shall prohibit an insurance producer from refusing to submit an application to an insurer where there exists a contractual arrangement with an insurer to perform underwriting pursuant to established and legally permissible written underwriting guidelines and the refusal is based on these guidelines.\***

11:17A-2.8 "Twisting" prohibited

No insurance producer or limited insurance representative shall make any misleading representations or incomplete or fraudulent comparison of any insurance policies or annuity contracts or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, or convert any insurance policy or annuity contract, or to take out a policy of insurance or annuity contract with another insurer.

11:17A-2.9 Penalty

(a) The Commissioner shall impose penalties for violations of this subchapter in accordance with the provisions of N.J.S.A. 17B:30-1 et seq., 17:29B-1 et seq. and N.J.S.A. 17:22A-1 et seq.

(b) For the purpose of determining the existence of a violation and assessing a penalty under this subchapter, a separate violation shall be deemed to exist and a separate penalty therefore shall be assessed for each violation of the provisions of this subchapter.

11:17A-2.10 Severability

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the remainder of the subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

SUBCHAPTER 3. INCORPORATION OF OTHER PROVISIONS OF THE NEW JERSEY ADMINISTRATIVE CODE APPLICABLE TO INSURANCE PRODUCERS AND LIMITED INSURANCE REPRESENTATIVES

11:17A-3.1 Incorporation of other rules

(a) The following rules are herein incorporated by reference to the extent that they regulate the conduct of insurance producers and limited insurance representatives:

1. N.J.A.C. 11:2-12, concerning mass marketing of property and liability insurance;

2. N.J.A.C. 11:4-11, concerning life insurance solicitation;

3. N.J.A.C. 11:4-17, concerning health insurance solicitation;

4. N.J.A.C. 11:4-2, concerning life insurance replacement;
5. N.J.A.C. 11:2-11 and 11:2-23, concerning life and health insurance advertising; and
6. N.J.A.C. 11:2-17, concerning unfair claims settlement practices.

#### SUBCHAPTER 4. MISCELLANEOUS MARKETING AND RELATED REQUIREMENTS

##### 11:17A-4.1 Agent and broker authorized to collect premiums

(a) Premium monies collected by an insurance producer acting as an insurance agent shall be deemed to be received by the insurer by whom the agent is authorized to act whether or not the agent actually remits the monies to the insurer.

(b) Premium monies collected by an insurance producer acting as an insurance broker shall be deemed to be received by the insurer in accordance with the provisions of N.J.S.A. 17:22-6.2a.

##### 11:17A-4.2 Insurance producer to witness signature of insured

In cases where an applicant's signature is required, an insurance producer who takes an application for insurance shall be required to witness the signature of the prospective insured on the application prior to the submission of the application to the insurer.

##### 11:17A-4.3 Confirmation of underwriting information

(a) Every insurance producer shall, within 10 days after the effectuation of an insurance transaction made through an insurance producer which modifies the terms of an existing insurance contract or the terms of an application for insurance, notify a policyholder or applicant, in writing, of all information **\*submitted to the insurance producer by the policyholder or applicant\*** pertinent to the modification\*, **including confirmation that the insurance producer has sent the information to the insurer\***.

1. The requirement in (a) above shall apply to all insurance policies, certificates, binders\*,[\*] **\*and\*** endorsements **\*[and insurance identification cards]\***.

##### 11:17A-4.4 Special underwriting associations

(a) Every insurance producer who solicits, negotiates or effects contracts of insurance for the placement of risks in the New Jersey Automobile Full Insurance Underwriting Association ("NJAFIUA") or the New Jersey Insurance Underwriting Association ("Fair Plan"), shall conduct his or her business in accordance with the plan of operation established pursuant to N.J.S.A. 17:30E-1 et seq. and 17:37A-1 et seq. respectively.

(b) For the purpose of this section, "solicit", "negotiate" or "effect" shall have the same meanings as provided by N.J.A.C. 11:17A-1.2.

##### 11:17A-4.5 Disclosure of personal or privileged information

No insurance producer or limited insurance representative shall disclose personal or privileged information about an individual collected or received in connection with an insurance transaction except in conformity with N.J.S.A. 17:23A-1 et seq.

##### \*[11:17A-4.6 Loans from clients

No insurance producer or limited insurance representative shall solicit or accept a loan from, or offer to make or make a loan to, an individual with whom he or she came into contact in the course of his or her insurance business, unless the lender is authorized by law to make loans, the loan agreement or note is in writing, the lender is provided with a fully executed copy of the agreement or note at the time the loan is made, and the terms of the loan are lawful. Said loan agreement shall be retained by the insurance producer or limited insurance representative for a period of five years.]\*

##### 11:17A-4.7\*\*4.6\* Delivery of policies

Policies, certificates, or other evidence of insurance which are received by an insurance producer or limited insurance representative from an insurer for delivery to an insured shall be delivered or mailed to the insured by the insurance producer or limited insurance representative within 10 calendar days of their receipt **\*by the insurance producer or limited insurance representative\***, unless the insured agrees in writing that the insurance producer or limited insurance representative may retain them **\*for a longer period of time\***.

##### 11:17A-4.\*[8]\*\*7\* Receipts for materials

An insurance producer or limited insurance representative who takes possession of an insured's or a potential insured's insurance policies, certificates, or other documents pertaining to existing or pending insurance, shall provide to the insured a written receipt for those materials at the time the insurance producer or limited insurance representative receives the materials. The receipt shall contain an itemized list of the materials received, the insurance producer's or limited insurance representative's name and the address and telephone number of the agency or other place where the insurance producer or limited insurance representative can be contacted. The receipt shall be dated and signed by the insurance producer or limited insurance representative and the insured.

##### 11:17A-4.\*[9]\*\*8\* Replies to inquiries by Commissioner

An insurance producer or limited insurance representative shall reply, in writing, to any inquiry of the Department relative to the business of insurance within the time requested in said inquiry, or no later than 15 calendar days from the date the inquiry was made or mailed in cases where no response time is given.

##### 11:17A-4.\*[10]\*\*9\* Reporting of claims by property-casualty agents

Claims and estimated losses thereon **\*[in excess of \$250.00]\*** shall be reported to the insurer by an insurance producer acting as a property-casualty insurance agent no later than five business **\*[dates]\* \*days\*** following his receipt of notice of claim\*, **unless the insurance producer has contractual authority from the insurer to settle the claim\***.

##### 11:17A-4.\*[11]\*\*10\* Fiduciary capacity

An insurance producer **\*[shall be considered to be acting]\* \*acts\*** in a fiduciary capacity **\*[and shall observe the highest standards of commercial and professional honor]\*** in the conduct of his or her insurance business.

##### 11:17A-4.\*[12]\*\*11\* Penalties

(a) The Commissioner shall impose penalties for violations of this subchapter in accordance with the provisions of N.J.S.A. 17:22A-1 et seq. and any other applicable law.

(b) For the purpose of determining the existence of a violation and assessing a penalty under this subchapter, a separate violation shall be deemed to exist, and a separate penalty therefor shall be assessed, for each violation of the provisions of this subchapter.

##### **\*11:17A-4.12 Severability**

**If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the remainder of the subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.\***

#### CHAPTER 17B

#### **\*[PRODUCER CONDUCT]\* \*INSURANCE PRODUCER AND LIMITED INSURANCE REPRESENTATIVE STANDARDS OF CONDUCT\*: COMMISSIONS AND FEES**

#### SUBCHAPTER 1. GENERAL REQUIREMENTS

##### 11:17B-1.1 Scope

This chapter applies to all insurance producers and limited insurance representatives selling commercial **\*and/\*** or personal lines insurance, including private passenger automobile policies written through the NJAFIUA, life, health, title, property, or casualty insurance, except as may be otherwise provided in this chapter.

##### 11:17B-1.2 Purpose

- (a) The purposes of this chapter are:
1. To clarify those circumstances under which fees can be charged in connection with insurance transactions;
  2. To clarify to whom commissions may be paid;
  3. To require full disclosure of fees charged in connection with insurance policies;
  4. To prohibit the commingling of certain non-insurance fees with charges for insurance premiums; and

5. To prohibit certain abuses which could arise out of the sale of insurance by an insurance producer or limited insurance representative acting as a motor club representative.

#### 11:17B-1.3 Definitions

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

"Brokerage fee" means any money or other consideration, except commissions, charged or received by any person for services rendered as an insurance broker.

"Claim or accident reporting fees" means fees for preparation of proof of loss.

"Commission" means any payment to a producer from an insurer which is contingent upon the sale of a policy, contract, or certificate of insurance.

"Consultant fee" means any charge to a client for services rendered as an insurance consultant as defined at N.J.S.A. 17:22A-2.

"Fee" means any money or other consideration, except commissions, paid to or received from any person for service or advice in connection with a policy, contract or certificate of insurance, including, but not limited to, any service fee, motor club fee, consultant fee, brokerage fee or other charge by an insurance producer acting as an insurance broker or an insurance consultant.

"Insurance agent" means an insurance producer acting as an insurance agent as defined at N.J.S.A. 17:22A-2.

"Insurance broker" means an insurance producer acting as an insurance broker as defined at N.J.S.A. 17:22A-2.

"Insurance consultant" means an insurance producer acting as an insurance consultant as defined at N.J.S.A. 17:22A-2.

"Insurance producer" means any person engaged in the business of an insurance agent, insurance broker, or insurance consultant as defined at N.J.S.A. 17:22A-2.

"Limited insurance representative" means a person acting as a limited insurance representative as defined at N.J.S.A. 17:22A-2.

"Motor club" means any person, firm, association, partnership, corporation or other legal entity, whether or not residing, domiciled, or incorporated in this State, engaged in selling, furnishing or procuring, for a consideration, motor club services. Such services may include, but are not limited to, community traffic safety service, travel and touring service, emergency road service, theft or reward service, map service, towing service, bail bond service, legal fee reimbursement service in the defense of traffic offenses and the participation in an accident and sickness or death insurance benefit program. Motor club services shall not include towing and labor costs or other services included in or added by endorsement to an automobile insurance policy.

"Motor club fee" means any fee charged for a motor club service contract.

"Motor club representative" means a person who solicits the purchase of, or transmits a contract or application for, or aids in any manner in the negotiation, sale, renewal or continuance of, a motor club service contract.

"Motor club service contract" means any agreement whereby a motor club, for a consideration, promises to render, furnish or procure for any person a motor club service.

"Policy" means any contract of insurance and includes, but is not limited to, all policies, contracts, certificates, riders and endorsements which provide insurance coverage.

"Service fee" means a fee charged an insured or prospective insured by an insurance broker or insurance consultant for the placement of insurance or financing, credit reporting, obtaining auto operator's driving records, claim or accident reporting, adjustment of claims, inspection fees, and referral fees.

#### 11:17B-1.4 Penalties

(a) The Commissioner shall impose penalties for violations of this chapter in accordance with the provisions of N.J.S.A. 17:22A-1 et seq. and any other applicable law.

(b) For the purposes of determining the existence of a violation and assessing a penalty under this chapter, a separate violation shall

be deemed to exist, and a separate penalty therefor shall be assessed, for each violation of the provisions of this chapter.

#### 11:17B-1.5 Severability

If any provision of this chapter or the application thereof to any person or circumstances is held to be invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

### SUBCHAPTER 2. COMMISSIONS

#### 11:17B-2.1 Commissions

(a) No insurance producer or limited insurance representative shall pay any commission to any unlicensed or unregistered **\*[person]\* \*individual or organization\*** for services rendered in this State as an insurance producer or limited insurance representative except for services rendered while licensed or registered.

(b) Payment or receipt of renewal or other deferred commissions to or by any **\*[person]\* \*individual or organization\*** who has ceased to hold a license or registration under N.J.S.A. 17:22A-1 et seq. shall be permitted only for business produced by that **\*[person]\* \*individual or organization\*** while an insurance producer or limited insurance representative.

(c) No commission or renewal, deferred or otherwise, **\*or any other compensation\* \*[can]\* \*shall\*** be paid to any individual or organization whose license or registration has been revoked or suspended, **\*[whether or not it is]\* \*except\*** for services rendered while licensed or registered<sup>[, except where the individual or organization has sold its book of business for compensation contingent upon the persistency of the business]\*. **\*Nothing in this subsection shall prohibit a person from selling its book of business for compensation contingent upon the persistency of the business. Nothing in this subsection shall prohibit any person from asserting a right of setoff against an insurance producer or limited insurance representative whose license or registration is revoked.\***</sup>

(d) No insurance producer or limited insurance representative shall pay or return, or offer to pay or return to any policyholder, certificateholder, or prospective policyholder or certificateholder, all or any portion of the commission received or which will be received in connection with the sale of insurance.

### SUBCHAPTER 3. FEES

#### 11:17B-3.1 Fees

(a) Only an insurance producer acting as an insurance broker or insurance consultant may charge a fee **\*to a policyholder or insured for services rendered as an insurance producer\***.

(b) **\*[No insurance]\*\*Insurance\* producer\*s\* acting as \*[an]\* agent\*s\* for \*[a]\* \*an insurance\* company, \*[including]\* \*and\* limited insurance representatives, \*[may]\* \*shall not\* charge or receive any fee on a policy **\*to or from a policyholder or insured for services rendered as an insurance producer or as a limited insurance representative\***.**

(c) Any insurance producer acting as an insurance broker or insurance consultant charging a fee to an insured shall first obtain from the insured a written agreement, which shall be separate and apart from all other agreements and applications, and shall contain **\*[only]\* the following \*provisions and no other provisions\*:**

1. A clear statement of the amount of the fee to be charged and the nature of the service to be provided therefor;

2. A statement that such fees are not a part of the premium charged by the insurance company and that **\*[a charge]\* \*such fees\* can be **\*[made]\* \*charged\* only if the insured **\*so\* consents **\*[to it]\* in writing;********

3. A clear statement as to whether a commission will be received from the purchase of insurance; and

4. The signature of the insured and the licensed insurance broker or insurance consultant and the date of execution of the agreement.

(d) Any fee charged by an insurance producer acting as an insurance broker or insurance consultant shall bear a reasonable relationship to the services provided and shall not be discriminatory.

(e) A new written agreement shall be entered into for each fee charged **\*[or]\* \*and\*** each time a fee is charged. An initial agreement

\*[may]\* **\*shall\*** not be used as the sole basis to charge a fee for a renewal policy.

(f) No insurance producer acting as an insurance broker or insurance consultant may pay or return, or offer to pay or return, all or part of a fee charged as an inducement to purchase a specific policy, or coverage within a policy, or coverage from a particular insurer.

(g) No insurance producer acting as an insurance broker or insurance consultant may charge a fee for services not actually performed.

(h) No insurance producer acting as an insurance broker or insurance consultant, except a duly authorized employed producer on behalf of his or her employer, may execute a written fee agreement on behalf of any other insurance producer or premium finance company.

#### 11:17B-3.2 Service fees

(a) An insurance producer acting as an insurance broker or insurance consultant may charge a fee for services rendered in the sale or service of personal lines property/casualty or personal lines surplus lines insurance subject to the following conditions:

1. No service fee for any one policy shall exceed \$20.00.
  2. No insurance producer acting as an insurance broker or insurance consultant may charge a fee for completing accident or claim report forms, nor shall a fee be charged for providing forms required by an insurer for servicing a policy.
  3. An inspection fee may only be charged on a surplus lines policy and shall not exceed two percent of the premium or \$10.00, whichever is greater; except that the insured may be charged the actual amount paid to an unrelated firm or person for the service if said firm or person is not an **\*insurance\*** agent or **\*insurance\*** broker.
  4. No charge may be made for services not actually performed.
  5. A maximum service fee of \$15.00 may be charged upon placement of a renewal, except that an inspection fee may be charged in accordance with (a)3 above if no inspection of the property has occurred during the three years prior to issuance of the renewal policy.
  6. Only one service fee per policy per year shall be charged, regardless of whether the policy term is for less than one year.
  7. A motor club membership sold in connection with a policy shall not be considered separate coverage for the purpose of charging a service fee.
  8. A motor club claim arising from the same loss as a claim under a private passenger automobile coverage policy shall not be considered a separate claim for purposes of charging a fee.
- (b) No insurance producer may charge a service fee for services rendered in the sale or service of life or health insurance.

#### 11:17B-3.3 Motor club fees

(a) Any insurance producer who acts as a motor club representative or receives any compensation, directly or indirectly, or on account of the sale of a motor club service contract purchased in connection with the negotiation or sale of an automobile insurance policy or contract shall:

1. Obtain at the time of the initial application for the motor club service contract a dated written agreement, separate and apart from any other agreements, signed by both the insurance producer and the insured or prospective insured, **\*[containing]\* \*stating\*** the following information:
  - i. That the motor club service contract is not an insurance contract;
  - ii. That the motor club service contract is optional and is not required to be purchased by the insured or prospective insured as a condition of obtaining automobile insurance coverage\*[s]\*;
  - iii. That the motor club membership fee is not related to or included in the automobile insurance premium charge, and cannot lawfully be included in a premium finance agreement entered into by the insured or prospective insured;
  - iv. **\*[A clear statement separately showing the]\*\*The\*** amount of the motor club fee and the automobile insurance premium charge;
  - v. **\*[Identification]\*\*The identification\*** of the person(s) and/or vehicle(s) covered by the motor club service contract and the term of the contract; and

vi. The name and location of the motor club and the benefits and/or services provided by the motor club service contract.

2. Furnish the insured or prospective insured with a copy of the written agreement, identified at (a)1 above, at the time of execution thereof. The insurance producer shall also maintain a copy of the written agreement in the file of **\*the\*** insured or prospective insured.

(b) No insurance producer acting as a motor club representative shall:

- \*[1. Commingle motor club fees with charges for automobile insurance premiums;]\*
- \*[2.]\***\*1.\*** Make the availability of automobile insurance dependent upon the purchase of a motor club membership;
- \*[3.]\***\*2.\*** Induce an insured or prospective insured to finance automobile insurance premiums which would not otherwise be necessary if not for the motor club costs; or
- \*[4.]\***\*3.\*** Sell more than one motor club agreement per automobile insurance policy.

### CHAPTER 17C

#### **\*[PRODUCER CONDUCT]\* \*INSURANCE PRODUCER STANDARDS OF CONDUCT\*:** MANAGEMENT OF FUNDS

##### SUBCHAPTER 1. GENERAL REQUIREMENTS

###### 11:17C-1.1 Purpose and scope

This chapter sets forth standards of conduct for licensed insurance producers concerning the management of funds and general record-keeping for all insurance related transactions, for which a New Jersey insurance producer license is required, in implementation of N.J.S.A. 17:22A-17a(5), (15) and (17) and 17c.

###### 11:17C-1.2 Definitions

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

"Business day" means all days except Saturdays, Sundays and State and Federal holidays.

"Financial institution" means a Federal or State chartered bank, savings bank, or savings and loan institution which is a member of the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC).

"Insurance producer" means any person engaged in the business of an insurance agent, insurance broker or insurance consultant as defined at N.J.S.A. 17:22A-2.

"Insured" means an applicant for insurance or a policyholder.

"Trust account" **\*[(TA)]\*** means a special fiduciary account established and maintained by an insurance producer pursuant to the requirements of this chapter.

"Voluntary deposit" means a deposit in a **\*[TA(s)]\* \*trust account\*** in excess of aggregate net premium, premiums due the insured and deposits, received but not remitted, made to maintain a minimum balance or to guarantee the adequacy of the account(s).

###### 11:17C-1.3 Penalties

(a) The Commissioner shall impose penalties for violations of this chapter in accordance with the provisions of N.J.S.A. 17:22A-1 et seq. and any other applicable law.

(b) For the purposes of determining the existence of a violation and assessing a penalty under this chapter, a separate violation shall be deemed to exist, and a separate penalty therefor shall be assessed, for each violation of the provisions of this chapter.

###### 11:17C-1.4 Severability

If any provision of this chapter or the application thereof to any person or circumstances is held to be invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

##### SUBCHAPTER 2. RULES CONCERNING MANAGEMENT OF FUNDS

###### 11:17C-2.1 Commingling of funds

(a) All premium funds shall be held by an insurance producer in a fiduciary capacity and shall not be misappropriated, improperly

converted to the insurance producer's own use, or illegally withheld by the licensee.

(b) All premium funds shall be segregated and not in any manner commingled with any other funds of the insurance producer, except as may be permitted by this chapter.

#### 11:17C-2.2 Remittance standards

(a) All premium funds shall be remitted to the insurer or other insurance producer, as applicable, within five business days after receipt of the funds except as otherwise required or provided by any of the following:

1. The rules of the New Jersey Automobile Full Insurance Underwriting Association (NJAFIUA);
2. The rules of the New Jersey Insurance Underwriting Association (FAIR Plan);
3. The insurance producer's contract with the insurer or written agreement with the insured *[pursuant to N.J.A.C. 11:17A-2.3(g)]*;
4. Any controlling statute or administrative rule; or
5. The rules of the Commercial Automobile Insurance Plan (CAIP).

(b) All premiums due the insured shall be paid to the insured or credited to the insured's account within five business days after receipt **\*by the insurance producer\*** from the insurer or other insurance producer.

1. If the return premium is to be credited to the insured's account, the credit shall be shown and applied to the next billing statement sent to the insured.

2. If the credit is to be held on the insured's account and the account reflects a credit balance, the insurance producer shall send monthly written notification to the insured which clearly reflects a credit owed to the insured and *[, at the discretion of the insured]* shall be paid **\*to the insured\*** upon his demand.

(c) All title insurance settlement funds shall be disbursed within five business days after settlement except as determined by the parties at settlement.

(d) Cancellation for nonpayment of a premium where the insurance producer of record has advanced the premium shall follow the written request of the insurance producer who has advanced such funds to the insurer. The written request shall be signed by the insurance producer, setting forth the amount of money advanced by the insurance producer, the amount of money paid by the insured to the insurance producer, *[the provisions contained in the agreement between the insured and the insurance producer,]* the provisions contained in the agreement between the insured and insurance producer as to payments, and facts concerning the breach of *[payment]* **\*said agreement\*** by the insured. A copy of the written request shall be mailed to the insured at the time that it is submitted to the insurer.

#### 11:17C-2.3 Trust account

(a) An insurance producer shall establish and maintain a *[TA]* **\*trust account into which shall be deposited cash, checks and other instruments payable to the insurance producer\*** under the following circumstances:

1. When an insurance producer holds any premiums for more than five business days before remitting the premiums to an insurer or other insurance producer, pursuant to N.J.A.C. 11:17C-2.2(a)1-5; or

2. When an insurance producer deposits any collected premiums into a financial institution account or other investment, or otherwise uses the premiums, even though the premiums are remitted within five business days.

(b) The account shall be designated a "Trust Account" on the bank records and those words shall be displayed on the face of the checks on that account.

(c) The *[TA]* **\*trust account\*** shall be a separate account from that required for the surplus lines *[guarantee]* **\*guaranty\*** fund.

*[(d)]* Any insurance producer who maintains or is required to maintain a TA shall deposit into the TA all premiums received.*]*

*[(e)]* **\*[(d)]\*** Non-premium monies received by the insurance producer for soliciting, negotiating, effecting, procuring, renewing, continuing or binding policies of insurance may be deposited into the *[TA]* **\*trust account\***. Examples of non-premium monies in-

clude, but are not limited to, service fees, policy fees, late charges, inspection fees and surplus lines premium taxes.

*[(f)]* **\*[(e)]\*** Any insurance producer who is required to maintain a *[TA]* **\*trust account\*** pursuant to (a) above shall establish and maintain a *[TA]* **\*trust account\*** in a financial institution as defined in this chapter. Any resident insurance producer required to maintain a *[TA]* **\*trust account\*** shall maintain such *[TA]* **\*trust account\*** in one or more financial institutions located within this State and subject to the jurisdiction of the New Jersey courts.

*[(g)]* **\*[(f)]\*** An insurance producer may place *[TA]* **\*trust account\*** funds in interest bearing or income producing assets and retain the interest or income thereon provided the nature of the account has previously been disclosed to the principal and the insurance producer has secured from the principal a written authorization for the investment of the money and the retention of any earnings thereon.

*[(h)]* **\*[(g)]\*** The following disbursements may be lawfully withdrawn from the *[TA]* **\*trust account\***:

1. Non-premium monies received by the insurance producer in connection with soliciting, negotiating, effecting, procuring, renewing, continuing or binding policies of insurance;

2. Net or gross premium remittances due other insurance producers or insurers;

3. Claim payments or reinsurance premiums for transfer to another *[TA]* **\*trust\*** account when authorized by an insurer;

4. Premiums due insureds;

5. Commissions due the insurance producer, net any financial institution charge or commission due another insurance producer, provided that commissions are withdrawn only on premiums deposited into the *[TA]* **\*trust account\***;

6. Interest which the insurance producer is authorized to retain pursuant to this chapter;

7. Voluntary deposits; and

8. Funds for investment made pursuant to *[(g)]* **\*[(f)]\*** above.

*[(i)]* **\*[(h)]\*** Disbursements **\*made\*** pursuant to *[(h)]* **\*[(g)]**\*2 and 4 above shall be made payable to the insurance producer or another insurance producer, the insurer or the insured, as the case may be.

*[(j)]* **\*[(i)]\*** The *[TA]* **\*trust account\*** balance in the financial institution shall at all times be at least equal to the amount deposited less lawful withdrawals, except where the sole reason for the deficiency is *[the return from the maker's bank of]* **\*the failure by a bank to honor\*** checks **\*of insureds or prospective insureds\*** accepted in good faith as payment of premiums. If the balance in the financial institution is less than the amount deposited less lawful withdrawals, the insurance producer shall be deemed to be in violation of this chapter and shall be subject to penalties as provided by N.J.A.C. 11:17C-1.3.

#### 11:17C-2.4 Receipts

(a) Each insurance producer shall issue a receipt for each premium for any payment, premium deposit or installment payment which is submitted by personal delivery **\*or when a receipt is requested,\*** and shall maintain *[verification for]* **\*a copy of\*** each receipt issued. The receipt shall be furnished at the time payment is tendered. For title insurance only, unless a receipt is specifically requested, a settlement statement with the file number denoted shall suffice in lieu of a receipt.

(b) Each receipt and receipt book maintained by an insurance producer shall:

1. Be sequentially numbered **\*or otherwise provide documentation of the sequence in which the receipts are issued\***;

*[2. Be clearly written on "no carbon required" paper or "carbon copy" paper;]*\*

*[3.]* **\*2.\*** Be clearly signed by the insurance producer or his or her authorized employee, and the name of the insurance producer shall be typed or legibly printed below the signature;

*[4. Specify allocation of the payment to the entities identified in (b)6 below;]*\*

*[5.]* **\*3.\*** Indicate the name *[and address]* of the insured;

*[6.]* **\*4.\*** Indicate the name of the insurance company when known, or the name of the residual market mechanism or other insurance producer, **if applicable\***;

\*[7.]\*\*5.\* Indicate the name, address and telephone number of the insurance agency;

\*[8.]\*\*6.\* Indicate the **\*date and type of coverage\*** \*[policy number(s), application number(s), or binder number(s)]\*;

\*[9.]\*\*7.\* Indicate the date of transaction;

\*[10.]\*\*8.\* Indicate the purpose of the payment\*[ , such as, premium deposit, installment, renewal premium, premium tax, service fees, motorclub fees, etc.]\* **\*if it is other than a premium payment\***; **\*and\***

\*[11.]\*\*9.\* Indicate the amount of remittance\*[\*]; and

12. Indicate the type of remittance, such as, cash, check or money order]\*.

(c) The requirements of (b)\*[2 and 5]\* **\*3 and 6\*** above shall not apply to receipts which are a part of and attached to the original application for insurance.

(d) Each insurance producer shall be responsible for the care, custody, and security of receipt books in the following manner:

1. Receipt books shall be maintained at a business address on file with the Department of Insurance;

2. Every receipt shall be accounted for by the \*[licensee]\* **\*insurance producer\***; and

3. Completed receipt books shall be retained for a minimum of five years from the date of completion.

**\*(e) Any document other than a receipt or receipt book which contains or provides the Department and payee with ready access to the requirements in (b) above shall be considered to satisfy the requirements of this section so long as a record is maintained in accordance with the provisions of this section.\***

#### 11:17C-2.5 Minimum record-keeping requirements

(a) Each \*[licensee]\* **\*insurance producer\*** shall maintain accurate books and records reflecting all insurance-related transactions **\*in which the insurance producer or his employees take part\*** in accordance with the standards set forth in this chapter. These records may be maintained by either separate books of record or by one or more consolidated books of record.

1. All books and records shall consist of sequentially numbered pages and shall be maintained in such a manner that they can be produced for examination at any time.

2. Appropriate and required entries shall be made at least once every 30 days.

(b) Each licensee shall maintain a register of all monies received, deposited, disbursed or withdrawn in connection with an insurance transaction, including, but not limited to: premiums; service fees; placement fees; inspection fees; motorclub fees; premium taxes; transfers and disbursements from a \*[TA]\* **\*trust account\***; and all transactions concerning, including the balance of, all interest bearing accounts. The minimum information required to be maintained in the register includes the following:

1. The date monies \*[were]\* **\*are\*** received, deposited, disbursed or withdrawn;

2. The amount of money received, deposited, disbursed or withdrawn;

3. An itemized record of the allocation of the funds;

4. The name of the insured, insurance producer, insurer or other account to or from whom monies are disbursed or received pursuant to N.J.A.C. 11:17C-2.4(b);

5. The policy number or binder number;

6. The receipt number, when available; and

7. The method of payment, such as, cash, check, money order or draft.

(c) If the premium amount received or disbursed differs with the amount billed, the insurance producer shall prepare a written record of the discrepancy which shall be maintained with the relevant entry in the register for the period of time required by N.J.A.C. 11:17C-2.6(a).

(d) For each disbursement, the number of the check shall be recorded in the register.

(e) If the disbursement is a commission payment to the insurance producer or another insurance producer, the disbursement shall be supported by a written record of the following:

1. The name of the insured;

2. The name of the insurer;

3. The policy number; and

4. The net commission, which shall not \*[in all cases]\* be greater than the amount of the disbursements recorded in the register.

(f) All entries for receipts and disbursements shall be supported by evidential matter as provided in (b), (d) and (e) above. The evidential matter shall be referenced in the entry so that it may be traced for verification.

(g) Each insurance producer shall prepare and maintain a monthly reconciliation of the \*[TA]\* **\*trust account\***.

(h) Each insurance producer shall maintain a file for each \*[current]\* client or customer which shall continue to be maintained for a period of at least five years after the termination of \*[the business relationship]\* **\*coverage\***. The minimum items required to be maintained in the file **\*shall\*** include the following:

1. A copy of each application for insurance;

2. The name of any other insurance producer **\*not employed by the insurance producer maintaining the record\*** who handled any transaction or part thereof;

3. The insurance premium financing agreement, if any, and the name of the lender; and

4. All correspondence received or sent with respect to any insurance or insurance related transaction.

#### 11:17C-2.6 Record maintenance and examination; electronic record keeping

(a) All required books and records of account, including bank records, shall be maintained for a period of five years after the \*[period covered by the account]\* **\*termination of coverage\***.

(b) All records, books and documents required to be maintained by the provisions of this chapter shall, upon his or her request, be produced for examination by the Commissioner or his or her duly authorized representatives.

(c) The books and records required by this chapter to be maintained may be maintained electronically if the following conditions are met:

1. That all of the elements required by this chapter to be maintained are contained in the electronic system;

2. That, upon the request of the Department \*[of Insurance]\*, the electronically kept records can be reproduced in hardcopy; and

3. That, at least every 30 days, the records maintained electronically are reproduced in hardcopy and maintained on file for a period of five years **\*after the termination of coverage for an insured, or, alternatively, are maintained for said period of five years on an electronic system that is, in the opinion of the Commissioner, unalterable. Such a determination of unalterability shall be made by the Commissioner, in writing, before any electronic system may be used for storage beyond 30 days.\*** \*[Each such reproduction shall contain a certification by the issuing insurance producer that the hardcopy is an accurate reproduction of the electronically kept records.]\*

### CHAPTER 17D

#### **\*[PRODUCER CONDUCT]\* \*INSURANCE PRODUCER AND LIMITED INSURANCE REPRESENTATIVE STANDARDS OF CONDUCT\*: ADMINISTRATIVE PROCEDURES AND PENALTIES**

#### SUBCHAPTER 1. GENERAL REQUIREMENTS

##### 11:17D-1.1 Purpose and scope

This chapter is promulgated to describe the procedures for imposing administrative penalties, including the method of determining monetary fines, for violations of the provisions of N.J.S.A. Titles 17 and 17B and any rules or orders issued by the Commissioner of Insurance. The procedures and penalties described apply to all insurers, insurance producers, limited insurance representatives and other persons subject to the jurisdiction of the Commissioner.

##### 11:17D-1.2 Definitions

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

"Administrative order" means any and all orders issued or executed by the **\*Commissioner, his designee and the\* Department\***, including\*,\* but not limited to\*,\* consent orders and orders to show cause.

"Administrative penalty" means a **\*[punishment]\* \*sanction\*** authorized by any statute or administrative rule to be imposed by the Commissioner for any act or omission by a person subject to the Commissioner's **\*or Department's\*** jurisdiction, including\*[:]\* **\*the\*** revocation, suspension or refusal to renew any license or authority to conduct any regulated activity; any monetary fine\*[:]\* and any order to make restitution or to pay the reasonable cost of an investigation and prosecution of any matter. It shall not include the rejection and return of any application or filing for additions or correction of any error, unless a fine is imposed and must be paid as a condition of later acceptance of the application or filing\*[:]\*.

"Commissioner" means the Commissioner of the Department of Insurance of the State of New Jersey.

"Department" means the New Jersey Department of Insurance.

"Hearing" means a hearing held in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the rules adopted thereunder.

"Insurance producer" is defined at N.J.S.A. 17:22A-2.

**\*\*Limited insurance representative" is defined at N.J.S.A. 17:22A-2m.\***

\*["Market conduct examination" means an audit or examination by the Department of the trade practices and activities of an insurer.]\*

"Notice" means **\*[any]\* \*a\*** written communication from the Department to an alleged violator of **\*its\*** intent to assess an administrative penalty containing those elements set forth in N.J.A.C. 11:17D-2.1. A notice may be in the form of an administrative order such as a consent order or order to show cause.

"Person" means any individual, corporation, **\*organization, association,\*** partnership or **\*[other]\*** legal entity.

"Time related violation" means the failure to meet a time limit or deadline imposed by statute, rule or administrative order. When such a time limit or deadline is not met, each day after the time limit or deadline passes shall be considered a separate and distinct violation.

## SUBCHAPTER 2. ADMINISTRATIVE PROCEDURES AND PENALTIES

### 11:17D-2.1 Procedures for the imposition of administrative penalties

(a) Rules concerning the initiation of action against an alleged violator follow:

1. Before an administrative penalty is imposed, the Department shall direct a notice by certified mail or personal delivery to the last known business or mailing address of the alleged violator. The notice shall include:

- i. A reference to the statute, rule and/or administrative order alleged to be violated;
- ii. A concise statement of the facts alleged to constitute the violation;
- iii. A statement of the administrative penalty or penalties sought to be imposed; and
- iv. A statement advising the alleged violator of the right to a hearing and the procedure for requesting a hearing.

2. The notice may describe more than one violation, or more than one specific penalty for each violation. A single form of notice may be used to notify several alleged violators, so long as all are named and served with a copy of the notice in conformity with the provisions of (a)3 below.

3. The notice shall be served by personal delivery, or by certified mail to the alleged violator's last known business or mailing address, according to the files maintained by the Department. Service in this manner shall be considered lawful service on the alleged violator.

(b) Rules concerning the failure of an alleged violator to respond to a notice follow:

1. The alleged violator's failure to respond, as required by the notice, within the time provided in the notice, shall be deemed to

be an admission to all of the allegations, charges and conclusions contained in the notice, and no further proceeding shall be required prior to the execution of a final order that imposes the administrative penalty or penalties described in the notice.

2. If no response is received within the time provided in any notice to suspend or revoke a license or authority to conduct any activity regulated by Title 17 and 17B, the Department shall prepare a final order suspending or revoking the license or authority to conduct such activity, and mail a copy of the order to the violator at his or her last known business address on file with the Department.

3. If the notice provides for the payment of any fine, compels any restitution or reimbursement to the Department for investigative or prosecution cost, and payment or proof of payment has not been received, the Department may proceed to suspend or revoke the license or authority of the violator as provided in N.J.A.C. 11:17D-2.1.

(c) Rules concerning an alleged violator's consent to an administrative penalty follow:

1. In order for matters set forth in a notice to be deemed concluded by means of a consent by the alleged violator to the imposition of the administrative penalty described in the notice, the Department may require any or all of the following:

- i. The return to the Department for cancellation of any license or other written evidence of the authority to conduct the business of insurance in this State;
- ii. The payment of **\*[any]\* \*a\*** monetary penalty;
- iii. The reimbursement to the Department of the costs of investigation and prosecution;
- iv. **\*[Restitution]\*\*The restitution\*** of moneys owed any person; and
- v. **\*[Execution]\*\*The execution\*** of an administrative order which may include admissions of material facts, conclusions of law, and such other terms and conditions as the Commissioner, or his or her authorized **\*[representative]\* \*designee\*** may deem to be necessary and appropriate under the circumstances.

(d) Rules concerning a request by an alleged violator for a hearing follow:

1. An alleged violator shall have 20 calendar days from service of the notice of intent to impose an administrative penalty within which to deliver a written request for a hearing to: Administrator, Enforcement, New Jersey Department of Insurance, CN **\*[329]\* \*325\***, Trenton, New Jersey 08625-**\*[0329]\*\*0325\***.

2. A request for a hearing shall include:

- i. The name, address and daytime telephone number of **\*[an]\* \*the\*** alleged violator;
- ii. A copy of the notice;
- iii. A statement requesting a hearing;
- iv. A specific admission, denial or explanation of each fact alleged **\*in the notice\***, or a statement that the person is without knowledge thereof; and

v. A concise statement of the facts or principles of law asserted to constitute any factual or legal defense.

3. If a hearing request fails to include a specific admission, denial or explanation of each fact alleged, or a statement that the person is without knowledge thereof, the facts alleged in the notice shall be deemed to have been admitted.

4. If a hearing request lacks any of the elements in (d)2 above, the Department may deny the request or by certified mail advise the person of the deficiencies and provide an additional 10 calendar days from the issuance of the deficiency letter to correct them. If no reply correcting the deficiencies is received by the Department within **\*[15]\* \*10\*** calendar days, the Department may issue a final order **\*without granting a hearing\***.

5. Upon receipt of a properly completed request for a hearing, the Administrator of Enforcement or such other Department personnel as may be designated **\*by the Commissioner\***, shall examine the request and may conduct or direct such further proceedings as may be appropriate, including but not limited to an interview with the alleged violator.

6. Not later than 60 days after the receipt of a properly completed request for a hearing, the Administrator of Enforcement, or such

other Department personnel as may be designated **\*by the Commissioner\***, shall advise the alleged violator of the manner of disposition, which may be as follows:

- i. Terminated with or without prejudice;
- ii. Resolved by consent order, which may provide for a lesser or different administrative penalty; or
- iii. A finding that the matter constitutes a contested case, pursuant to the Administrative Procedure Act\*,\* N.J.S.A. 52:14B-1 et seq. In such a case, the Department shall transmit the matter to the Office of Administrative Law for a hearing consistent with the Uniform Administrative Practice Rules, N.J.A.C. 1:1.

#### 11:17D-2.2 Monetary penalty for time related violations

- (a) Time related violations shall include the following:
1. When an insurance producer or limited insurance representative fails to respond to an inquiry of the Department within the time requested or within 15 calendar days from the date of the inquiry if no response date is given; or
  2. When an insurance producer or limited insurance representative fails to act within or continues his or her actions during the time established or proscribed by a statute, administrative rule or order.
- (b) Each **\*calendar\*** day that an insurance producer or limited insurance representative is in violation of (a)1 or 2 above shall be considered a separate violation and the Commissioner may impose the maximum penalty provided therefor by law.

#### 11:17D-2.3 Alternative remedies

Neither the assessment of administrative penalties nor the payment of any such penalty shall be deemed to affect the availability to the Department of any other enforcement provision provided for by statute, rule or administrative order, in connection with the violation for which the penalty is levied.

#### 11:17D-2.4 Schedules of fines for certain insurance producer licensing violations

- (a) The Department shall impose fines for certain insurance producer violations in accordance with the following schedule:
1. Failure to maintain on file with the Department a complete and accurate business or home address or to notify the Department of a change of business or home address within 20 **\*calendar\*** days: \$250.00, except where notification is delayed beyond 60 **\*calendar\*** days, **\*including the aforesaid 20 days,\*** in which case the violator is subject to the maximum penalty provided by law;
  2. Failure to notify the Department of the opening of a branch office within 30 days or the closing of a branch office within 20 days: \$500.00;
  3. Payment of a license or processing fee with a check later returned for insufficient funds or because the account is closed: \$500.00;
  4. Failure to notify the Department of a change of business name within 30 days: \$250;
  5. Failure to notify the Department of the addition or deletion of owners of more than five percent or officers, directors or partners: \$250.00;
  6. Failure to maintain **\*in\*** at **\*[each]\*** **\*least one\*** office **\*with an address on file with the Department\*** copies of all employment contracts and copies of all agency contracts: \$100.00 per contract; **\*and\*** **\*[7. Failure to renew a license prior to expiration, unless, prior to expiration, the renewal application is returned marked "do not renew": \$25.00 per month or part thereof. Failure to timely renew an insurance producer license shall require reapplication; and]\*** **\*[8.]\*7.\*** Upon demand by a licensed insurance producer, the failure by an employing insurance producer, insurer, or other custodian to return a license to the possession of the named insurance producer: \$500.00.
- (b) The fines identified in (a) above are applicable to first offenders only. Repeat offenders shall be subject to the maximum penalties provided by law.

#### 11:17D-2.5 Effect of suspension or revocation of producer license

(a) Upon service of any final order suspending or revoking an insurance producer license, the insurance producer shall immediately

return to the Department for cancellation any license in his or her possession.

(b) Imposition of a period of suspension or of revocation shall sever any existing agency relationships with insurance companies, employment relationships with other insurance producers, and licensed officer or partner relationships with any licensed organization. In the event a license is later reinstated, those relationships shall be reestablished by refiling in accordance with N.J.A.C. 11:17-2.9.

(c) No other licensed individual or organization shall advertise, display or conduct any insurance business using the legal or business name of any person whose license has been revoked.

(d) No person whose insurance producer license has been suspended or revoked shall be entitled to any refund of license fees for the unexpired term of any license issued.

(e) No person whose insurance producer license has been suspended or revoked shall become or act as a limited insurance representative during the period of suspension or revocation.

(f) In accordance with N.J.S.A. 17:22A-18, no person whose license has been suspended or revoked may be a partner, officer, director or owner of a license organization, or otherwise be employed in any capacity by an insurance producer **\*[or insurance company]\***.

#### 11:17D-2.6 Reinstatement after suspension of insurance producer license

(a) Upon completion of any period of suspension and upon the completion of all conditions contained in the order suspending an insurance producer's license, a former licensee may reapply for an insurance producer license by submitting a properly completed application as required by N.J.A.C. 11:17-2.3.

(b) The applicant shall submit with the application a copy of the order of suspension and an executed affidavit that states:

1. That the period of suspension has been completed;
2. That all required conditions for reinstatement as described in the order of suspension have been met;
3. That documents confirming that all conditions have been met, such as receipts for fines or restitution, satisfactions of judgement, etc. are attached to the affidavit; and
4. That the applicant has complied with all restrictions imposed by the order of suspension.

(c) The applicant shall demonstrate compliance with the professional qualification provisions of N.J.S.A. 17:22A-4(c) **\*[(which requires completion of the proper courses of pre-licensing education if the person has been unlicensed for two years or more)]\*** and N.J.S.A. 17:22A-4(d) (which requires persons to have passed the state licensing examination if they have been unlicensed for one year or more).

#### 11:17D-2.7 Reinstatement after revocation of insurance producer license

(a) A person whose license has been revoked may, after five years from the effective date of any order revoking an insurance producer license, apply for reinstatement of the license on the form of application used for initial insurance producer license applicants.

(b) The applicant shall demonstrate compliance with the professional qualification requirements of N.J.S.A. 17:22A-4(c) **\*[which requires completion of the proper courses of pre-licensing education]\*** and N.J.S.A. 17:22A-4(d) **\*[which requires the person to have passed the State licensing examination]\***.

(c) The applicant shall include with the application an affidavit containing the following information concerning the applicant's activities since revocation:

1. An employment history;
2. A statement concerning the other business interests, if any\*,\* of the applicant;
3. The manner of disposition of the applicant insurance producer business upon revocation of his or her insurance producer license;
4. Whether restitution has been made as a result of the activities that led to revocation, including the names and addresses of the persons or entities to whom restitution was made and amounts of restitution made;
5. Whether the applicant currently holds any other business, professional or occupational licenses in this or any other state;

6. Whether the applicant, or any business in which he or she owns five percent or more, is or has been a party to any legal or administrative proceedings in this or any other state, and if so a statement concerning the nature of the proceedings, the parties and **\*the\*** result or current status; and

7. A written statement by the applicant describing the manner in which he or she has improved **\*during the period of revocation\*** his or her reputation, character, trustworthiness, competency and worthiness to be an insurance producer.

(d) If the revocation was based upon the conviction of a crime or if the applicant was convicted of a crime since revocation, a report from the applicant's chief probation officer must be submitted with the application for licensing.

(e) The Commissioner, or his or her designee, shall review the application to determine whether reinstatement is warranted. The review of the application may include further investigation or inquiry, may require the applicant to provide additional information, and may further include a conference with Department personnel.

(f) If the Department is satisfied that reinstatement is warranted, the Department shall issue the license. If the Department is not satisfied that reinstatement is warranted, the Department shall deny the license in accordance with the procedures described in N.J.A.C. 11:17D-2.3.

11:17D-2.8 Suspension or revocation of registration as a limited insurance representative

(a) No person whose registration as a limited insurance representative has been suspended or revoked may be registered or conduct business as a limited insurance representative or as an insurance producer during the period of suspension or revocation.

(b) Imposition of a period of suspension or revocation shall terminate the existing relationship between the limited insurance representative and the insurance company that registered the representative.

(c) Upon completion of the period of suspension, or not less than five years in the case of revocation, the limited insurance representative may be re-registered by any company if all other conditions that may have been imposed by the order of suspension or revocation have been satisfied.

11:17D-2.9 **\*[Separability]\*\*Severability\***

If any provision of this subchapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

**PUBLIC UTILITIES**

**(a)**

**BOARD OF PUBLIC UTILITIES**

**Filing of Annual Reports and Customer Lists (Solid Waste)**

**Adopted Amendment: N.J.A.C. 14:3-10.15**

Proposed: September 5, 1989 at 21 N.J.R. 2702(b).

Adopted: December 4, 1989 by the Board of Public Utilities, Christine Todd Whitman, President.

Filed: December 5, 1989 as R.1990 d.6, **with a substantive change** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 48:2-13, 48:13A-4 and 48:13A-11.

Effective Date: January 2, 1990.

Expiration Date: May 6, 1990.

**Summary of Public Comments and Agency Responses:**

COMMENT: Kraft and McManimon, Esqs. submitted comments on behalf of several county improvement authorities and county and municipal utilities authorities requesting access to the customer lists. Kraft and McManimon state that many authorities have franchises for solid waste disposal and most employ enforcement personnel and allocate significant

resources to monitoring solid waste activities. Kraft and McManimon argue that inasmuch as an important component of authority's enforcement program includes verification of hauler's activities in a particular county to ensure that waste collected in the county is being delivered to the designated solid waste facility or landfill, the authorities should have access to the customer lists. Kraft and McManimon further argue that as governmental entities these authorities are not in competition with collection utilities and, therefore, the rationale argued in support of preventing solid waste collection utilities and the general public from having access to the customer lists should not apply with respect to authorities.

RESPONSE: The Board interprets this repropoed amendment to encompass county and municipal utilities authorities and county improvement authorities responsible for enforcement of laws relating to solid waste collection and disposal activities. Additionally, the Board agrees that utilities authorities are not in competition with solid waste collection and disposal utilities, therefore, the rationale argued in support of precluding other solid waste collection and disposal utilities and the general public from having access to the customer list should not apply to utilities authorities. Upon adoption the Board has added language to paragraph (b)4 to reflect this interpretation.

COMMENT: Waste Management of North America, Inc. (Waste Management) expressed concerns that the potential exists that the customer lists may "fall into the wrong hands" thus exposing collectors to financial ruin.

RESPONSE: The Board is cognizant of the fact that the customer lists are extremely sensitive documents and employs every safeguard at its disposal to maintain their confidentiality.

All customer lists received by the Board are maintained in locked filing cabinets. When access to a customer list is sought the person seeking access must present to the Board's Secretary a release form executed by the Director or Deputy Director of the Solid Waste Division. Copies of the customer lists are not permitted to be made and the lists are only reviewable in an enclosed office designated by the Secretary of the Board.

COMMENT: Waste Management disagrees with the cost impact as stated in the Regulatory Flexibility Analysis of the repropoed amendment. Waste Management contends that few companies have computer capability to produce customer lists, thereby necessitating the manual production of customer lists which allegedly will cost thousands of dollars.

RESPONSE: Waste Management's argument is specious. If a company is so large as to have a customer base which would render the production of a customer list burdensome, then by what means does the company maintain a current listing of its customers for billing purposes? Such lists are already produced in the course of conducting business.

COMMENT: Waste Management contends that explaining changes in the number and names of customers from year to year is an unreasonable exercise in that these changes could number in the hundreds or thousands for many companies.

RESPONSE: The repropoed amendment requires collectors to supply an explanation for changes in the number and names of commercial, industrial and institutional customers on a yearly basis and exempts residential customers from this requirement. The Board analyzed the economic effect of this requirement and concluded that requiring an explanation for changes in commercial, institutional and industrial accounts which do not change as often as residential accounts would not be unduly burdensome and is clearly outweighed by the public interest in preventing anticompetitive practices and abuses of the rate structure.

**Full text** of the adoption follows (additions to proposal indicated in boldface with asterisks **\*thus\***).

14:3-10.15 Filing of annual reports and customer lists

(a) Every utility engaged in solid waste collection and solid waste disposal shall file no later than March 31 of each year an annual report on forms to be prescribed by the Board for filing, showing its financial condition on a calendar year basis. Such reports shall also contain a statement of income and expenses for a calendar year period.

(b) Every utility engaged in solid waste collection shall file no later than March 31 of each year, with the Secretary of the Board, a complete list, made under oath, of all residential, commercial, industrial and institutional customers.

1. The list of residential customers shall be subdivided by municipality. Within each municipality, the customers shall be sequentially

numbered and set forth in numerical order by street address and the streets set forth in alphabetical order. The list shall include each customer's complete name and address (including post office box, zip code and any other identifying data) as of December 31 of the preceding year.

2. The list of commercial, industrial or institutional customers shall be set forth as in (b)1 above and, in addition, shall include for each customer the rate schedule(s) applied, frequency and type of service supplied, and number of containers and the size of each.

3. If a change occurs in the total number and/or names of commercial, industrial or institutional customers supplied in the preceding year, the collector shall provide an explanation for the change and the date and docket number of the Board's order, if any, authorizing such change.

4. Pursuant to N.J.S.A. 47:1A-2 of the Right to Know Law, N.J.S.A. 47:1A-1 et seq., the customer lists filed with the Secretary pursuant to this section shall not be deemed to be public records and the public, including solid waste or other utilities, shall not have the right to inspect, copy or obtain a copy of same. Upon receipt of the customer lists, the Secretary of the Board shall keep the lists under lock and take appropriate measures to maintain the lists in confidence. Access to such lists shall be limited to agents, employees and attorneys of the Board and, in the discretion of the Board, governmental agencies responsible for enforcement of laws relating to the collection and disposal of solid waste. All such governmental agencies shall be subject to the confidentiality requirements contained in this paragraph\*, including, but not limited to, county improvement authorities and municipal and county utilities authorities\*.

5. If a collector's Certificate of Public Convenience and Necessity is revoked, or for other good cause as the public interest may demand, the Board in its discretion may disclose the customer list of such collector for purposes of insuring safe, adequate and proper service.

6. Customer list formats are as follows:

i. MODEL RESIDENTIAL CUSTOMER LIST FORMAT

CUSTOMER #	NAME	ADDRESS
1.	ABC	One A Street, Allentown, NJ 10000
2.	DCE	One B Street, Allentown, NJ 10000
1.	FGH	One A Street, Basking Ridge, NJ 20000
2.	IJK	One B Street, Basking Ridge, NJ 20000

ii. MODEL COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL CUSTOMER LIST FORMAT

CUSTOMER #	NAME	ADDRESS
1.	ABC	One A Street, Allentown, NJ 10000
RATE SCHEDULE(S) APPLIED	FREQUENCY AND TYPE OF SERVICE/PER PULL	
No. 10 Waste	2 X Week/Roll Off	
NUMBER AND SIZE OF CONTAINER		
2-8 Cubic Yard		

(a)

**BOARD OF PUBLIC UTILITIES**

**Solid Waste Uniform Tariff**

**Adopted New Rules: N.J.A.C. 14:11-7.6 through 7.9**

**Adopted Amendment: N.J.A.C. 14:11-7.2**

Proposed: September 5, 1989 at 21 N.J.R. 2704(b).

Adopted: December 4, 1989 by the Board of Public Utilities, Christine Todd Whitman, President.

Filed: December 5, 1989 as R. 1990 d.5, with substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 48:2-13, 48:13A-4, and 48:2-21.

Effective Date: January 2, 1990.

Expiration Date: January 27, 1992.

**Summary of Public Comments and Agency Responses:**

**COMMENT:** The Uniform Tariff should be changed in order to allow varying rates to be charged for service on different sized containers in the commercial sector. Such containers carry different capitalization and amortization costs; thus, the service fees should be formulated to take these costs into account.

**RESPONSE:** The impact of capitalization costs on service rates for collectors is minimal in that any benefits obtained by breaking these costs out are overshadowed by the burden such calculations would place on both regulator and the regulated small collectors. In addition, as the Board does not establish cost of service for individual container sizes, but for classes of service, such a breakdown would be of little economic or regulatory benefit.

**COMMENT:** The concept of uniform rates within a county for service should be reconsidered to allow for various service rates based on distance from the disposal facility. There should be an opportunity for collectors to design tariffs that address the cost of service for customers who are closer to a designated disposal facility versus those who are located at a greater distance. This will prevent cross subsidization by different parties.

**RESPONSE:** To allow for costs to be based on distance from a disposal facility is contrary to rate setting practices for any of New Jersey's regulated utilities. It is unfair to penalize ratepayers on the basis of geography by having them pay a higher service rate. Rate payers do not establish the location of their residence or business concerns in relation to a disposal facility. Therefore, the recommendation is rejected.

**COMMENT:** The Uniform Tariff should allow for a compliance date of December 31, 1990.

**RESPONSE:** The Board agrees with this suggestion as it was the original intent of this agency. This change has been incorporated.

**COMMENT:** The tariff should provide for charges by waste type; specifically, ID 10, which is of a different basic composition, should be charged a different rate based on its density.

**RESPONSE:** Such a rate structure would be difficult to enforce and would create numerous customer complaints that could not possibly be resolved. It is true that various commercial waste types have variable densities as a matter of course; however, the total rate structure should be designed to account for most discrepancies created by individual loads.

**COMMENT:** The Uniform Tariff should clearly mention the specific exemption permitted under the Source Separation Act for commercial generators of solid waste.

**RESPONSE:** This exemption would exist whether or not it was mentioned in the tariff. However, as a point of clarity, this language has been included.

**COMMENT:** Mixed waste types as defined create difficulty at disposal facilities. Specifically, collectors are forced to pay the highest rate for disposal regardless of the percentage content of that waste type in their load. It would be preferred if a cut off percentage could be utilized in order to determine the higher charge (for example, greater than 49 percent).

**RESPONSE:** In- and out-of-State disposal facilities treat loads of waste at the highest rate regardless of the percentages of different waste types that these loads contain. Therefore, it is fair and reasonable that the collector be billed at a correspondingly high rate. In turn, the collector has the option to charge the generators who created the higher disposal rate at a rate prescribed by their tariff.

**COMMENT:** Collectors should be allowed to deviate from the compaction ratio of 5:1 as various regions and customer classes will alter compaction potential. In addition, recycling will change the compaction ratios. Therefore, the Board should make it clear that such variations are allowable.

**RESPONSE:** Collectors will be afforded the opportunity to demonstrate that the compaction ratios outlined in the rule are not applicable to that company's situation.

**COMMENT:** If the tariff conversion process results in losses to a given company, what will the Board do to help expeditiously offset these losses via rate proceedings?

**RESPONSE:** The tariff conversion process should not result in losses for solid waste companies if the cost of service for these companies is accurately allocated as of this date. However, as is currently the case, the Board can prescribe interim rate relief proceedings that provide for relief in hardship situations.

COMMENT: The definitions for mixed district loads, recycling and transfer station, should be modified to further prohibit any violations of recycling laws.

RESPONSE: Definitions used in the Uniform Tariff are taken from existing administrative codes and statutes.

COMMENT: The selection of rate schedule provisions in the tariff should be amended for clarity.

RESPONSE: This comment is based on the review of the nonpublished draft. The actual proposed text was adjusted for clarity for initial publication in the New Jersey Register.

COMMENT: The proposed forms in the commercial rate schedules should be amended for clarity and allow for greater flexibility.

RESPONSE: This comment is based on the review of the non-published draft. The actual proposed forms were adjusted for clarity for initial publication in the Register.

COMMENT: Why is the Board requiring an annual county by county, service by service breakdown of actual disposal expenses?

RESPONSE: Such a breakdown will allow the Board to more thoroughly analyze the impact of the tariff and will assure that the disposal component of collectors' rates reflect true disposal costs.

COMMENT: What role will the Board play in educating the public about the new tariff?

RESPONSE: The Board's Division of Solid Waste will educate the collectors at various times throughout the implementation period. The Board already provides public presentations and publications on solid waste issues and the new tariff will become a part of these presentations.

COMMENT: The tariff should allow for minimum-maximum rates.

RESPONSE: Minimum-maximum rates are not the purpose of this rule proposal.

COMMENT: Certain tariff terms and conditions should be amended. Specifically, the termination of service category and the bills and payments for service category should be clarified. In addition, the word "knowingly" should be inserted in the prohibitions category.

RESPONSE: Termination of service and billings have been clarified. The term "knowingly" is inappropriate for inclusion in the prohibition section as it is not likely a company will unknowingly offer services they are not permitted to offer.

#### Summary of Agency Initiated Changes:

1. The Board has revised the rules' implementation schedule at N.J.A.C. 14:11-7.2(c) to provide that all new tariffs filed after January 2, 1990 are required to conform with the format and language as outlined in N.J.A.C. 14:11-7.3, 7.4 and 7.6 through 7.9. All tariffs currently accepted and on file with the Board shall conform with the language and format outlined in N.J.A.C. 14:11-7.3, 7.4 and 7.7 as of January 2, 1990, and N.J.A.C. 14:11-7.8 and 7.9 as of December 31, 1990. This time frame extension will allow for a more orderly transition by existing collectors to the new format.

2. To facilitate rule usage by rate payers and the regulated community, the subject matter of the individual paragraphs in N.J.A.C. 14:11-7.7 has been indicated by brief introductory phrases.

3. N.J.A.C. 14:11-7.7(a)5, regarding prohibitions, is modified to clarify the existing statutory authority for the industry. Collectors can currently provide recycling services under N.J.S.A. 13:1E-99.16(d) whether or not the uniform tariff references this statute.

4. Regarding termination of service, a reference to N.J.A.C. 14:3-7.12 is added at N.J.A.C. 14:11-7.7(a)10 to clarify the notice requirements.

5. N.J.A.C. 14:11-7.7(a)11x is added to clarify the obligations of a solid waste generator pursuant to N.J.S.A. 13:1E-99 et seq., specifically that recyclable material may not be put out for disposal as solid waste. This addition also assists the collector in explaining the generator's obligations in complying with existing law.

6. The addition of "cost of disposal" at N.J.A.C. 14:11-7.7(b)3v is clarification in accordance with the requirements of N.J.A.C. 14:11-7.8 and 7.9 that the collector is required to separate out the cost of disposal.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks **\*[thus]\***):

#### 14:11-7.2 General

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

\*[(c) Effective January 1, 1990, all solid waste collection tariffs shall conform with the format and language as outlined in 14:11-7.3, 7.4 and 7.6 through 7.9.]\*

**\*(c) Effective January 2, 1990 all new tariffs submitted to the Board shall be filed to conform with the format and language as outlined in N.J.A.C. 14:11-7.3, 7.4 and 7.6 through 7.9. All tariffs currently accepted and on file with the Board shall conform with the format and language outlined in N.J.A.C. 14:11-7.3, 7.4 and 7.6 and 7.7 as of January 2, 1990, and sections 7.8 through 7.9 as of December 31, 1990.\***

#### 14:11-7.6 Solid Waste Uniform Tariff; definitions

For purposes of this subchapter, the following words and terms have the following meanings:

"Bulky waste" means waste type 13, N.J.A.C. 7:26-2.13, and includes large items of waste material, such as, appliances, furniture, tires, whole trees, branches, tree trunks and stumps generated by residential, commercial, institutional or industrial sources. Also included are waste building materials and rubble resulting from construction, remodeling, repair and demolition operations on houses, commercial buildings, improvements and other structures. Specifically excluded for the purpose of Board regulation are discarded automobiles, trucks and trailers and large vehicle parts.

"Commercial solid waste" means waste type 10, N.J.A.C. 7:26-2.13, which is normally generated in wholesale, retail or service establishments, including, but not limited to, restaurants, stores, markets, theaters, hotels and warehouses.

"Compacted waste" means waste that has been compressed by non-residential mechanical or hydraulic machinery.

"Dry sewage sludge" means waste type 12, N.J.A.C. 7:26-2.13, and is sludge from a sewage treatment plant which has been digested and dewatered and does not require liquid handling equipment.

"Hazardous waste" means any waste type in N.J.A.C. 7:26-8.1.

"Industrial solid waste" means waste type 27, N.J.A.C. 7:26-2.13, which is normally generated in manufacturing, industrial, and research and development processes and operations which are non-hazardous in accordance with the standards and procedures set forth in N.J.A.C. 7:26-8.1.

"Institutional solid waste" means waste type 10, N.J.A.C. 7:26-2.13, which is normally generated in the operation of institutions, including, but not limited to, hospitals, colleges, schools, nursing homes, medical and dental professional buildings, research and development processes, and laboratories.

"Leaf compost facilities" means those permitted facilities where predominately leaves are composted into a humus product for reuse.

"Limited service" means service that is available only at certain specified hours of the day or season of the year.

"Liquid wastes" means waste types 72, 73, and 74, N.J.A.C. 7:26-2.13, including bulk liquids and semi-liquids, septic tank cleanout wastes and liquid sewage sludge. They include liquids or a mixture consisting of solid matter suspended in a liquid media which is contained within, or is discharged from, any one vessel, tank, other container which has the capacity of 20 gallons or more (not included is waste type 12); pumping from septic tanks and cesspools; and liquid residue from a sewage treatment plant consisting of sewage solids combined with water and dissolved materials.

"Loose waste" means waste that is un-compacted.

"Mixed district loads" means waste of the same type but from different solid waste management districts contained in the same container.

"Mixed waste types" means two or more waste types in the same container.

"Multiple dwelling" means any building of one or more stories which contains three or more dwelling units. The solid waste generated by residents of a multiple dwelling may be considered ID 10 commercial for economic regulation purposes.

"Recycling" means any process by which materials which would otherwise become solid waste are collected, separated, or processed and returned to the economic mainstream in the form of raw materials or products. Materials to be recycled include those materials as defined in P.L. 1987, c.102 (N.J.S.A. 13:1E-99) and county solid waste management plans.

"Residential refuse collection, basic service, curb collection" means service by the collector which requires collection by the collector at the curb of the residence.

"Residential refuse collection, basic service, drive-in" means service by the collector which requires collection by the collector at a point other than the curb of the residence, and requires the collector to drive the collection vehicle beyond the curb in order to make the collection.

"Residential refuse collection, basic service, walk-in" means service by the collector at a point other than the curb of the residence involved, provided such other collection point does not require the collector to drive the collection vehicle beyond the curb to the point of collection, or walk a distance greater than 50 feet from curblines.

"Residential refuse collection, special collection" means service that requires the collection of residential solid waste at irregular intervals.

"Residential solid waste" means waste type 10, N.J.A.C. 7:26-2.13, which is normally generated in the day to day activities of a residence and includes animal and vegetable waste resulting from the handling, processing, preparing, cooking and consuming of food, and includes household liquids except used motor oil and grass clippings.

"Resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of the metals and other materials for refuse, or a mechanized compost facility or any other solid waste facility constructed or operated for the collection, separation, recycling of metals, glass, paper and other materials for reuse or for energy production. N.J.S.A. 13:1E-137.

"Sanitary landfill" means a permitted solid waste facility, at which solid waste is deposited on or into the land as fill for the purpose of permanent disposal or storage for a period of time exceeding six months, except that it shall not include any waste facility approved for disposal of hazardous waste. N.J.S.A. 13:1E-3.

"Transfer station" means a facility at which solid waste is transferred from one solid waste collection vehicle to a licensed solid waste vehicle for transportation to a solid waste facility. N.J.A.C. 7:26-1.4.

"Vegetative waste" means waste type 23, N.J.A.C. 7:26-2.13, and includes waste materials from farms, plant nurseries and greenhouses that are produced from the raising of plants. This waste includes such crop residues as plant stalks, hulls, leaves and tree wastes processed through a wood chipper.

#### 14:11-7.7 Tariff terms and conditions

(a) The following terms and conditions shall apply to all solid waste collection companies.

1. **\*Access to containers:** The solid waste collection utility shall have unencumbered access to any customer's container, utility container or other area from which solid waste is to be collected. If containers are located in an enclosed structure, said structure must allow for access. In the event that the structure prevents access, the collector shall not be required to remain on the premises to attempt collection. The collector may leave, and shall return on the next regularly scheduled collection date. All containers and areas from which solid waste is to be collected must be kept free from all hazards and potential hazards. During periods of inclement weather, containers are to be reasonably free from ice and snow.

2. **\*Collection of Solid Waste:** Collection services shall be provided according to a schedule contained in an accepted tariff.

3. **\*Miscellaneous Service:** The collector may provide collection for yard clippings, garden refuse and other types of solid waste not provided for in the basic service. Specific provisions must be outlined in the appropriate service section of the collector's tariff.

4. **\*Special Packaging and Treatment:** The collector may require that solid waste potentially dangerous to health and liable to cause injury be packaged in a manner which limits the possibility of exposure and/or injury.

5. **\*Prohibitions:** Collectors are prohibited from offering to collect commingled loads of solid waste and designated source separated recyclable materials\*, **except in those instances where a specific municipal exemption has been granted to the generator of those materials as provided by N.J.S.A. 13:1E-99.16(d).**\* Each solid waste management plan contains a definition of the district's designated recyclables.

i. Collectors are prohibited from disposing of leaves as outlined in N.J.S.A. 13:1E-99.21.

6. **\*Failure to Pick-Up:** Should the collector fail to pick up solid waste on a regularly scheduled day, and such failure is not due to any action or inaction of the customer, the collector shall make the pick up as soon as possible.

7. **\*Interruption of Service (Inclement Weather):**\* In the event of inclement weather when operation of a solid waste collection vehicle would pose a threat to the safety and welfare of the public and/or the equipment and personnel of the collector, collections will be made no later than the next regularly scheduled pick-up. In those cases where collection is scheduled on a one collection per week basis, that collection will be made as soon as possible.

8. **\*Discontinuance of Service (Company Initiated):**\* Service to a customer may be discontinued in accordance with the provisions of N.J.A.C. 14:3-7.12, Billing, payments, deposits.

9. **\*Discontinuance or Suspension of Service (Customer Request):**\* Residential customers who wish to discontinue or suspend service for periods of 30 days or more must give notice to the utility not less than 30 days prior to the date they wish temporary discontinuance of service and indicate the date they wish service to resume. Failure to notify the utility will result in no reduction of monthly rate billed.

10. **\*Termination of Service:**\* The solid waste collection utility shall have the right to terminate a customer's service upon seven days written notice for any of the following acts or omissions on the part of the customer **\*as outlined in N.J.A.C. 14:3-7.12.\***

i. Non-payment of a valid bill at a present or previous location. Non-payment of bill for service to a commercial establishment shall not be cause for discontinuance of residential service;

ii. Tampering with any facility of the utility;

iii. Fraudulent representation in relation to use of service;

iv. Customer moving from the premises unless the customer requests that the service be continued;

v. Providing a utility's service to others without approval of the utility; or

vi. Failure to make or increase an advance payment or deposit as provided for in the utility's tariff.

11. **\*Refusal of Service:**\* The collector shall have the right to refuse pick-up of waste for any of the following reasons:

i. Waste is not placed in proper containers;

ii. Waste is not placed at designated pick-up location;

iii. Waste contains hazardous material (as defined in N.J.A.C. 7:26-8.1), matter is likely to cause injury to the public or the collector's personnel;

iv. Waste is not placed out for collection on the scheduled day;

v. Passage on the street or into the property is obstructed in any way by the operations to pave the street, by the digging of water or sewer lines or other type of construction. Pick up will be provided for the next scheduled day;

vi. The collector is asked to move his vehicle by an authorized government official or a member of the local police or fire department because the customer, either residential, commercial or industrial, has not provided either adequate or legal parking for the collection of garbage, refuse or solid waste. Under these circumstances, the collector may leave and not be obligated to return until the next regularly scheduled date;

vii. Containers exceed prescribed weight or volume limits as prescribed in the collector's tariff;

viii. Containers are over filled or overflowing; **\*[or]\***

ix. The particular service and/or waste type is not included in the collector's tariff<sup>2</sup>; **or\***

**\*x. Solid waste is commingled with designated source separated recyclable material.\***

**\*Bills and Payments for Service:**\* The following provisions shall apply to all solid waste collection companies regarding billings and payments for services:

1. **\*Billings:**\* The collector may bill customers for service on a monthly basis in advance. Bills for payment of services shall be mailed to the address indicated by the customer at the time service is requested, absent subsequent notice by the customer.

2. If the collector does not utilize advanced billing, residential, commercial and industrial solid waste collection billings are to be made with payment due in 30 days and payable within 10 days after the month's service has been rendered. If payment has not been

received after 10 days after the date the bill was payable, then the collector may discontinue the service of the customer providing seven days written notice is given (see N.J.A.C. 14:3-7.12).

3. All bills for collection will include the following information:
  - i. The date of the bill;
  - ii. The time period for which the service is rendered;
  - iii. The type of and frequency of service;
  - iv. The tariff rate applied;

**\*v. Cost of disposal;\***

\*[v.]\***vi.\*** The number and size of containers, where applicable;

\*[vi.]\***vii.\*** The total quantity of waste collected;

\*[vii.]\***viii.\*** A separate line item showing the surcharge applied as required by the Recycling Act, N.J.S.A. 13:1E-99 et seq., and the Sanitary Landfill Facility Closure and Contingency Fund Act, N.J.S.A. 13:1E-100 et seq.;

\*[viii.]\***ix.\*** A separate line item showing the surcharge applied, if any, pursuant to P.L. 1981, c. 438, to fund county health department enforcement activities, N.J.S.A. 13:1E-9.1;

\*[ix.]\***x.\*** Separate line items showing the Solid Waste Service Tax, Resource Recovery Investment Tax and, if applicable, Solid Waste Importation Tax, N.J.S.A. 13:1E-136 et seq.; and

\*[x.]\***xi.\*** A separate line item showing the Host Community Benefit surcharge, if any.

4. **\*Credits:\*** Residential rates are based on an annual service. No credit will be extended to the customer or deduction allowed should the collector fail to make a collection for reasons outside the collector's control, or should the customer not provide refuse, garbage or solid waste for collection except as allowed in N.J.A.C. 14:11-7.7(a)9.

5. **\*Deposits:\*** If credit has not been established by the customer, the collector may, at his option, request a reasonable deposit as a condition of providing service. Initial deposits are not to exceed one month's estimated charges. All deposits retained by the utility will bear interest at the rate of nine percent per annum simple interest, N.J.A.C. 14:3-7.2 and 7.5. Periodic review of a customer's credit worthiness and the appropriate level of deposit, where necessary, will be performed according to the guidelines specified in N.J.A.C. 14:3-7.2 and 7.5. Deposits are to be returned to the customer with accumulated interest after satisfactory credit has been established.

i. Customers who have defaulted in payment of bills may be required to furnish a deposit or increase an existing deposit to secure payment of future bills. Failure to make required deposits may be considered cause for discontinuance of service after the required seven days notice is given in writing. Customers having deposits with the collector who fail to pay their bills may have their deposits used by the collector to pay existing bills and be required to bring deposits to a satisfactory level, within a reasonable time period as a condition of service, as outlined in N.J.A.C. 14:3-7.3(b).

6. **\*Gratuities:\*** No customer shall be required to pay, reward or to give any additional gratuity to receive the waste collection services to which he is entitled by contract or regulation.

7. **\*Acknowledgment of Service/Receipts:\*** The collector may require from institutional, commercial and industrial customers a written acknowledgment of services rendered (receipt). Such receipt will be provided by the collector and may state the date, time of arrival, time of departure, amount of refuse removed as well as other information reasonably necessary for account billing. The collector shall provide a copy of the receipt to the customer.

8. **\*Selection of Rate Schedule:\*** Where more than one rate schedule is available to a particular customer, the utility shall have at all times the responsibility to assist such customers in the selection of the rate schedule most favorable for their individual requirements and to make every reasonable effort to ensure that such customers are served under the most advantageous schedule.

14:11-7.8 Directions for filing solid waste tariffs

(a) All solid waste collection utility tariffs shall conform to the outline prescribed in this subchapter. Language included in this section shall be incorporated exactly as outlined. All services and charges therefor shall be outlined using the component rate structures and formulas provided in N.J.A.C. 14:11-7.7 and this section unless otherwise noted herein. Each type of service offered must be listed on a separate page, by county and arranged alphabetically by county.

All solid waste collection utilities shall, on or before December 31, 1990, revise their tariffs to conform to the requirements of this subchapter. All initial tariffs filed after December 31, 1989 shall conform to the requirements of this subchapter. The following steps in (b) through (d) shall be used to convert existing tariff rates to the format contained in this subchapter. The conversion methodology employed herein utilizes an average compaction ratio of five to one for residential solid waste, and an average conversion ratio of 3.3 cubic yards of compacted waste to one ton.

(b) Residential service (volume) monthly disposal charge shall be calculated as follows:

1. Size of cans/bags picked up \_\_\_\_\_ gallons.
2. Number of cans/bags per pick-up \_\_\_\_\_ .
3. Number of pick-ups per week \_\_\_\_\_ .
4. Multiply line 1 × line 2 = \_\_\_\_\_ .
5. Multiply line 4 × line 3 = \_\_\_\_\_ gallons per week.
6. Multiply line 5 × 52 weeks = \_\_\_\_\_ gallons per year.
7. Divide line 6 by 202 = \_\_\_\_\_ cubic yards.
8. Divide line 7 by 5 = \_\_\_\_\_ compacted cubic yards.
9. Divide line 8 by 3.3 = \_\_\_\_\_ tons/yr per customer.
10. Multiply line 9 by disposal cost/ton (excluding taxes and surcharges) = \_\_\_\_\_ disposal cost/year.
11. Divide line 10 by 12 = \_\_\_\_\_ monthly disposal charge.

(c) Residential service (weight) monthly disposal charge shall be calculated as follows:

1. Allowable weight per can/bag \_\_\_\_\_ lbs.
2. Number of cans/bags per pick-up \_\_\_\_\_ .
3. Number of pick-ups per week \_\_\_\_\_ .
4. Multiply line 2 × line 3 \_\_\_\_\_ .
5. Multiply line 4 × 52 weeks \_\_\_\_\_ .
6. Multiply line 5 × allowable weight of containers \_\_\_\_\_ lbs.
7. Divide line 6 by 2000 \_\_\_\_\_ tons.
8. Multiply line 7 by disposal cost/ton (exclusive of surcharges, taxes) \_\_\_\_\_ disposal cost/year.
9. Divide line 8 by 12 \_\_\_\_\_ monthly disposal charge.

(d) Container service monthly disposal charge shall be calculated as follows:

1. Container size \_\_\_\_\_ cubic yards.
2. Number of pick-ups per week (or month) \_\_\_\_\_ .
3. Multiply line 1 × line 2 \_\_\_\_\_ cubic yards.
4. Multiply line 3 × 52 for weekly pick-up or 12 for monthly pick-up \_\_\_\_\_ cubic yards/year.
5. Divide line 4 by 5 \_\_\_\_\_ compacted cubic yards per year.
6. Divide line 5 by 3.3 \_\_\_\_\_ tons per year.
7. Multiply line 6 by disposal cost per ton (exclusive of surcharges, taxes) \_\_\_\_\_ disposal charge per year.

**PUBLIC UTILITIES**

**ADOPTIONS**

8. Divide line 7 by 12 \_\_\_\_\_ monthly disposal charge.

(e) In converting to this tariff format, collection utilities shall be required to certify, in a form prescribed by the Board, to the following:

- 1. That rates have not changed as a result of the conversion to the uniform tariff;
- 2. That the disposal components contained in the tariff are based on the container weights established by the Board;
- 3. That no services have changed as a result of the conversion to the uniform tariff;
- 4. That no additional service areas or collection services have been added during conversion to the uniform tariff;
- 5. That the tariff rates contained in the collector's uniform tariff are and will continue to be charged to all customers of the utility; and
- 6. Effective with the Annual Report for the year 1990, a county by county breakdown of disposal expenses, which includes allocation of disposal expenses among residential, commercial, industrial, and contractual (municipal segregated from others) services.

14:11-7.9 Solid waste uniform tariff forms

(a) All solid waste collection utilities shall use the following forms in filing their solid waste uniform tariff:

**TARIFF COVER PAGE**

1. Application

This Tariff contains the regulations and schedules of rates governing services and equipment furnished by a public utility and holder of a Certificate of Public Convenience and Necessity (#\_\_\_\_\_) for the collection and/or disposal of solid waste. The Utility's principal location is:

street address \_\_\_\_\_  
 town/city \_\_\_\_\_ state \_\_\_\_\_  
 zip \_\_\_\_\_, telephone (\_\_\_\_) \_\_\_\_\_.

2. Territory Served

Solid Waste Collection Services are provided by the collector as set forth in this document and are applicable in the Counties of:

- A
- B
- C
- etc.

By the filing of this Tariff Document, the Utility named above agrees to conform with all rules and regulations promulgated by the County Solid Waste Management Plans, the Board of Public Utilities and the New Jersey Department of Environmental Protection in accordance with *N.J.S.A. 48:1 et seq.*, & *N.J.S.A. 13:1E et seq.*

3. Hours and Dates of Operation

The collector shall pick up waste between the hours of \_\_\_\_\_ a.m. and \_\_\_\_\_ p.m. throughout the year \_\_\_\_\_ days per week with the exception of the following holidays: \_\_\_\_\_

When a scheduled collection day occurs on a listed holiday, collection will be made on the next scheduled day. In those cases where collection is scheduled on one collection per week basis, collection will be made within 48 hours.

4. Change Notations

When a tariff revision is submitted, new items are to be underlined. Items to be removed from the tariff are to be placed in brackets [ ]. All changes shall be followed by a listing of the Board's Docket Numbers and the effective change date in parenthesis ( ).

5. Liability Statement (if applicable)

**RESIDENTIAL SERVICE**

Table of Contents	Page
1. DESCRIPTION .....	00
2. GENERAL PROVISIONS .....	00
3. CONTAINERS .....	00
4. TERMS OF PAYMENT .....	00
5. APPLICATION OF CHARGES .....	00
SERVICE CHARGE .....	00
DISPOSAL CHARGE .....	00

**RESIDENTIAL SERVICE**

1. Description

This section contains the general provisions and charges applicable to the provision of residential solid waste service.

2. General Provisions:

Service is limited to collection and disposal of residential solid waste as defined in 14:11-7.6. Supplemental services, if any, are provided for in the miscellaneous service section of these forms.

3. Containers:

Containers are limited to a maximum capacity of \_\_\_\_\_.

4. TERMS OF PAYMENT:

RESIDENTIAL SERVICE

5. Application of Charges

The rates contained herein do not include applicable taxes and surcharges. These charges are listed on the customer's bill as prescribed in the Tariff Terms and Conditions *N.J.A.C. 14:11-7.7(b)*.

Application in _____ County		Waste Directed to _____ Disposal Facility	
Service Charge	Disposal Charge _____ Containers Per Pick-up @ _____ gals or lbs. or Per Container Charge if applicable	Additional Container Charge (if applicable)	Monthly Charge
Curbside Service (if applicable)			
1 X /wk	_____ + _____	+ _____	= _____
2 X /wk	_____ + _____	+ _____	= _____
other_____	_____ + _____	+ _____	= _____

Walk in Service * (if applicable)			
1 X /wk	_____ + _____	+ _____	= _____
2 X /wk	_____ + _____	+ _____	= _____
other_____	_____ + _____	+ _____	= _____

\*Additional Walk in Fee for each 50 ft. increment or part thereof beyond Standard walk in distance of 50 ft.  
(Customer Note: To determine total walk-in rate add appropriate additional walk in fee to total rate from above.)

Drive in Service (if applicable)			
1 X /wk	_____ + _____	+ _____	= _____
2 X /wk	_____ + _____	+ _____	= _____
other_____	_____ + _____	+ _____	= _____

(Add pages for each county serviced. Arrange alphabetically by county.)

COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL SERVICE CONTAINER SERVICE

3. Containers: (includes number and size of containers)

Table of Contents	Page
1. DESCRIPTION .....	00
2. GENERAL PROVISIONS .....	00
3. CONTAINERS .....	00
4. CONTAINER OWNERSHIP .....	00
5. JOINT USE/SHARING .....	00
6. TERMS OF PAYMENT .....	00
7. APPLICATION OF SERVICE CHARGES .....	00

4. Container Ownership:

5. Joint Use/Sharing

Sharing of containers is prohibited unless prior arrangements are made with the collector concerning joint use of the container. Waste quantity, container rental and service charges will be assessed based upon the percentage use of each customer.

6. Terms of Payment

7. Application of Charges

The rates contained herein do not include applicable taxes and surcharges. These charges are listed on each customers bill as prescribed in Tariff Terms and Conditions *N.J.A.C. 14:11-7.7(b)*.

CONTAINER SERVICE

1. Description

This section contains the general provisions and charges applicable to the provision of containerized general service.

2. General Provisions:

WASTE TYPE—COMPACTED

DISPOSAL CHARGE

	FREQUENCY OF SERVICE			PICK-UPS PER WEEK/MONTH			OTHER
	1	2	3	4	5	6	
CONTAINER SIZE in cubic yards							
1	—	—	—	—	—	—	—
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
OTHER							
SERVICE CHARGE	—	—	—	—	—	—	—

MINIMUM MONTHLY SERVICE CHARGE \_\_\_\_\_  
(if applicable)

7. Application of Charges

The rates contained herein do not include applicable taxes and surcharges. These charges are listed on each customers bill as prescribed in Tariff Terms and Conditions *N.J.A.C.* 14:11-7.7(b).

WASTE TYPE—UNCOMPACTED

Front Rear (circle one)

DISPOSAL CHARGE

	FREQUENCY OF SERVICE			PICK-UPS PER WEEK/MONTH			OTHER
	1	2	3	4	5	6	
CONTAINER SIZE in cubic yards							
1	—	—	—	—	—	—	—
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
OTHER							
SERVICE CHARGE	—	—	—	—	—	—	—

MINIMUM MONTHLY SERVICE CHARGE \_\_\_\_\_  
(if applicable)

7. Application of Charges

The rates contained herein do not include applicable taxes and surcharges. These charges are listed on each customers bill as prescribed in Tariff Terms and Conditions *N.J.A.C.* 14:11-7.7(b).

WASTE TYPE—BULKY

DISPOSAL CHARGE

	FREQUENCY OF SERVICE			PICK-UPS PER WEEK/MONTH			OTHER
	1	2	3	4	5	6	
CONTAINER SIZE in cubic yards	1	2	3	4	5	6	
	2						
	3						
	4						
	5						
	6						
	7						
	8						
	9						
	10						
	11						
	12						
OTHER							
SERVICE CHARGE	—	—	—	—	—	—	—

MINIMUM MONTHLY SERVICE CHARGE \_\_\_\_\_  
(if applicable)

7. Application of Charges

The rates contained herein do not include applicable taxes and surcharges. These charges are listed on each customers bill as prescribed in Tariff Terms and Conditions N.J.A.C. 14:11-7.7(b).

ON CALL SERVICE

DISPOSAL CHARGE

WASTE TYPE

	BULKY	COMPACTED	UNCOMPACTED		SERVICE Charge
			Front Load	Rear Load	
CONTAINER SIZE in cubic yards	1				
	2				
	3				
	4				
	5				
	6				
	7				
	8				
	9				
	10				
	11				
	12				
OTHER					

ADDITIONAL CHARGES (if any) \_\_\_\_\_

CONTAINER RENTAL (if applicable) \_\_\_\_\_

ROLLOFF SERVICE (Open Container)

ROLLOFF SERVICE (Open Container)

Table of Contents	Page
1. DESCRIPTION .....	00
2. GENERAL PROVISIONS .....	00
3. JOINT USE/SHARING .....	00
4. TERMS OF PAYMENT .....	00
5. SPECIAL PROVISIONS .....	00
A .....	00
B .....	00
C .....	00
6. APPLICATION OF CHARGES .....	00

1. Description

This section contains the general provisions and charges applicable to the provision of open container (limited and general) rolloff service.

2. General Provisions

Service is limited to the collection and disposal of acceptable commercial, industrial, institutional or bulky solid waste as defined in N.J.A.C. 14:11-7.6. Service is rendered via an open box type container which is rolled off or pulled on the chassis of a straight truck or semi-trailer by gravitational or mechanical means.

3. Joint Use/Sharing

Sharing of containers is prohibited unless prior arrangements are made with the collector concerning joint use of the container. Waste quantity and container rental and service charges will be applied based upon the percentage use of each customer.

4. Terms of Payment

5. Special Provisions (if applicable)

- A.
- B.
- C.

6. Application of Charges

The rates contained herein do not include applicable taxes and surcharges. These charges are listed on each customers bill as prescribed in Tariff Terms and Conditions N.J.A.C. 14:11-7.7(b).

ROLLOFF SERVICE (OPEN CONTAINER)

SERVICE CHARGE

	FREQUENCY OF SERVICE						OTHER (INCLUDES) (ON CALL) (if applicable)
	1	2	3	4	5	6	
CONTAINER SIZE IN CUBIC YARDS	15	20	25	30	35	40	
OTHER							

Disposal Charge = Actual Disposal Charge at Designated Disposal facility.

Other Charges (includes rental, etc.)

6. Application of Charges

The rates contained herein do not include applicable taxes and surcharges. These charges are listed on each customers bill as prescribed in Tariff Terms and Conditions N.J.A.C. 14:11-7.7(b).

ROLLOFF SERVICE (CLOSED COMPACTED)

SERVICE CHARGE

	FREQUENCY OF SERVICE						OTHER (INCLUDES) (ON CALL) (if applicable)
	1	2	3	4	5	6	
CONTAINER SIZE IN CUBIC YARDS	15	20	25	30	35	40	
OTHER							

Disposal Charge = Actual Disposal Charge at Designated Disposal facility.

Other Charges (includes rental, etc.)

MISCELLANEOUS SERVICE

Table of Contents	Page
1. DESCRIPTION .....	00
2. GENERAL PROVISIONS .....	00
3. BULKY WASTE COLLECTION .....	00
3A. TERMS OF PAYMENT .....	00
3B. APPLICATION OF CHARGES .....	00
I. SERVICE CHARGE .....	00
II. DISPOSAL CHARGE .....	00
4. SEASONAL SERVICE .....	00

4A. TERMS OF PAYMENT .....	00
4B. APPLICATION OF CHARGES .....	00
5. ADDITIONAL SERVICES .....	00
5A. DESCRIPTION .....	00
5B. TERMS OF PAYMENT .....	00
5C. SPECIAL PROVISIONS .....	00
5D. APPLICATION OF CHARGES .....	00

MISCELLANEOUS SERVICE

1. Description

This section contains the general provisions and charges applicable to the provision of solid waste collection services which are ancillary

**ADOPTIONS**

**TRANSPORTATION**

to a customer's main service and are not otherwise provided for in other classes of service.

**2. General Provisions**

Service is rendered on a limited basis.

**BULKY WASTE COLLECTION**

**3. Bulky Waste Collection**

The following subsection contains the general provisions and charges applicable to the provision of collection and removal services for bulky refuse as defined in Solid Waste Uniform Tariff definitions at N.J.A.C. 14:11-7.6 definitions section.

Individual items placed out for collection, but not placed in a rolloff, should not exceed a gross weight of \_\_\_\_\_

Waste placed out for collection should be neatly stacked or arranged as to allow for safe, orderly collection.

**3A. Terms of Payment**

**3B. Application of Charges**

The rates contained herein do not include applicable taxes and surcharges. These charges will be outlined on customers bills as prescribed in Tariff Terms and Conditions N.J.A.C. 14:11-7.7(b).

**Service Charge/Disposal Charge**

(applicable to On Call Service which requires special pick-ups for items or bulk too small for rolloff and too large for the hopper of a standard collection vehicle).

Items to be Collected

- 1 Construction/demolition debris
  - 2 stumps
  - 3 stoves
  - 4 etc. . . .
- List types of waste handled.

	Service	Rate	Disposal

(Waste Directed to ( ) Disposal Facility)

**4. Seasonal Service**

The following subsection contains the general provisions and charges applicable to the provision of residential solid waste services on a limited basis and restricted to collection and removal of yard clippings and garden waste.

Service is provided on a seasonal basis from \_\_\_\_\_ to \_\_\_\_\_ of each year.

Containers must not exceed \_\_\_\_\_ (lbs. or gals.)

Waste other than that provided for herein, **WILL NOT BE REMOVED.**

**4A. Terms of Payment**

**4B. Application of Charges**

The rates contained herein do not include applicable taxes and surcharges. These charges will be outlined on customer bills as prescribed in Tariff Terms and Conditions N.J.A.C. 14:11-7.7(b).

I. Service Charges:

II. Disposal Charges:

**5. Additional Service**

The following subsection contains the general provisions and charges applicable to the provision of solid waste collection service not otherwise provided for in the tariff.

This section is reserved for solid waste utilities to outline those services not otherwise provided for in this document. General format procedures as described herein must be followed and all variations must be submitted by formal petition to the Board for consideration and approval.

**5A. Description of Service:**

**5B. Terms of Payment:**

**5C. Special Provisions (if applicable):**

5D. The rates contained herein do not include applicable taxes and surcharges. These charges will be outlined on customer bills as prescribed in Tariff Terms and Conditions N.J.A.C. 14:11-7.7(b).

I. Service Charge:

II. Disposal Charge:

Waste Directed to ( ) Disposal Facility

**TRANSPORTATION**

(a)

**DESIGN AND RIGHT OF WAY**

**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID**

**BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

**Restricted Parking and Stopping**

**Routes U.S. 9 in Ocean County; N.J. 20 in Bergen County; U.S. 30 in Camden County; N.J. 49 in Cumberland County; N.J. 77 in Cumberland County; U.S. 206 in Sussex County; U.S. 9W in Bergen County; N.J. 161 in Passaic County; U.S. 322 in Gloucester County; and N.J. 91 in Middlesex County**

**Adopted Amendments: N.J.A.C. 16:28A-1.7, 1.10, 1.21, 1.34, 1.41, 1.57, 1.61, 1.85, 1.93 and 1.110**

Proposed: October 16, 1989 at 21 N.J.R. 3256(a).

Adopted: November 16, 1989 by John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.

Filed: December 6, 1989 as R.1990 d.10, **without change.**

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

Effective Date: January 2, 1990.

Expiration Date: June 1, 1993.

**Summary of Public Comments and Agency Responses:**

**No comments received.**

**Full text of the adoption follows.**

**16:28A-1.7 Route U.S. 9**

(a) The certain parts of State highway Route U.S. 9 described in this subsection shall be designated as "no stopping or standing" zones where stopping or standing is prohibited at all times.

1.-18. (No change.)

19. No stopping or standing in Little Egg Harbor Township, Ocean County:

i. Along the west side:

(1) Between a point 200 feet north of Railroad Avenue to a point 200 feet south of Railroad Avenue.

ii. Along both sides:

(1) Beginning at the northerly curb line of Giffordtown Road and extending to a point 150 feet north of the northerly curb line of Gale Road. Except in approved Bus Stop areas.

20. (No change.)

(b) (No change.)

**16:28A-1.10 Route 20**

(a) The certain parts of State highway Route 20 described in this subsection shall be designated and established as "no stopping or standing" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-2. (No change.)

(b) The certain parts of State highway Route 20 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the

**TRANSPORTATION**

**ADOPTIONS**

provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:

- 1. (No change.)
- 2. Along (Paterson Plank Road) the eastbound (southerly) side in the Borough of East Rutherford, Bergen County.
  - i. Mid-block bus stops:
    - (1) (No change.)
    - (2) Murray Hill Parkway—Beginning 200 feet of the westerly curb line and extending 135 feet westerly therefrom.

16:28A-1.21 Route U.S. 30

- (a) (No change.)
- (b) The certain parts of State Highway Route U.S. 30 described in this subsection shall be designated and established as “no parking” zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:

- 1. In Magnolia Borough, Camden County:
  - i. Along the northbound (easterly) side:
    - (1) Far side bus stop:
      - (A) Warwick Road—Beginning at the westerly curb line of Warwick Road and extending 160 feet westerly therefrom.
    - ii. Along the (White Horse Pike) eastbound (southerly) side:
      - (1) Near side bus stops:
        - (A) Marion Road—Beginning at the westerly curb line of Marion Road and extending 120 feet westerly therefrom.
        - (B) Monroe Avenue—Beginning at the westerly curb line of Monroe Avenue and extending 105 feet westerly therefrom.
      - (2) Far side bus stops:
        - (A) Evesham Road—Beginning at the easterly curb line of Evesham Road and extending 100 feet westerly therefrom.
      - iii. Along the (White Horse Pike) westbound (northerly) side:
        - (1) Near side bus stops:
          - (A) Monroe Avenue—Beginning at the westerly prolonged curb line of Monroe Avenue and extending 105 feet easterly therefrom.
          - (B) Evesham Road—Beginning at the easterly curb line of Evesham Road and extending 105 feet easterly therefrom.
          - (C) Warwick Road—Beginning at the easterly curb line of Warwick Road and extending 105 feet easterly therefrom.
  - 2.-29. (No change.)

16:28A-1.34 Route 49

- (a)-(c) (No change.)
- (d) The certain parts of State highway Route 49 described in this subsection are designated and established as “no stopping or standing” during certain hours zones where parking is prohibited as specified. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established zones:

- 1. In the City of Bridgeton, Cumberland County:
  - i. No stopping or standing during certain hours:
    - (1) Along the southerly side:
      - (A) From the intersection of West Avenue to the intersection of Lawrence Street between the hours of 7:00 A.M. to 3:00 P.M. Monday through Friday.

16:28A-1.41 Route 77

- (a) (No change.)
- (b) The certain parts of State highway Route 77 described in this subsection shall be designated and established as “no parking” zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:

- 1. In the City of Bridgeton, Cumberland County:
  - i. Along the southbound side:
    - (1) Far side bus stop:
      - (A) Washington Street (85 feet).
    - ii. Along (Pearl) northbound (easterly) side:
      - (1) Far side bus stop:
        - (A) Washington Street—Beginning at the northerly curb line of Washington Street and extending 100 feet northerly therefrom.

- (2) Near side bus stop:
  - (A) Irving Avenue—Beginning at the southerly curb line of Irving Avenue and extending 105 feet southerly therefrom.
  - iii. Along (Pearl) southbound (westerly) side:
    - (1) Near side bus stops:
      - (A) Irving Avenue—Beginning at the northerly curb line of Irving Avenue and extending 105 feet northerly therefrom.
      - (B) Washington Street—Beginning at the northerly curb line of Washington Street and extending 105 feet northerly therefrom.
  - 2.-4. (No change.)
  - (c) (No change.)

16:28A-1.57 Route U.S. 206

- (a) The certain parts of State highway Route U.S. 206 described in this subsection shall be designated and established as “no stopping or standing” zones:
  - 1.-25. (No change.)
  - 26. In Andover Township, Sussex County:
    - i. Along both sides:
      - (1) For the entire length within the corporate limits of Andover Township including all ramps and connections under the jurisdiction of the Commissioner of Transportation. Signs to be posted only in areas where an official township resolution has been submitted.
    - (b)-(c) (No change.)

16:28A-1.61 Route U.S. 9W<sup>2</sup>

- (a) The certain parts of State highway Route U.S. 9W described in this subsection shall be designated and established as “no parking” zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:
  - 1.-3. (No change.)
  - 4. Along the northbound (easterly) side in Englewood Cliffs Borough, Bergen County:
    - i.-ii. (No change.)
    - iii. Mid-block bus stop:
      - (1) Charlotte Place—Beginning at a point 520 feet north of the northerly curb line of Charlotte Place and extending 135 feet north-erly therefrom.
    - 5.-8. (No change.)
  - (b) The certain parts of State highway Route U.S. 9W described in this subsection are designated and established as “no stopping or standing” zones where stopping or standing is prohibited at all times.
    - i.-iii. (No change.)
    - iv. Along both sides:
      - (1) Clifton Avenue—Beginning at the southerly curb line of Van Houten Avenue to Olga Terrace between the hours of 7:00 A.M. and 9:00 A.M. and 4:00 P.M. to 6:00 P.M. daily.
    - (b) (No change.)

16:28A-1.85 Route 161

- (a) The certain parts of State highway Route 161 described in this subsection are designated and established as “no stopping or standing” zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.
  - 1. No stopping or standing in Clifton City, Passaic County:
    - i. Along both sides:
      - (1) Clifton Avenue—Beginning at the southerly curb line of Van Houten Avenue to Olga Terrace between the hours of 7:00 A.M. to 9:00 A.M. and 4:00 P.M. to 6:00 P.M.
    - ii. (No change in text.)
    - (b) (No change.)

16:28A-1.93 Route U.S. 322

- (a) The certain parts of State highway Route U.S. 322 described in this subsection are designated and established as “no stopping or standing” zones where stopping or standing is prohibited at all times.
  - 1.-3. (No change.)
  - 4. No stopping or standing in Glassboro Borough, Gloucester County:
    - i. Along both sides:
      - (1) For the entire length within the corporate limits of the Borough of Glassboro including all ramps and connections under the jurisdic-

tion of the Commissioner of Transportation except in approved designated bus stops and time limit parking areas. Signs to be posted only in areas where an official township resolution has been submitted.

16:28A-1.110 Route 91

(a) The certain parts of Route 91 described in this subsection are designated and established as "no stopping or standing" zones where stopping or standing is prohibited.

1. No stopping or standing in North Brunswick Township, Middlesex County:

- (1) (No change.)
- (2) From How Lane to Orchard Street.

**(a)**

**DESIGN AND RIGHT OF WAY  
DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID  
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

**Miscellaneous Traffic Rules  
Lane Usage**

**Route U.S. 1 in Mercer County**

**Adopted Concurrent New Rule: N.J.A.C. 16:30-3.6**

Proposed: October 16, 1989 at 21 N.J.R. 3317(a).  
Adopted: November 21, 1989 by John F. Dunn, Jr., Director,  
Division of Traffic Engineering and Local Aid.  
Filed: December 6, 1989 as R.1990 d.8, **without change.**  
Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:1A-44, 27:7-21, and 39:4-6.

Effective Date: January 2, 1990.  
Expiration Date: June 1, 1993.

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

Full text of the adoption follows.

16:30-3.6 Route U.S. 1

(a) The certain parts of State highway Route U.S. 1 described in this subsection shall be designated and established as "cars only shoulder lanes" exclusively for the use of passenger vehicles only, except for the ingress and egress of vehicles to and from various establishments and side streets in the area:

- 1. In the Township of West Windsor, Mercer County:
  - i. Northbound—From a point 130 feet north of the curb line of the northbound jughandle (opposite the Nassau Park Driveway) to a point 290 feet north of the northerly curb line of Alexander Road; cars only may use shoulder from 7:00 A.M. to 9:00 A.M., Monday through Friday.
  - ii. Southbound—From a point 330 feet north of the northerly curb line of Alexander Road to a point 1300 feet north of the northerly curb line of the Nassau Park Driveway; cars only may use shoulder 4:00 P.M. to 6:00 P.M., Monday through Friday.

**(b)**

**DESIGN AND RIGHT OF WAY  
DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID  
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

**Mid-Block Crosswalks  
Route U.S. 15 in Sussex County**

**Adopted New Rule: N.J.A.C. 16:30-10.10**

Proposed: October 16, 1989 at 21 N.J.R. 3258(a).  
Adopted: November 16, 1989 by John F. Dunn, Jr., Director,  
Division of Traffic Engineering and Local Aid.  
Filed: December 6, 1989 as R.1990 d.9, **without change.**  
Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 39:4-34.  
Effective Date: January 2, 1990.  
Expiration Date: June 1, 1993.

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

Full text of the adoption follows.

16:30-10.10 Route N.J. 15

(a) The certain parts of State highway Route 15 described in this subsection shall be designated as a mid-block crosswalk.

- 1. In Lafayette Township, Sussex County:
  - i. From a point 1,320 feet north of the northerly curb line of Meadow Road to a point 10 feet northerly therefrom.

**(c)**

**DIVISION OF CONSTRUCTION AND MAINTENANCE  
ENGINEERING SUPPORT**

**Notice of Administrative Correction  
Permits**

**Permit Provisions; Fees**

**N.J.A.C. 16:41-2.4**

Take notice that the Department of Transportation has discovered an error in the adopted text of N.J.A.C. 16:41-2.4(h)3 as published in the December 4, 1989 New Jersey Register at 21 N.J.R. 3778(a). The permit fee for government driveway should be \$500.00, not \$50.00 as published in the Register. This notice of administrative correction is published pursuant to N.J.A.C. 1:30-2.7.

Full text of the corrected rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

16:41-2.4 Permit provisions

- (a)-(g) (No change.)
- (h) The fee schedule is as follows:

	Application Fee	Permit Fee
1.-2. (No change.)		
3. Government driveway	\$150.00	[ \$50.00 ] <b>\$500.00</b>
4.-8. (No change.)		
(i)-(r) (No change.)		

**(a)****POLICY AND PLANNING  
DIVISION OF TRANSPORTATION ASSISTANCE  
OFFICE OF REGULATORY AFFAIRS****Autobuses, Mirrors****Adopted Amendments: N.J.A.C. 16:53-3.40 and 6.11**

Proposed: October 16, 1989 at 21 N.J.R. 3259(a).

Adopted: November 16, 1984 by Robert A. Innocenzi, Acting  
Commissioner, Department of Transportation.

Filed: December 1, 1989 as R.1990 d.3, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 52:14B-1 et seq.

Effective Date: January 2, 1990.

Expiration Date: July 17, 1994.

**Summary of Public Comments and Agency Responses:**

**No comments received.**

Full text of the adoption follows.

## 16:53-3.40 Mirrors

(a) (No change.)

(b) If desired, a video camera designed to view the exterior rear, in addition to rear view mirrors, may be installed so that the camera is inoperable while the vehicle is in a forward motion.

## 16:53-6.11 Mirrors

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

(c) If desired, a video camera designed to view the exterior rear, in addition to rear view mirrors, may be installed so that the camera is inoperable while the vehicle is in a forward motion.

**TREASURY-GENERAL****(b)****STATE INVESTMENT COUNCIL****Common Pension Fund D; International Government  
and Agency Obligations; Common and Preferred  
Stocks and Issues Convertible into Common Stock  
of International Corporations; Purchase and Sale  
of International Currency****Adopted New Rules: N.J.A.C. 17:16-46, 47, 48, and  
49**

Proposed: October 16, 1989 at 21 N.J.R. 3262(a), November 6,  
1989 at 21 N.J.R. 3438(a), Notice of Administrative  
Correction.

Adopted: December 5, 1989 by the State Investment Council,  
Roland M. Machold, Director, Division of Investment.

Filed: December 6, 1989 as R.1990 d.7, **without change**.

Authority: N.J.S.A. 52:18A-91.

Effective Date: January 2, 1990.

Expiration Date: December 2, 1990.

**Summary of Public Comments and Agency Responses:**

**No comments received.**

Full text of the adoption follows.

**SUBCHAPTER 46. COMMON PENSION FUND D**

## 17:16-46.1 Definition

(a) Pursuant to P.L. 1970, Chapter 270, there is hereby created in the Division of Investment, Department of the Treasury, a common trust fund, to be known as Common Pension Fund D. The following participating funds may invest in said Common Pension Fund D:

1. Police and Firemen's Retirement System;
2. Public Employees' Retirement System;

3. Teachers' Pension and Annuity Fund; and

4. Judicial Retirement System of New Jersey.

## 17:16-46.2 Permissible investments

The Common Pension Fund D shall be a fund created for the purpose of investing in international debt securities, international corporate common stocks or securities convertible into such stock, currencies and currency futures and options which are approved for investment under N.J.A.C. 17:16-47, 48 and 49, and in the State of New Jersey Cash Management Fund. Said Common Fund shall be composed of units of ownership of unlimited quantity. All units of ownership shall be represented by a certificate prepared by and issued by the Director of the Division of Investment. Each such certificate may represent one or more units of ownership. All units of ownership shall be purchased by cash payments or in kind. All units shall be purchased by the participating fund for the principal valuation price determined by these rules. At the outset of said Common Fund, all initial purchases shall be made for a principal valuation price of \$1,000 per unit.

## 17:16-46.3 Certificates of ownership

(a) All certificates of ownership of units shall contain the following information:

1. The number of units purchased;
2. The purchaser;
3. The aggregate principal valuation price for the number of units purchased;
4. The date of purchase;
5. The serial number of the certificate; and
6. The principal valuation price per unit purchased.

## 17:16-46.4 Units of participation

Each unit of participation shall represent an equal beneficial interest in the fund and no unit shall have priority or preference over any other.

## 17:16-46.5 Valuation

Upon each valuation date, as defined in N.J.A.C. 17:16-46.16, there shall be a valuation for every investment in the Common Fund in the method provided for in this subchapter. The valuation shall be for the principal value per outstanding unit and the income value per outstanding unit.

## 17:16-46.6 Date of valuation

The valuation shall be determined at the opening of business of the first business day of each quarter, and shall be based on market prices and accruals as of the close of the previous day, in every case converted into United States dollars as provided in N.J.A.C. 17:16-46.7.

## 17:16-46.7 Method of valuation

(a) The Director of the Division of Investment shall use the following method of valuation of investments:

1. Where there have been recorded sales or bid and asked prices of an investment in the Common Fund on recognized exchanges in foreign countries approved by the State Investment Council, the last recorded sales price, if there has been a recorded sale, shall be used, unless on a day subsequent to such sale, there shall have been recorded bid and asked prices, in which event the mean of the most recent of such bid and asked prices shall be used; or

2. If there have been no such recorded sales, the mean of the most recent such recorded bid and asked prices shall be used.

(b) For the purpose of this section, recorded sales and bid and asked prices shall be those appearing in newspapers of general circulation published in the City of New York, the City of London, England, in standard financial periodicals, or those established by a recognized pricing service.

(c) In the case of a stock where a dividend has been declared and not as yet paid and the amount of such dividend has been included as income, such amount shall be deducted from the value of the stock as determined in (a) unless such value has been based on an ex-dividend valuation.

(d) An investment purchased and awaiting payment against delivery shall be included for valuation purposes as a security and the cost thereof recorded as an account payable.

(e) An investment sold but not delivered pending receipt of proceeds shall be valued at the net sales price.

(f) For the purposes of valuation of an investment, with the exception of investments sold but not delivered, it shall not be necessary to deduct from the value ascertained by this section, brokers' commission or other expenses which would be incurred on a sale thereof.

(g) For the purposes of valuing securities, all values determined under this section shall be converted into United States dollars at rates shown in the Wall Street Journal on the valuation date.

#### 17:16-46.8 Valuation of units

(a) The following method shall be used in determining the principal value per unit:

1. To the valuation of investments determined as provided in N.J.A.C. 17:16-46.7, there shall be added:

- i. Uninvested cash principal;
- ii. The value of any rights or stock dividends which may have been declared but not received as of the valuation date when the security has been valued ex-right and ex-dividend;
- iii. Such portion as shall constitute principal of any extraordinary or liquidating dividend which may have been declared but which is unpaid as of the valuation date when the particular security has been valued ex-dividend; and
- iv. Temporary investments which shall be valued at cost. The yield on these temporary investments shall not be accrued, but shall be included in income monthly as paid.

2. There shall be deducted from the sum so ascertained all expenses chargeable to principal due or accrued. The net principal value thus determined shall be divided by the number of existing units in order to ascertain the principal value of each unit.

(b) All valuations established for items (a)1i through iv above shall be converted into United States dollars at rates shown in the Wall Street Journal on the valuation date.

#### 17:16-46.9 Admission date

(a) No admission to or withdrawal from the Common Fund shall be permitted except on the basis of the principal unit value determined as described in N.J.A.C. 17:16-46.8 and no participation shall be admitted to or withdrawn from the Common Fund except on a valuation date or within 15 days thereafter; however, in the event that an admission or withdrawal occurs within the 15 day period aforementioned, it shall be based upon the principal value as of the last valuation date preceding said admission or withdrawal.

(b) All admissions or withdrawals shall be made by cash payments or in kind. The price for purchasing units, except for original units issued by the Common Fund, shall be the principal valuation per unit as determined on each valuation date pursuant to N.J.A.C. 17:16-46.8. Dividends and interest earned shall be retained within the Common Fund, but may be distributed in whole or in part to the participatory pension funds, at the direction of the State Investment Council.

#### 17:16-46.10 Amendments

This subchapter may be amended from time to time by the State Investment Council. Any amendment adopted by the council shall be binding upon all participating trusts and beneficiaries thereof. An amendment shall become effective, unless otherwise provided for therein, on the date it becomes effective under the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq.

#### 17:16-46.11 Distribution of realized appreciation

(a) Each year, subsequent to the receipt of audited financial statements for the prior fiscal year, the State Investment Council shall consider the realized appreciation in the Common Fund per unit. The Council may, in its sole discretion, choose any or all of the following options:

1. Declare as income to the participating funds such percentage of said realized appreciation of principal as it may deem prudent. When such declaration is made, the percentage of such appreciation of principal declared to be income shall be deducted from the total principal in the Common Fund and added to income in the Common Fund prior to the next regular monthly valuation. Following such declaration, the amount declared as income shall be treated and

distributed as income to the participating funds monthly or quarterly in cash and/or units;

2. Declare as capital gains to the participating funds such percentage of said realized appreciation of principal as it may deem prudent. When such declaration is made, the percentage of such appreciation of principal declared shall be deducted from the total principal in the Common Fund and distributed monthly or quarterly in cash and/or units; and/or

3. Retain any or all realized appreciation for future investments within the Common Fund.

#### 17:16-46.12 Limitations

(a) The Common Pension Fund D shall be permitted to invest in the Cash Management Fund and in such securities subject to the limitations and conditions contained in the rules of the State Investment Council, particularly N.J.A.C. 17:16-47, 48 and 49, except for the conditions as to classification of funds contained in N.J.A.C. 17:16-5.

(b) In the event that any rule contains a limitation of the assets of any pension and annuity group fund which may be invested either in one issue or a class of issues, that limitation shall be construed to apply to the combined assets of all of the pension funds and shall not restrict the total common pension fund investment in such asset or assets to those limitations for any individual pension fund. Not more than five percent of the book value of the assets of any pension and annuity group fund shall be invested in units of Common Pension Fund D.

#### 17:16-46.13 Liquidation

The Director, Division of Investment, subject to the approval of the State Investment Council and the State Treasurer, may, upon two months' notice, liquidate the aforementioned Common Fund. In the event of such liquidation, the owners of the units shall share proportionately, according to units owned, in each investment held by the Common Fund. When such proportionate distribution is impracticable in the judgment of the Director, he or she may instead distribute on liquidation, cash or temporary investments held by the Common Fund. Distribution upon liquidation shall occur within 15 days after a valuation date and shall be based upon the principal value per unit determined upon such valuation date. No liquidation will be effectuated without the approval by the State Investment Council of a plan of distribution of the assets of the Common Fund.

### SUBCHAPTER 47. INTERNATIONAL GOVERNMENT AND AGENCY OBLIGATIONS

#### 17:16-47.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any pension and annuity group fund, except the Consolidated Police and Firemen's Pension Fund, in obligations which are the direct obligations of sovereign governments or the sovereign's agencies whose obligations are unconditionally guaranteed as to principal and interest by the sovereign's full faith and credit or international agencies whose obligations are directly backed by the collective credit of regional countries.

1. The Director shall submit a list of international governments, their agencies, and international agencies to the Council for its approval. Such list may be amended or enlarged from time to time subject to "Approved List of International Governments and Agencies."

2. The Director shall only select issues of international government and agency obligations from the "Approved List" to be recommended for purchase by the pension and annuity group.

#### 17:16-47.2 Limitations

(a) Not more than five percent of the book value of the assets of any pension and annuity group fund shall be invested in international government and agency obligations.

(b) Not more than one percent of the assets of any pension and annuity group fund shall be invested in international government and agency obligations, whether direct or guaranteed, of any one issuer.

(c) All international government and agency obligations must be rated **Aaa/AAA** by Moody's Investor's Service Inc. and/or Standard & Poors' Corporation and/or have equivalent ratings.

(d) The total amount of debt issues purchased or acquired of any one issuer on the approved list shall not exceed two percent of the outstanding debt of the issuer, and not more than 10 percent of any one issue may be purchased at the time of issue, except that these requirements may be waived by the State Investment Council.

17:16-47.3 Legal papers

(a) Prior to any commitment to purchase obligations of the type described in this subchapter, the Director shall have obtained a prospectus or circular describing the issue.

(b) In the case of an issue not registered with the Securities and Exchange Commission, the Director shall obtain, in addition to the requirements of (a) above:

1. Such other documents or opinions which the Attorney General may require; and
2. A written approving opinion from the Attorney General to the effect that all such documents and opinions received by the Director are satisfactory as to form and substance.

17:16-47.4 Approved list of international government and agency obligations bonds

(a) The following sovereign governments and their respective agencies, backed by the full faith and credit of the sovereign, are approved for investment by Common Fund D subject to maintaining the credit standards set forth in this subchapter:

Australia	Netherlands
Austria	Norway
Belgium	Sweden
Finland	Switzerland
France	United Kingdom
Japan	West Germany

(b) The following international agencies which are backed by the direct credit support of the collective regional countries are approved for investment by Common Fund D subject to maintaining the credit standards set forth in this subchapter:

INTERNATIONAL AGENCY	MOODY'S/S&P
African Development Bank	Aaa/AA+
Asian Development Bank	Aaa/AAA
Eurofina	Aaa/AAA
European Coal & Steel Community	Aaa/AAA
European Economic Community	Aaa/AAA
European Investment Bank	Aaa/AAA
Inter-American Development Bank	Aaa/AAA
International Bank for Reconstruction & Development (World Bank)	Aaa/AAA
Nordic Investment Bank	Aaa/AAA

**SUBCHAPTER 48. COMMON AND PREFERRED STOCKS AND ISSUES CONVERTIBLE INTO COMMON STOCK OF INTERNATIONAL CORPORATIONS**

17:16-48.1 Permissible investments

(a) Permissible investments include stock issued by a company or bank incorporated or organized under the laws of the countries listed on the Approved List of International Government and Agency Obligations set forth in N.J.A.C. 17:16-47.4.

(b) Regular dividends, either cash or stock, must have been paid on the common stock for five years next preceding the date of purchase of securities under this subchapter (including dividends paid by predecessor companies) from earnings equal to or greater than the dividend paid. This requirement may be waived by the State Investment Council.

(c) Long-term debt shall not be more than 60 percent of total capital in the latest year.

(d) Current assets must be equal to or greater than current liabilities in the latest year.

(e) The Director shall submit a list of common stocks to the Council for its approval. Such list may be amended or enlarged from time to time subject to the Council's approval and shall be designated the "Approved Common and Preferred Stock and Convertible Securities List of International Corporations".

(f) The Director shall only select issues of common stocks from the "Approved Common and Preferred Stock and Convertible Securities List of International Corporations" to be purchased by the pension funds.

(g) Notwithstanding the above restrictions, the Director may:

1. Exercise the conversion privileges in the common stock of any security acquired under this subchapter;
2. Purchase the preferred stock, whether convertible or not, of a company, the stock of which qualifies for investment and is on the "Approved Common and Preferred Stock Convertible Securities List of International Corporations"; and
3. Purchase the convertible issue of a company, the common stock of which qualifies for investment and is on the "Approved Common and Preferred Stock and Convertible Securities List of International Corporations".

17:16-48.2 Applicable funds

(a) The following funds may invest in common and preferred stock of international corporations pursuant to this subchapter:

1. Police and Firemen's Retirement System;
2. Public Employees' Retirement System;
3. State Police Retirement System;
4. Teachers' Pension and Annuity Fund; and
5. Judicial Retirement System of New Jersey.

17:16-48.3 Limitations

(a) The book value of the total investment in common and preferred stock of international corporations for any one pension fund shall not exceed two percent of the book value of such fund.

(b) Not more than one percent of the book value of any fund shall be invested in the common and preferred stock of any one corporation.

(c) The total amount of stock purchased or acquired of any one corporation shall not exceed five percent of the common stock, or of any other class of stock which entitles the holder thereof to vote at all elections of directors, of such corporation.

**SUBCHAPTER 49. PURCHASE AND SALE OF INTERNATIONAL CURRENCY**

17:16-49.1 Permissible investments

Subject to the limitations contained in this subchapter, the Director may enter into foreign exchange contracts for the currency of any of the countries listed on the Approved List of International Government and Agency Obligations Bonds or any other currency in which the obligations of those countries on the Approved List are denominated.

17:16-49.2 Limitations

(a) The following limitations apply to those investments permitted under N.J.A.C. 17:16-49.1:

1. The foreign exchange contract must be for the purpose of hedging the international portfolio; and
2. A minimum of 75 percent of the total portfolio's book value will at all times be hedged.

17:16-49.3 Definitions

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

"Foreign exchange contracts" means forward contracts, to sell or buy a specified amount of a specified foreign currency at a rate fixed at the time of the transaction but with delivery at a specified future time, entered into with any U.S.-Canadian-charted commercial bank having total assets of at least \$2,000,000,000 or its equivalent in Canadian dollars (qualified bank); any U.S. broker-dealer (or subsidiary or affiliate thereof) having a net capital of at least \$100,000,000 (qualified broker); or any other foreign exchange counterparty approved by the State Investment Council.

“Hedging” means combining a long position in an asset with a short position in the hedging instrument in order to offset fluctuations in the value of the underlying asset.

**OTHER AGENCIES**

**(a)**

**CASINO CONTROL COMMISSION  
ACCOUNTING AND INTERNAL CONTROLS**

**Definitions**

**Procedures for Exchange of Checks Submitted by  
Gaming Patrons**

**Adopted Amendments: N.J.A.C. 19:45-1.1 and 1.25**

Proposed: September 18, 1989 at 21 N.J.R. 2954(a).  
 Adopted: November 30, 1989 by the Casino Control  
 Commission, Walter N. Read, Chair.  
 Filed: November 30, 1989 as R.1990 d.2, **without change**.  
 Authority: N.J.S.A. 5:12-45, 5:12-63(c), and 5:12-101(g).  
 Effective Date: January 2, 1990.  
 Expiration Date: March 24, 1993.

**Summary of Public Comments and Agency Responses:**

COMMENT: Roberto Rivera-Soto, Vice President and Corporate Counsel of the Sands Hotel and Casino, supports the proposed amendments to N.J.A.C. 19:45-1.1 and N.J.A.C. 19:45-1.25.

RESPONSE: Accepted.

COMMENT: Thomas McCormick, Assistant Counsel of the Claridge at Park Place, supports the proposed amendments to N.J.A.C. 19:45-1.1 and N.J.A.C. 19:45-1.25.

RESPONSE: Accepted.

COMMENT: The Division of Gaming Enforcement supports the proposed amendments to N.J.A.C. 19:45-1.1 and N.J.A.C. 19:45-1.25.

RESPONSE: Accepted.

Full text of the adoption follows.

**19:45-1.1 Definitions**

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

...

“Casino check” means a check which is drawn by a casino licensee upon the licensee’s account at any New Jersey banking institution and made payable to a person in redemption of the licensee’s gaming chips, pursuant to N.J.S.A. 5:12-100(k), in return, either in whole or in part, of a person’s deposit on account with the casino licensee pursuant to N.J.S.A. 5:12-101(b) or for winnings from slot machine payoffs, and which is identifiable in a manner approved by the Commission as a check issued for one of these purposes. At a minimum, such identification method shall include an endorsement or imprinting on the check which indicates that the check is issued in redemption of gaming chips, in return of funds on account with the casino licensee or for winnings from slot machine payoffs.

...

“Slot machine” means any mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, currency, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash or tokens to be exchanged for cash or to receive any merchandise or thing of value, whether the payoff is made automatically from the machine or in any other manner whatsoever.

...

**19:45-1.25 Procedure for exchange of checks submitted by gaming patrons**

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

(f) Prior to the acceptance of any casino check from a patron, a general cashier shall determine the validity of such casino check by contacting the New Jersey casino which issued the check and shall verify the following information:

1.-4. (No change.)

5. That the check represents:

- i. The return of a patron’s deposit money;
- ii. The redemption of the casino’s gaming chips; or
- iii. The winnings from slot machine payoffs.

(g)-(p) (No change.)

# EMERGENCY ADOPTION

## HUMAN SERVICES

### (a)

#### DIVISION OF ECONOMIC ASSISTANCE

#### Service Programs for Aged, Blind, or Disabled Supplemental Security Income Payment Levels

#### Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 10:83-1.11

Emergency Amendment Adopted: November 29, 1989 by William Waldman, Acting Commissioner, Department of Human Services.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)): December 18, 1989.

Emergency Amendment Filed: December 15, 1989 as R.1990 d.23.

Authority: N.J.S.A. 44:7-87 and Section 1618(a) of the Social Security Act.

Emergency Amendment Effective Date: December 15, 1989.

Emergency Amendment Operative Date: January 1, 1990.

Emergency Amendment Expiration Date: February 13, 1990.

Concurrent Proposal Number: PRN 1990-44.

Address comments and inquiries by February 1, 1990 to:

Marion E. Reitz, Director  
Division of Economic Assistance  
CN 716  
Trenton, New Jersey 08625

This amendment was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c), as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of this emergency amendment are being proposed in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:30.

The agency emergency adoption and concurrent proposal follows:

#### Summary

Section 1618(a) of the Social Security Act requires the State to maintain supplemental payments in the Supplemental Security Income (SSI) program at levels no lower than those in effect in December 1976. This effectively requires the State to "pass-through" to SSI recipients the full amount of any Federal cost-of-living adjustment (COLA). The amendment reflects payment levels in the SSI program which include the 4.7 percent Federal cost-of-living increase effective January 1, 1990.

#### Social Impact

The amendment provides for an increase in payment levels to eligible low-income aged, blind, and disabled individuals. The increase will enable such persons to maintain a measure of parity with the increased cost of living.

#### Economic Impact

The increase in State expenditures over existing levels is estimated to be \$336,500 through the end of calendar year 1990. Increased cost to

county government is estimated at \$112,200 for the same period. This amended rule will not impact administratively on the Department or county governments, as the SSI program is administered by the Social Security Administration.

#### Regulatory Flexibility Statement

This rule has been reviewed with regard to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The amendment imposes no reporting, recordkeeping or other compliance requirements on small businesses as they are defined in the Act; therefore, a regulatory flexibility analysis is not required. The rules govern a public assistance program designed to certify eligibility for the Supplemental Security Income program to a low-income population by a governmental agency rather than a private business establishment.

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

#### 10:83-1.11 New Jersey Supplemental Security Income payment levels

New Jersey Supplemental Security Income payment levels are as follows:

Living Arrangement Categories	Payment Level	
	[1/1/89]	1/1/90
Eligible Couple		
Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence of 16 or less	[\$50/553.00†]	<b>\$90/579.00†</b>
Residential Health Care Facilities and certain residential facilities for children and adults	[\$1017.36]	<b>\$1053.36</b>
Living Alone or with Others	[\$578.36]	<b>\$604.36</b>
Living in Household of Another, Receiving Support and Maintenance Eligible Individual	[\$461.76]	<b>\$479.09</b>
Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence of 16 or less	[\$25/368.00†]	<b>\$45/386.00†</b>
Residential Health Care Facilities and certain residential facilities for children and adults	[\$518.05]	<b>\$536.05</b>
Living Alone or with Others	[\$399.25]	<b>\$417.25</b>
Living with Ineligible Spouse (No other individuals in household)	[\$578.36]	<b>\$604.36</b>
Living in Household of Another, Receiving Support and Maintenance	[\$289.65]	<b>\$301.65</b>

†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.

# PUBLIC NOTICES

## EDUCATION

(a)

### STATE BOARD OF EDUCATION Notice of Public Testimony Session March 22, 1990

Take notice that the following agenda item is scheduled for Notice of Proposal in the March 19, 1990 New Jersey Register and is, therefore, subject to public comment. Pursuant to the policy of the New Jersey State Board of Education, a public testimony session will be held for the purpose of receiving public comment on Wednesday, March 22, 1990 from 4:00 P.M. to 6:00 P.M. in the State Board Conference Room, Department of Education, 225 West State Street, Trenton, New Jersey.

To reserve time to speak call Joan Boggs at (609) 292-0739 by 12:00 noon Friday, March 16, 1990.

### RULE PROPOSAL:

N.J.A.C. 6:3-1.12 and 6:11-10, Superintendent Certification

Please note: Publication of the above items is subject to change depending upon the actions taken by the State Board of Education at the February 1990 monthly public meeting.

## ENVIRONMENTAL PROTECTION

(b)

### DIVISION OF REGULATORY AFFAIRS Notice of Regulatory Agenda

Take notice that the Department of Environmental Protection hereby gives notice of its Regulatory Agenda. This agenda, which is published biannually, provides public notice of major rulemaking activities for the following six months.

The following items constitute the Department's anticipated significant rulemaking activities likely to occur by the end of June 1990.

Table I—Rule Proposals

Description	Division	Cite	Estimated N.J.R. Date	Agency Note
Freshwater Wetlands	DCR	7:7A	2/90	Requirements for Assumption
Coastal Policies	DCR	7:7E	1/90	Readopt with Changes
Recycling	DSWM	7:26A	6/90	New
Solid and Hazardous Waste Program	DSWM/DHWM	7:26	4/90	Readopt
Air Permit Procedures and Fees	DEQ	7:27-8	1/90	Revision
Noise Rules	DEQ	7:29	12/89	Readopt
Surface Water Quality Standards	DWR	7:9	3/90	Amend
Underground Storage Tanks (Financial Assurance)	DWR	7:14C	4/90	New

Table II—Rule Adoptions

Description	Division	Cite	Estimated N.J.R. Date
Listing of PCB's	DHWM	7:26-8	4/90
Solid & Hazardous Waste Penalty Rules	DHWM/DSWM	7:26	2/90
Underground Storage Tanks (Technical and Loan Requirements)	DWR	7:14C	5/90
Water Allocation (Permits and Fees)	DWR	7:19	2/90
Certification of Radon Testers and Mitigators	DEQ	7:28-27	5/90
Radon Lab Certification	DEQ	7:18	5/90

This notice is given as a matter of public information.

(a)

**DIVISION OF WATER RESOURCES****Amendment to the Sussex County Water Quality Management Plan****Public Notice**

**Take notice** that an amendment to the Sussex County Water Quality Management (WQM) Plan has been submitted for approval. This amendment would adopt a Wastewater Management Plan for Lafayette Township. That document allows for the expansion of the Lafayette Township Elementary School wastewater treatment facility and inclusion of this facility in the on-site groundwater disposal system service area. The rest of the Township is designated as an individual subsurface sewage disposal system service area.

**This notice** is being given to inform the public that a plan amendment has been developed for the Sussex County WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the Sussex County Water Resource Management Program, 57 High Street, Newton, New Jersey 07860; and the New Jersey Department of Environmental Protection (NJDEP), Division of Water Resources, Bureau of Water Quality Planning, CN-029, Third Floor, 401 East State Street, Trenton, N.J. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

The Sussex County Board of Chosen Freeholders will hold a **public meeting** on the proposed Sussex County WQM Plan amendment. The public meeting will be held on Tuesday, January 16, 1990 at 7:30 P.M., in the Criminal Court Building, 39 High Street, Newton, New Jersey.

**Interested persons** may submit written comments on the amendment to Ms. Lyn Halliday at the Sussex County Water Resource Management Program address cited above; and Mr. Barry Chalofsky, Acting Chief, Bureau of Water Quality Planning, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice or until 15 days following the public meeting, whichever is later. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by the Sussex County Board of Chosen Freeholders with respect to the amendment request. In addition, if the amendment is adopted by Sussex County, the NJDEP must review the amendment prior to final adoption. The comments received in reply to this notice will also be considered by the NJDEP during its review. Sussex County and the NJDEP thereafter may approve and adopt this amendment without further notice.

(b)

**DIVISION OF WATER RESOURCES****Amendment to the Ocean County and Tri-County Water Quality Management Plans****Public Notice**

**Take notice** that an amendment to the Ocean County and Tri-County Water Quality Management (WQM) Plans has been submitted for approval. This amendment would approve the Plumsted Township Wastewater Management Plan (WMP). The WMP delineates existing NJPDES permitted facilities and proposed on-site groundwater disposal areas. The remainder of the municipality is designated as being served by individual subsurface sewage disposal systems.

**This notice** is being given to inform the public that a plan amendment has been proposed for the Ocean County and Tri-County WQM Plans. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the Ocean County Planning Board, Court House Square, CN 2191, Toms River, New Jersey 08754; and the NJDEP, Division of Water Resources, Bureau of Water Quality Planning, 3rd Floor, 401 East State Street, CN-029, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

**Interested persons** may submit written comments on the amendment to Barry Chalofsky, Bureau of Water Quality Planning, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

(c)

**DIVISION OF ENVIRONMENTAL QUALITY****Notice of Action on Petition for Rulemaking****N.J.A.C. 7:27-18, Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality (Emission Offset Rules)**

Petitioner: Richard D. Shapiro, Director, Division of Public Interest Advocacy, Department of the Public Advocate.

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

**Take notice** that on January 25, 1989, Richard D. Shapiro, Director, Division of Public Interest Advocacy, Department of the Public Advocate, filed a petition with the New Jersey Department of Environmental Protection (the Department) requesting amendment of N.J.A.C. 7:27-18, the Department's rules titled Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality (Emission Offset Rules). Specifically, the petitioner requested that the Department amend N.J.A.C. 7:27-18 to change the definition of significant emission increase in N.J.A.C. 7:27-18.1 and eliminate the emission offset postponement provision in N.J.A.C. 7:27-18.5. Public notice of the receipt of this petition was published in the March 20, 1989 New Jersey Register (21 N.J.R. 795(b)). Public notice of the Department's intent to further consider this matter was published in the April 3, 1989 New Jersey Register (21 N.J.R. 936(a)).

In accordance with N.J.A.C. 7:1-1.2 and after thorough review of the petition, the Department grants the petitioner's request that the Department propose amendments to N.J.A.C. 7:27-18 to change the definition of significant emission increase in N.J.A.C. 7:27-18.1. It is anticipated that the proposed amendment will appear in the December, 1990 New Jersey Register. The Department denies the petitioner's request that the Department eliminate the emission offset postponement provision in N.J.A.C. 7:27-18.5.

A copy of this notice has been mailed to the petitioner, as required by N.J.A.C. 7:1-1.2.

(d)

**DIVISION OF WATER RESOURCES****Amendment to the Sussex County Water Quality Management Plan****Public Notice**

**Take notice** that the New Jersey Department of Corrections has requested an amendment to the Sussex County Water Quality Management Plan. The amendment provides for the construction and operation of an expanded wastewater treatment plant with ground water discharge to replace the existing treatment plant discharging to surface water at the Annandale Stokes Forest Unit, Montague Township. The new treatment plant will be owned and operated by the Department of Corrections.

**This notice** is being given to inform the public that a plan amendment has been developed for the Sussex County WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the office of the New Jersey Department of Environmental Protection (NJDEP), Division of Water Resources, Bureau of Water Quality Planning, CN-029, Third Floor, 401 East State Street, Trenton, N.J. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

**Interested persons** may submit written comments on the amendment to Barry Chalofsky, Acting Chief, Bureau of Water Quality Planning, at the NJDEP address cited above. All comments must be submitted within 10 working days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time

limit, shall be considered by NJDEP with respect to the amendment request.

Any interested persons may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 10 working days of the date of this public notice to Mr. Chalofsky at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall be extended until 15 days after the close of the public hearing.

## HEALTH

### (a)

#### THE COMMISSIONER Availability of Grants

##### Directory of Department of Health Grant Programs

Take notice that, in compliance with P.L. 1987 c.7, the Department of Health hereby publishes notice of grant availability in the Directory of Department of Health Grant Programs. Copies of the Directory can be obtained by contacting the Grant Evaluation and Review Program, Office of Financial and General Services, Department of Health at 609-588-7448.

### (b)

#### DIVISION OF HEALTH PLANNING AND RESOURCE DEVELOPMENT

##### Notice of Availability of Verification Program to Evaluate Hospital Trauma Capability for Prospective Certificate of Need Applicants for Designation as a Level I or Level II Trauma Center

Take notice that a program is available for hospitals to independently verify information included in certificate of need applications submitted to the Department of Health for designation as Level I or Level II Trauma Centers pursuant to proposed new rules, N.J.A.C. 8:33P published in the December 18, 1989 New Jersey Register at 21 N.J.R. 3889(a). This Verification Program for the Evaluation of Hospital Trauma Capability is offered by the American College of Surgeons (ACS) Committee on Trauma.

This notice is being given to inform prospective applicants for trauma center designation that the Department of Health strongly recommends the use of the ACS Verification Program by applicants.

The reason for making this recommendation is that the Verification Program will assist both the Department and the applicants in ensuring that applications include complete and verified data as a basis for a fair and objective review process. The Department believes that the ACS program is the most objective and cost effective means of verifying information.

The program involves completion of a detailed Pre-Review Questionnaire, followed by an on-site review by a team of two out-of-State expert trauma surgeons. Hospitals will be reviewed in accordance with standards for trauma centers outlined in "Hospital and Prehospital Resources for Optimal Care of the Injured Patient", a publication of the ACS Committee on Trauma. The above-referenced rules proposed by the Department of Health contain standards for certificate of need review of trauma center applications which generally follow these ACS standards.

Department of Health staff will coordinate with ACS staff and all hospital applicants which participate in the Verification Program to facilitate the most cost effective and timely completion of the surveys and on-site reviews. Hospitals will be required to pay an administrative fee to ACS and to pay honoraria and expenses for the surgeons who conduct the on-site reviews. However, costs per hospital can be reduced by arranging for a single ACS review team to perform on-site reviews of multiple hospitals in one geographic area during the same time period.

For hospitals which use the ACS Verification Program, the Department of Health will accept the information submitted to ACS reviewers, and the ACS written evaluation of the hospital's capabilities, as part of the certificate of need application. This material will provide information with respect to compliance with those criteria and standards in the proposed rule which are also addressed in the ACS standards. In addition,

hospitals which undergo ACS verification will not be asked to independently verify the information regarding their trauma resources in any other way.

Please note that the ACS role will be strictly limited to verification of information submitted to the ACS and to the Department of Health. The ACS evaluation will not determine whether a hospital is designated as a Level I or Level II Trauma Center, nor will the ACS have any role in evaluating compliance with criteria and standards not addressed in the ACS document. The decision of the State Commissioner of Health to approve or deny certificate of need applications for trauma center designation will be made in accordance with the planning rule and with certificate of need review procedures, using the ACS evaluation as one source of information.

Interested hospitals should contact the Department of Health for further information as soon as possible, at this address:

Ted Bogue  
New Jersey Department of Health  
Room 604, CN 360  
Trenton, New Jersey 08625  
Telephone (609) 292-5960

Note that, under the proposed rules, the application submission date is April 1, 1990. Interested hospitals should request an ACS verification no later than January 15, 1990, so that the survey material and on-site review report can be completed in time to be included in the certificate of need review process.

### (c)

#### DIVISION OF HEALTH PLANNING AND RESOURCES DEVELOPMENT

##### Notice of a One Time Only Special Elimination of the Batching Cycle and Submission Date for the Acceptance of Certificate of Need Applications for Adult Closed Acute Psychiatric Beds and Adult Open Acute Psychiatric Beds

Take notice that the Department of Health, in conjunction with the Health Care Administration Board (HCAB), is proposing to eliminate the January 1, 1990 date for the submission of batched applications of adult closed acute psychiatric beds and adult open acute psychiatric beds. Subsequent filing dates will not be affected by this proposed action. Any other health care services other than the proposed services are unaffected by this action.

The Department of Health is proposing the elimination of this submission date in order to provide hospitals sufficient time to develop applications in response to the new Certificate of Need regulations for adult closed acute psychiatric beds which became effective on November 20, 1989. Adult open acute psychiatric beds are included in the proposal because of their close linkage to adult closed acute psychiatric beds in the regulation. The additional six months for the submission of applications will allow health care facilities to better develop program, staffing and cost descriptions in the applications for these complex services.

Any inquiries should be addressed to:

John A. Calabria  
Director, Health Policy, Planning,  
and Certificate of Need  
New Jersey Department of Health  
CN 360  
Trenton, N.J. 08625

## HUMAN SERVICES

### (d)

#### OFFICE FOR PREVENTION OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES (OPMRDD)

##### Public Notice of Available Grant Funds OPMRDD Public Information Projects (1990)

Take notice that in compliance with N.J.S.A. 52:14-34.4 et seq., the Department of Human Services announces the following availability of funds.

**A. Name of the grant program that has funds available:** OPMRDD Public Information Projects (1990)

**B. Purpose for which the grant program funds shall be used:** The Department of Human Services, Office for Prevention of Mental Retardation and Developmental Disabilities (OPMRDD) anticipates the availability of State funds specific to the goal of public information relative to prevention of mental retardation and other developmental disabilities, with the intent of increasing the public and professional awareness of the preventability of many forms of disabilities, and to modify conditions of life, professional practices, or personal behaviors in such a way as to reduce the risk, and hence the incidence, of various kinds of mental and physical disabilities originating in early life.

**C. Amount of money in the grant program:** Approximately 15 grants will be awarded between the amounts of \$5,000 and \$25,000. The grants will be planned for initiation and completion between July 1, 1990 and June 30, 1991.

**D. Groups or entities (citizens, counties, municipalities of a certain class, etc.) which may apply for the grant program:** Agencies must be New Jersey based organizations, or corporate bodies; non-profit or public entities, which have demonstrated the capacity to carry out the proposed project.

**E. Qualifications needed by applicant to be considered for the grant program:** Agencies must have demonstrated experience in designing and implementing public education prevention projects.

**F. Procedure for eligible organizations to apply for grant funds: Proposal packages may be requested from:**

Deborah E. Cohen, Director  
 Department of Human Services  
 Office for Prevention of Mental Retardation  
 and Developmental Disabilities  
 222 South Warren Street, 4th floor  
 CN 700  
 Trenton, New Jersey 08625  
 609-984-3351

**G. Address of division, office or official receiving application:** Same as above.

**H. Deadline by which applications must be submitted to the office:** Proposals must be submitted by February 15, 1990.

**I. Date by which applicants shall be notified whether they will receive funds under the grant program:** Applicants shall receive notice of approval or disapproval by March 15, 1990.

## LAW AND PUBLIC SAFETY

### (a)

#### OFFICE OF THE ATTORNEY GENERAL

##### Notice of Availability of the Quarterly Report of Legislative Agents for the Third Quarter of 1989

Take notice that Peter N. Perretti, Jr., Attorney General of the State of New Jersey, in compliance with N.J.S.A. 52:13C-23(h), hereby publishes Notice of the Availability of the Quarterly Report of Legislative Agents for the Third Quarter of 1989, accompanied by a Summary of the Quarterly Report.

At the conclusion of the Third Quarter of 1989, the Notices of Representation filed with this office reflect that 622 individuals are registered as Legislative Agents. Legislative Agents are required by law to submit in writing a Quarterly Report of their activity in attempting to influence Legislation during each calendar quarter. The aforesaid report shall be filed between the first and tenth days of each calendar quarter for such activity that occurred during the preceding calendar quarter. (N.J.S.A. 52:13C-22(b)).

A complete Quarterly Report of Legislative Agents, consisting of the Summary and copies of all Quarterly Reports filed by Legislative Agents for the Third Calendar Quarter of 1989, has been filed separately for reference with the following offices: the Office of the Governor, the Office of the Attorney General, the Office of Legislative Services (Bill Room), the Office of Administrative Law, and the State Library. Each is available for inspection in accordance with the practices of those offices.

The Summary Report includes the following information:

—The names of registered Agents, their registration numbers, their business addresses and whom they represent.

—A list of Agents who have filed Quarterly Reports by Statutory and Compilation Deadlines for this quarter.

—A list of Agents whose Quarterly Reports were not received by the Compilation Deadline for this quarter.

Following is a listing of all new Legislative Agents who have filed Notices of Representation during the Third Calendar Quarter of 1989:

- No. 21 Lori Thompson, representing N.J. School Boards Ass'n.
- No. 542 Michael Edwards, representing Independent Lobbyist.
- No. 543 April Jackson, representing Independent Lobbyist.
- No. 544 Charles W. Gardner, representing Warner-Lambert.
- No. 545 James T. Nelson, representing Independent Lobbyist.
- No. 546 Houston G. Ingram, representing Texaco, U.S.A.
- No. 547 Frank J. Brill, Jr., representing Brill Public Affairs.
- No. 548 Robert Broderick, representing N.J. Education Ass'n.
- No. 550 Bobby Jackson, representing Independent Lobbyist.
- No. 551 Michael W. Kempner, representing MWW Strategic Communications Inc.
- No. 551 Mark Weaver, representing MWW Strategic Communications Inc.
- No. 551 Robert G. Sommer, representing MWW Strategic Communications Inc.
- No. 552 Richard L. Duprey, representing Commerce & Industry Ass'n of N.J.
- No. 553 Edward Samson, representing Common Cause of N.J.
- No. 554 James A. Jablonski, representing Public Power Ass'n and Sussex Rural Electric Co.
- No. 555 Timothy S. Kelsey, representing N.J. Natural Gas Co.
- No. 556 Mike Tortosa, representing N.J. A.B.A.T.E.
- No. 557 Lorryn Wahler, representing N.J. Psychological Ass'n.
- No. 558 Henry Edward Meisner, representing Prudential Insurance Co. of America.
- No. 365 Bradley S. Brewster, representing Princeton Public Affairs Group Inc.

Following is a listing of all Legislative Agents who have filed Notices of Termination during the Third Calendar Quarter of 1989:

Richard T. Anderson	316
Jerri Antunes	83
James F. Beville, Jr.	416
Paul Capelli	133
Barbara A. Curtis	389
Terry Donnelly	133
H. David Earling	255
Walter Ellis, Jr.	36
Ronald C. Erdos	292
John Fitzgerald	133
Shelley Ann Gardner	391
Robert D. Gilbert	239
Mary Helen Groendyke	393
Joyce S. Harrington	393
Liz Healy	133
Patricia Hernandez	87
Irene P. Holler	393
John Huntoon	203
Thomas C. Kelly	87
Rick A. Kramer	133
Robert L. Lash	498
Jennifer Lynch	133
John J. Mullaney	17
Francis R. Perkins	87
Russell J. Schumacher	394
Robert Stears	491
Albert Stender	87
David Whitehead	512
Brooke Wilkinson	133

For further information contact the Legislative Agents Unit at (609) 984-9371.

**(a)**

**BOARD OF MEDICAL EXAMINERS  
Notice of Action on Petitions for Rulemaking  
N.J.A.C. 13:35**

Petitioners: New Jersey Society of Physician Assistants,  
Ames L. Filippone, Jr., M.D., Stanley S. Bergen, M.D.  
Authority: N.J.S.A. 52:14B-4(f); N.J.S.A. 45:9-2.

Take notice that the Board of Medical Examiners received the following petitions for rulemaking:

1. Petition of the New Jersey State Society of Physician Assistants to authorize the practice of physician assistants within the State of New Jersey. This petition was received by the Board on July 11, 1989 and was published in the New Jersey Register on September 5, 1989, at 21 N.J.R. 2824(a).
2. Petition of Ames L. Filippone, Jr., M.D., to authorize the practice of surgical assistants within the State of New Jersey. This petition was received by the Board on June 15, 1989 and was published in the New Jersey Register on November 6, 1989 at 21 N.J.R. 3565(a).
3. Petition of Stanley S. Bergen, M.D., to authorize the practice of physician assistants within the State of New Jersey. This petition was received by the Board on October 10, 1989, and was published in the New Jersey Register on December 4, 1989 at 21 N.J.R. 3792(c).

Petitioners advance a number of arguments for the licensing of physician assistants and surgical assistants. These include improved health care, particularly among AIDS patients, the elderly and in underserved rural areas, and lower health care costs. Petitioners also argue that physician assistants currently practice in 49 states and the District of Columbia, that a 1986 Cardiac Services Task Force and a 1987 Committee of the Statewide Health Coordinating Council endorsed the utilization of physician assistants, and that such utilization would free overworked doctors to tackle more complex health care problems. The arguments of these three petitioners are more particularly set forth in their respective petitions.

Because of the importance of this issue, the Board is not prepared to initiate rulemaking at this time; further study and discussion remain necessary. Accordingly, the Board has established a Committee to review this issue. The Board has also established a Physicians' Assistants Task Force, consisting of the petitioners and/or their representatives and other interested parties, to assist the Board Committee in its deliberations. The Task Force met on October 17, 1989, and further meetings are planned. When the Committee and the Task Force complete their deliberations, the Board will take under advisement their presentations and comments and will respond to the petitions pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

**TREASURY-GENERAL**

**(b)**

**DIVISION OF BUILDING AND CONSTRUCTION  
Notice of Architect/Engineer Selection Board  
Meetings**

Take notice that, in accordance with P.L. 1975, c.231, known as the "Open Public Meeting Act", the Division announces the Architect/Engi-

neer Selection Board meetings scheduled for 1990. Each Wednesday at 9:00 A.M., the meetings will convene at the following location:  
Conference Room #1 (8th Floor)  
Taxation Building  
W. State and Barrack Streets  
Trenton, NJ 08625

**(c)**

**DIVISION OF BUILDING AND CONSTRUCTION  
Architect-Engineer Selection  
Notice of Assignments—Month of November 1989**

Solicitation of design services for major projects are made by notices published in construction trade publications and newspapers and by direct notification of professional associations/societies and listed, pre-qualified New Jersey consulting firms. For information on DBC's pre-qualification and assignment procedures, call (609) 984-6979.

Last list dated November 1, 1989.

The following assignments have been made:

DBC #	PROJECT	A/E	CCE
A510	CPM Services Asbestos Abatement— 11th, 12th, 13th Floors Dept. of Labor Building Trenton, NJ	Gaudet Associates, Inc.	\$16,500 Services
P496	Archaeological Investigation Old Barracks Trenton, NJ	Hunter Research, Inc.	\$24,950 Services
P641	Water System Upgrade Liberty State Park Jersey City, NJ	Richard A. Alaimo Eng. & Assoc.	\$80,000
P634	Interpretive Plan Fort Mott State Park Salem County, NJ	VanSickle & Rolleri	\$69,900 Services
COMPETITIVE PROPOSALS			
	VanSickle & Rolleri	\$69,900 Lump Sum	
	Ueland and Junker	\$74,753 Lump Sum	
A566-01	War Memorial Renovation and Improvements Dept. of the Treasury Trenton, NJ	Ryan Gibson Bauer Kornblath, PA	\$20,350,000

Qualifications Based Selection

Ryan Gibson Bauer Kornblath, PA	\$1,217,457 Lump Sum
Geddes Brecher Qualls Cunningham	\$1,150,181 Lump Sum
Vitetta Group	\$998,740 Lump Sum
Short & Ford, Architects	\$1,148,659 Lump Sum

# EXECUTIVE ORDER NO. 66(1978) EXPIRATION DATES

Pursuant to N.J.A.C. 1:30-4.4, all expiration dates are now affixed at the chapter level. The following table is a complete listing of all current New Jersey Administrative Code expiration dates by **Title** and **Chapter**. If a chapter is not cited, then it does not have an expiration date. In some instances, however, exceptions occur to the chapter-level assignment. These variations do appear in the listing along with the appropriate chapter citation, and are noted either as an exemption from Executive Order No. 66(1978) or as a subchapter-level date differing from the chapter date.

Current expiration dates may also be found in the loose-leaf volumes of the Administrative Code under the **Title** Table of Contents for each executive department or agency and on the **Subtitle** page for each group of chapters in a Title. Please disregard all expiration dates appearing elsewhere in a Title volume.

This listing is revised monthly and appears in the first issue of each month.

## OFFICE OF ADMINISTRATIVE LAW—TITLE 1

N.J.A.C.	Expiration Date
1:1	5/4/92
1:5	10/20/91
1:6	5/4/92
1:6A	5/4/92
1:7	5/4/92
1:10	5/4/92
1:10A	5/4/92
1:10B	10/6/91
1:11	5/4/92
1:13	5/4/92
1:13A	4/3/94
1:20	5/4/92
1:21	5/4/92
1:30	2/14/91
1:31	6/17/92

## AGRICULTURE—TITLE 2

N.J.A.C.	Expiration Date
2:1	9/3/90
2:2	1/17/94
2:3	8/21/94
2:5	8/21/94
2:6	9/3/90
2:9	7/7/91
2:16	5/7/90
2:22	7/6/92
2:23	7/18/93
2:24	2/11/90
2:32	6/1/92
2:33	3/6/94
2:34	1/2/95
2:48	11/27/90
2:50	5/1/92
2:52	6/7/90
2:53	3/3/91
2:54	Exempt (7 U.S.C. 601 et seq. 7 C.F.R. 1004)
2:68	11/7/93
2:69	11/7/93
2:70	5/7/90
2:71	7/8/93
2:72	7/8/93
2:73	7/8/93
2:74	7/8/93
2:76	7/31/94
2:90	6/24/90

## BANKING—TITLE 3

N.J.A.C.	Expiration Date
3:1	1/6/91
3:2	4/15/90
3:6	3/3/91
3:7	9/16/90
3:11	5/1/94
3:13	11/17/91
3:17	6/18/91
3:18	1/19/93

## N.J.A.C.

N.J.A.C.	Expiration Date
3:19	3/17/91
3:21	2/2/92
3:22	5/12/94
3:23	7/6/92
3:24	8/18/94
3:25	8/17/92
3:26	12/31/90
3:27	9/16/90
3:28	12/17/89
3:32	10/3/93
3:33	9/18/94
3:38	10/5/92
3:41	10/16/90
3:42	4/4/93

## PERSONNEL (CIVIL SERVICE)—TITLE 4/4A

N.J.A.C.	Expiration Date
4:1	1/28/90
4:2	1/28/90
4:3	6/20/94
4:6	5/5/91
4A:1	10/5/92
4A:2	10/5/92
4A:3	9/6/93
4A:4	6/6/93
4A:5	10/5/92
4A:6	1/4/93
4A:7	10/5/92
4A:9	10/5/92
4A:10	11/2/92

## COMMUNITY AFFAIRS—TITLE 5

N.J.A.C.	Expiration Date
5:2	4/10/94
5:3	9/1/93
5:4	10/5/92
5:10	11/17/93
5:11	3/10/94
5:12	1/1/90
5:13	12/24/92
5:14	12/1/90
5:15	5/1/94
5:18	2/1/90
5:18A	2/1/90
5:18B	2/1/90
5:19	2/1/93
5:22	12/1/89
5:23	3/1/93
5:24	9/1/90
5:25	3/1/91
5:26	3/1/91
5:27	6/1/90
5:28	12/20/90
5:29	6/18/91
5:30	6/29/93
5:31	12/1/94
5:37	11/18/90
5:38	10/27/93
5:51	9/1/93
5:52	1/2/95

N.J.A.C.	Expiration Date
5:70	7/9/92
5:71	3/1/90
5:80	5/20/90
5:91	6/16/91
5:92	6/16/91
5:100	5/5/94

N.J.A.C.	Expiration Date
7:18	8/6/91
7:19	4/15/90
7:19A	2/19/90
7:19B	2/19/90
7:20	5/6/90
7:20A	12/16/93
7:22	1/5/92
7:23	6/9/94
7:24	5/19/91
7:25	2/18/91
7:25A	5/6/90
7:26	11/4/90
7:26B	12/21/92
7:27	Exempt
7:27A	12/4/94
7:27B-3	Exempt
7:28	10/7/90
7:29	3/18/90
7:29B	2/1/93
7:30	12/4/92
7:31	6/20/93
7:36	11/21/93
7:38	9/18/90
7:45	2/6/94

**DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS—TITLE 5A**

N.J.A.C.	Expiration Date
5A:2	5/20/90

**EDUCATION—TITLE 6**

N.J.A.C.	Expiration Date
6:2	2/6/94
6:3	7/8/93
6:7	1/2/95
6:8	1/5/92
6:11	12/12/90
6:12	4/2/91
6:20	8/9/90
6:21	11/22/94
6:22	9/30/90
6:22A	12/19/93
6:24	4/2/91
6:28	4/10/94
6:29	3/25/90
6:30	7/5/93
6:31	11/16/94
6:39	8/14/94
6:43	4/7/91
6:46	10/5/92
6:53	7/7/92
6:64	1/11/93
6:68	4/12/90
6:69	6/4/91
6:70	10/17/94
6:78	11/7/93
6:79	11/25/92

**HEALTH—TITLE 8**

N.J.A.C.	Expiration Date
8:7	9/16/90
8:8	4/12/94
8:9	2/18/91
8:13	9/8/92
8:18	11/6/94
8:19	6/28/90
8:20	3/4/90
8:21	11/18/90
8:21A	4/1/90
8:22	8/4/91
8:23	12/17/89
8:24	5/2/93
8:25	5/19/93
8:26	8/4/91
8:31	11/5/89
8:31A	3/18/90
8:31B	10/15/90
8:31C	1/20/92
8:33	10/7/90
8:33A	4/15/90
8:33B	10/7/90
8:33C	7/17/91
8:33E	6/23/92
8:33F	11/16/94
8:33G	7/17/94
8:33H	7/19/90
8:33I	9/15/91
8:33J	4/24/94
8:33K	3/27/94
8:33L	11/16/92
8:33M	7/17/94
8:33N	5/15/94
8:34	11/15/93
8:39	6/20/93
8:40	4/15/90
8:41	2/17/92
8:42	8/17/92
8:42A	6/19/94
8:42B	7/18/93
8:43	1/21/91
8:43A	9/3/90
8:43B	1/21/91
8:43E	12/11/92
8:43F	3/18/90
8:43G	9/8/91
8:43H	8/21/94
8:43I	3/21/93
8:44	11/2/93

**ENVIRONMENTAL PROTECTION—TITLE 7**

N.J.A.C.	Expiration Date
7:1	9/16/90
7:1A	6/5/92
7:1C	6/17/90
7:1D	11/28/93
7:1E	7/15/90
7:1F	4/20/92
7:1G	9/29/94
7:1H	7/24/90
7:1I	7/18/93
7:2	6/24/93
7:3	3/21/93
7:4A	9/18/94
7:6	6/9/94
7:7	5/12/94
7:7A	6/6/93
7:7E	7/24/90
7:7F	1/19/93
7:8	2/5/93
7:9	1/21/91
7:9A	8/21/94
7:10	9/1/94
7:11	5/13/93
7:12	4/11/93
7:13	7/14/94
7:14	4/27/94
7:14A	6/2/94
7:14B	12/21/92
7:15	10/2/94
7:17	4/7/91

N.J.A.C.	Expiration Date
8:45	5/20/90
8:48	8/20/89
8:51	9/16/90
8:52	12/15/91
8:53	8/4/91
8:57	6/18/90
8:59	9/29/94
8:60	5/3/90
8:61	10/6/91
8:65	12/2/90
8:70	8/19/93
8:71	2/17/94

N.J.A.C.	Expiration Date
10:68	7/7/91
10:69	6/6/93
10:69A	4/20/93
10:69B	11/21/93
10:70	6/16/91
10:71	1/6/91
10:72	8/27/92
10:80	5/19/94
10:81	8/24/94
10:82	8/24/94
10:83	1/19/94
10:85	1/30/90
10:87	1/27/94
10:89	9/11/90
10:90	10/14/92
10:94	1/6/91
10:95	8/23/89
10:97	5/15/94
10:99	2/19/90
10:109	3/17/91
10:120	8/21/91
10:121	3/13/89
10:121A	12/7/92
10:122	5/15/94
10:122A	Exempt
10:122B	9/10/89
10:123	7/29/90
10:124	12/7/92
10:125	7/16/89
10:126	11/7/93
10:127	8/26/93
10:129	10/11/89
10:130	9/19/88
10:131	12/7/92
10:132	1/5/92
10:141	2/7/94

**HIGHER EDUCATION—TITLE 9**

N.J.A.C.	Expiration Date
9:1	2/21/94
9:2	6/17/90
9:3	9/27/93
9:4	10/30/91
9:5	1/21/91
9:6	5/20/90
9:6A	1/4/93
9:7	2/28/93
9:8	11/4/90
9:9	10/3/93
9:11	4/17/94
9:12	4/17/94
9:14	5/20/90
9:15	8/21/94

**HUMAN SERVICES—TITLE 10**

N.J.A.C.	Expiration Date
10:1	11/7/93
10:2	1/5/92
10:3	11/21/93
10:4	1/3/88
10:12	1/5/92
10:13	7/18/93
10:14	5/16/93
10:31	6/5/94
10:36	8/18/91
10:37	11/4/90
10:38	5/28/91
10:39	2/21/94
10:40	5/11/94
10:41	3/20/94
10:42	8/18/91
10:43	8/21/94
10:44	10/3/88
10:44A	11/21/93
10:44B	4/15/90
10:45	9/19/88
10:47	11/4/90
10:48	1/21/91
10:49	8/12/90
10:50	3/3/91
10:51	10/28/90
10:52	2/19/90
10:53	4/29/90
10:54	3/3/91
10:55	3/11/90
10:56	8/26/91
10:57	3/3/91
10:58	3/3/91
10:59	3/3/91
10:60	8/27/90
10:61	3/3/91
10:62	3/3/91
10:63	11/28/94
10:64	3/3/91
10:65	8/25/94
10:66	12/15/93
10:67	3/3/91

**CORRECTIONS—TITLE 10A**

N.J.A.C.	Expiration Date
10A:1	7/6/92
10A:3	10/6/91
10A:4	7/21/91
10A:5	10/6/91
10A:6	11/2/92
10A:8	11/16/92
10A:9	1/20/92
10A:10-6	8/17/92
10A:16	4/6/92
10A:17	12/15/91
10A:18	7/6/92
10A:19	8/21/94
10A:22	7/5/93
10A:31	2/4/90
10A:32	3/4/90
10A:33	5/2/94
10A:34	4/6/92
10A:70	Exempt
10A:71	4/15/90

**INSURANCE—TITLE 11**

N.J.A.C.	Expiration Date
11:1	2/3/91
11:1-20	6/24/90
11:1-22	6/24/90
11:2	12/2/90
11:3	1/6/91
11:4	12/2/90
11:5	10/28/93
11:7	10/19/92
11:10	7/15/90
11:12	10/27/91
11:13	11/12/92
11:15	10/26/94

N.J.A.C.	Expiration Date
11:16	2/3/91
11:17	4/18/93
11:17A	1/2/95
11:17B	1/2/95
11:17C	1/2/95
11:17D	1/2/95
11:18	12/18/94

N.J.A.C.	Expiration Date
13:21	12/16/90
13:22	1/7/90
13:23	5/26/94
13:24	9/27/94
13:25	3/18/90
13:26	9/26/93
13:27	4/1/90
13:28	5/16/93
13:29	6/3/90
13:30	4/15/90
13:31	12/12/91
13:32	10/23/92
13:33	3/18/90
13:34	10/26/93
13:35	9/21/94
13:36	9/27/94
13:37	2/11/90
13:38	10/7/90
13:39	6/19/94
13:39A	7/7/91
13:40	9/3/90
13:41	9/3/90
13:42	10/31/93
13:43	9/1/93
13:44	8/7/94
13:44B	11/2/92
13:44C	7/18/93
13:44D	8/7/94
13:45A	12/16/90
13:45B	4/17/94
13:46	6/3/90
13:47	2/2/92
13:47A	10/5/92
13:47B	2/21/94
13:47C	6/9/94
13:48	1/21/91
13:49	12/16/93
13:51	4/27/92
13:54	10/5/91
13:58	9/7/89
13:59	9/16/90
13:60	1/20/92
13:70	2/25/90
13:71	2/25/90
13:75	6/5/94
13:76	6/27/93
13:77	2/1/93
13:78	3/20/94

**LABOR—TITLE 12**

N.J.A.C.	Expiration Date
12:3	12/19/93
12:5	9/19/93
12:6	10/17/93
12:15	8/19/90
12:16	4/1/90
12:17	1/6/91
12:18	3/7/93
12:20	8/14/94
12:35	8/5/90
12:41	1/17/94
12:45	5/2/93
12:46	5/2/93
12:47	5/2/93
12:48	5/2/93
12:49	5/2/93
12:51	6/30/91
12:56	9/26/90
12:57	9/26/90
12:58	9/26/90
12:60	3/21/93
12:90	12/17/89
12:100	9/22/94
12:105	1/21/91
12:110	1/19/93
12:112	9/6/93
12:120	5/3/90
12:175	11/28/93
12:190	1/4/93
12:195	6/24/93
12:200	8/5/90
12:210	9/6/93
12:235	5/5/91

**COMMERCE, ENERGY, AND ECONOMIC DEVELOPMENT—TITLE 12A**

N.J.A.C.	Expiration Date
12A:9	3/7/93
12A:10-1	10/13/94
12A:11	9/21/92
12A:12	9/21/92
12A:50	8/15/93
12A:54	8/15/93
12A:60	11/21/93
12A:80	2/6/94
12A:81	2/6/94
12A:82	2/6/94
12A:100-1	9/8/91
12A:120	9/6/93
12A:121	12/5/93

**LAW AND PUBLIC SAFETY—TITLE 13**

N.J.A.C.	Expiration Date
13:1	7/5/93
13:2	8/5/90
13:3	4/25/93
13:4	1/21/91
13:10	3/27/94
13:13	6/17/90
13:18	4/1/90
13:19	8/18/94
13:20	12/18/90

**PUBLIC UTILITIES—TITLE 14**

N.J.A.C.	Expiration Date
14:1	12/16/90
14:3	5/6/90
14:5	12/16/90
14:6	3/3/91
14:9	4/15/90
14:10	9/8/91
14:10-6	9/5/91
14:11	1/27/92
14:17	4/24/94
14:18	7/29/90

**ENERGY—TITLE 14A**

N.J.A.C.	Expiration Date
14A:2	4/17/89
14A:3	10/7/90
14A:5	10/19/88
14A:6	8/6/89
14A:7	9/16/90
14A:8	9/20/89
14A:11	9/20/89
14A:13	2/2/92
14A:14	1/30/94

N.J.A.C.	Expiration Date
14A:20	2/3/91
14A:21	11/21/90
14A:22	6/4/89

**STATE—TITLE 15**

N.J.A.C.	Expiration Date
15:2	5/2/93
15:3	7/7/91
15:5	2/17/92
15:10	2/18/91

**TRANSPORTATION—TITLE 16**

N.J.A.C.	Expiration Date
16:1	8/5/90
16:1A	6/16/94
16:5	11/20/94
16:6	8/7/94
16:7	3/6/94
16:13	5/7/89
16:20A	12/17/89
16:20B	12/17/89
16:21	9/3/90
16:21A	11/20/94
16:22	2/3/91
16:25	8/15/93
16:25A	7/18/93
16:26	9/5/94
16:27	9/8/91
16:28	6/1/93
16:28A	6/1/93
16:29	6/1/93
16:30	6/1/93
16:31	6/1/93
16:31A	6/1/93
16:32	4/15/90
16:41	7/28/92
16:41A	2/19/90
16:41B	3/4/90
16:43	9/3/90
16:44	5/25/93
16:45	9/18/94
16:46	11/6/94
16:49	3/18/90
16:51	4/6/92
16:53	7/17/94
16:53A	4/15/90
16:53B	7/3/94
16:53C	6/16/93
16:53D	5/3/94
16:54	4/7/91
16:55	6/14/93
16:56	8/7/94
16:60	6/14/93
16:61	6/14/93
16:62	4/15/90
16:72	3/31/91
16:73	1/30/92
16:75	5/13/93
16:76	2/6/94
16:77	1/21/90
16:78	10/7/90
16:79	10/20/91
16:80	11/7/93
16:81	11/7/93
16:82	9/5/94

**TREASURY-GENERAL—TITLE 17**

N.J.A.C.	Expiration Date
17:1	5/6/93
17:2	11/8/94
17:3	8/15/93

N.J.A.C.	Expiration Date
17:4	7/1/90
17:5	12/2/90
17:6	11/22/93
17:7	12/19/93
17:8	6/27/90
17:9	10/3/93
17:10	5/6/93
17:12	10/13/94
17:13	10/13/94
17:14	10/13/94
17:16	12/2/90
17:19	3/18/90
17:20	9/26/93
17:25	5/26/94
17:27	10/7/93
17:28	9/13/90
17:29	10/18/90
17:30	5/4/92
17:32	3/21/93
17:33	4/17/94

**TREASURY-TAXATION—TITLE 18**

N.J.A.C.	Expiration Date
18:1	7/21/94
18:2	9/6/93
18:3	3/14/94
18:5	3/14/94
18:6	3/14/94
18:7	3/14/94
18:8	2/24/94
18:9	6/7/93
18:12	7/29/93
18:12A	7/29/93
18:14	7/29/93
18:15	7/29/93
18:16	7/29/93
18:17	7/29/93
18:18	3/14/94
18:19	3/14/94
18:22	2/24/94
18:23	2/24/94
18:23A	8/5/90
18:24	6/7/93
18:25	1/6/91
18:26	6/7/93
18:30	4/2/89
18:35	6/7/93
18:36	2/4/90
18:37	8/5/90
18:38	2/16/93
18:39	9/8/92

**OTHER AGENCIES—TITLE 19**

N.J.A.C.	Expiration Date
19:3	5/26/93
19:3B	Exempt (N.J.S.A. 13:17-1)
19:4	5/26/93
19:4A	6/20/93
19:8	7/5/93
19:9	10/17/93
19:10	9/5/94
19:12	8/7/91
19:16	8/7/91
19:17	6/8/93
19:25	1/9/91
19:30	10/7/90
19:40	8/24/94
19:41	5/12/93
19:42	5/12/93
19:43	4/27/94
19:44	9/29/93
19:45	3/24/93
19:46	4/28/93

**N.J.A.C.**  
19:47  
19:48  
19:49  
19:50  
19:51  
19:52

**Expiration Date**  
4/28/93  
10/13/93  
3/24/93  
5/12/93  
8/14/91  
9/25/91

**N.J.A.C.**  
19:53  
19:54  
19:61  
19:65  
19:75

**Expiration Date**  
4/28/93  
3/24/93  
7/7/91  
7/7/91  
1/13/94

# REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

## A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

**At the bottom of the index listing for each Administrative Code Title is the Transmittal number and date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the November 6, 1989 issue.**

**If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers.** A proposal may be adopted up to one year after its initial publication in the Register. Failure to adopt a proposed rule on a timely basis requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(c).

### Terms and abbreviations used in this Index:

**N.J.A.C. Citation.** The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

**Proposal Notice (N.J.R. Citation).** The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

**Document Number.** The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1990 d.1 means the first rule adopted in 1990.

**Adoption Notice (N.J.R. Citation).** The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

**Transmittal.** A series number and supplement date certifying the currency of rules found in each Title of the New Jersey Administrative Code: Rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

**N.J.R. Citation Locator.** An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find the issue of publication of a rule proposal or adoption.

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**MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: SUPPLEMENT OCTOBER 16, 1989**

**NEXT UPDATE: SUPPLEMENT NOVEMBER 20, 1989**

**Note: If no changes have occurred in a Title during the previous month, no update will be issued for that Title.**

# N.J.R. CITATION LOCATOR

If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register	If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register
21 N.J.R. 1 and 88	January 3, 1989	21 N.J.R. 1935 and 2148	July 17, 1989
21 N.J.R. 89 and 224	January 17, 1989	21 N.J.R. 2149 and 2426	August 7, 1989
21 N.J.R. 225 and 364	February 6, 1989	21 N.J.R. 2427 and 2690	August 21, 1989
21 N.J.R. 365 and 588	February 21, 1989	21 N.J.R. 2691 and 2842	September 5, 1989
21 N.J.R. 589 and 658	March 6, 1989	21 N.J.R. 2843 and 3042	September 18, 1989
21 N.J.R. 659 and 810	March 20, 1989	21 N.J.R. 3043 and 3204	October 2, 1989
21 N.J.R. 811 and 954	April 3, 1989	21 N.J.R. 3205 and 3330	October 16, 1989
21 N.J.R. 955 and 1036	April 17, 1989	21 N.J.R. 3331 and 3584	November 6, 1989
21 N.J.R. 1037 and 1178	May 1, 1989	21 N.J.R. 3585 and 3688	November 20, 1989
21 N.J.R. 1179 and 1474	May 15, 1989	21 N.J.R. 3689 and 3812	December 4, 1989
21 N.J.R. 1475 and 1598	June 5, 1989	21 N.J.R. 3813 and 3986	December 18, 1989
21 N.J.R. 1599 and 1762	June 19, 1989	22 N.J.R. 1 and 88	January 2, 1990
21 N.J.R. 1763 and 1934	July 3, 1989		

N.J.A.C. CITATION	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
<b>ADMINISTRATIVE LAW—TITLE 1</b>			
1:1-3.3	Return of transmitted cases	21 N.J.R. 3207(a)	R.1989 d.605
1:1-5.4	Nonlawyer representation	21 N.J.R. 2693(a)	21 N.J.R. 3914(a)
1:1-14.11	Transcripts of OAL hearings	21 N.J.R. 3587(a)	
1:1-19.2	Withdrawal of request for hearing or defense raised	21 N.J.R. 3589(a)	
1:6A	Special education hearings	21 N.J.R. 2693(a)	
1:6A	Special education hearings: public hearings	21 N.J.R. 3045(a)	
1:11-10.1	Discovery in private passenger automobile insurance rate hearings	21 N.J.R. 3815(a)	

**Most recent update to Title 1: TRANSMITTAL 1989-5 (supplement August 21, 1989)**

<b>AGRICULTURE—TITLE 2</b>			
2:2-3.3	Tuberculin testing of cattle	21 N.J.R. 3333(a)	
2:24	Registration and transportation of bees	21 N.J.R. 3045(b)	
2:34-2	Equine Advisory Board rules	21 N.J.R. 2151(a)	R.1990 d.15
			22 N.J.R. 25(a)

**Most recent update to Title 2: TRANSMITTAL 1989-8 (supplement October 16, 1989)**

<b>BANKING—TITLE 3</b>			
3:1-14	Revolving credit equity loans	21 N.J.R. 3333(b)	
3:1-17	Senior citizen homeowner's reverse mortgage loans	21 N.J.R. 3207(b)	
3:18-3.5	Repeal (see 3:1-14)	21 N.J.R. 3333(b)	
3:24-1.2	Check cashing business standards: administrative correction concerning corporate applications		21 N.J.R. 3448(a)
3:28	Bookkeeping and accounting by savings and loan associations	21 N.J.R. 3336(a)	
3:42-2.2, 7	Pinelands Development Credit Bank: resale of bank-owned credits	21 N.J.R. 3691(a)	

**Most recent update to Title 3: TRANSMITTAL 1989-6 (supplement October 16, 1989)**

<b>CIVIL SERVICE—TITLE 4</b>			
4:1-16.1-16.6, 24.2	Repeal (see 4A:8)	21 N.J.R. 3340(a)	
4:1-16.6, 16.15, 25.1	Repeal rules	21 N.J.R. 1766(a)	R.1989 d.569
4:2-7.7(c)	Repeal (see 4A:3-4.11)	21 N.J.R. 1184(a)	21 N.J.R. 3448(b)
4:2-16.1, 16.2	Repeal (see 4A:8)	21 N.J.R. 3340(a)	
4:2-16.6, 16.8	Repeal rules	21 N.J.R. 1766(a)	R.1989 d.569
4:3-16.1, 16.2	Repeal (see 4A:8)	21 N.J.R. 3340(a)	21 N.J.R. 3448(b)

**Most recent update to Title 4: TRANSMITTAL 1988-4 (supplement July 17, 1989)**

<b>PERSONNEL—TITLE 4A</b>			
4A:1-4.1	Delegation approval in local service	21 N.J.R. 1766(a)	R.1989 d.569
4A:2-1.2, 1.4, 2.5, 2.7, 3.1, 3.7	Appeals and discipline	21 N.J.R. 1766(a)	R.1989 d.569
4A:3-4.11	State service: downward title reevaluation pay adjustments	21 N.J.R. 1184(a)	
4A:3-4.17, 4.21	Compensation: State service	21 N.J.R. 2429(a)	R.1989 d.570
4A:3-38	Intermittent employees in State service: leave entitlements	21 N.J.R. 3337(a)	21 N.J.R. 3451(a)
4A:4-1.11	Vacancy Review Board: State service	21 N.J.R. 3337(a)	
4A:4-2.1, 2.15, 3.4, 5.5	Promotional examinations; eligible lists	21 N.J.R. 2429(a)	R.1989 d.570
			21 N.J.R. 3451(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
4A:4-2.3, 2.9, 2.15, 5.2, 6.3-6.6, 7.3	Selection and appointment	21 N.J.R. 1766(a)	R.1989 d.569	21 N.J.R. 3448(b)
4A:6-1.2, 1.3, 1.9, 2.4	Intermittent employees in State service: leaves and holiday pay	21 N.J.R. 3337(a)		
4A:6-1.5	Sick leave: State service	21 N.J.R. 2429(a)	R.1989 d.570	21 N.J.R. 3451(a)
4A:8	Layoffs	21 N.J.R. 3340(a)		
4A:10-1.1	Information requested of appointing authority	21 N.J.R. 2429(a)	R.1989 d.570	21 N.J.R. 3451(a)
4A:10-2.2	Vacated position and permanent appointment	21 N.J.R. 1766(a)	R.1989 d.569	21 N.J.R. 3448(b)

**Most recent update to Title 4A: TRANSMITTAL 1989-3 (supplement October 16, 1989)**

**COMMUNITY AFFAIRS—TITLE 5**

5:1-1.1, 2.1, 6, 7.4	Standards of conduct	21 N.J.R. 3693(a)		
5:2-1.1	Department organization	Exempt	R.1989 d.578	21 N.J.R. 3658(a)
5:2-1.1	Department organization	Exempt	R.1989 d.589	21 N.J.R. 3740(a)
5:2-1.1	Department organization: administrative correction			21 N.J.R. 3914(b)
5:11-1.2, 6.2	Relocation assistance: definitions; relocation plans	21 N.J.R. 3694(a)		
5:12	Homelessness Prevention Program	21 N.J.R. 2845(a)		
5:14-4	Neighborhood Preservation Balanced Housing Program: affordability controls	21 N.J.R. 2153(a)	R.1989 d.588	21 N.J.R. 3740(b)
5:14-4.1	Neighborhood Preservation Balanced Housing Program: administration of affordability controls	21 N.J.R. 3695(a)		
5:18	Uniform Fire Code	21 N.J.R. 3344(a)		
5:18-1.4, 1.5, 2.4A, 2.5, 2.7, 2.8, 4.1, 4.7, 4.9, 4.11, 4.13	Uniform Fire Code inspection, safety and enforcement provisions	21 N.J.R. 2431(a)	R.1989 d.556	21 N.J.R. 3453(a)
5:18-2.7	Uniform Fire Code and Building Subcode: tents and tensioned membrane structures requiring permits	21 N.J.R. 1654(a)		
5:18-3.2	Uniform Fire Code: casino hotel fire safety plan	21 N.J.R. 2845(b)	R.1989 d.593	21 N.J.R. 3746(a)
5:18A	Fire Code Enforcement	21 N.J.R. 3344(a)		
5:18A-3.3	Duties of fire officials	21 N.J.R. 2431(a)	R.1989 d.556	21 N.J.R. 3453(a)
5:18A-4	Repeal (see 5:18C)	21 N.J.R. 1655(a)		
5:18B	High Level Alarms	21 N.J.R. 3344(a)		
5:18C	Uniform Fire Code: fire service training and certification	21 N.J.R. 1655(a)		
5:22	Exemptions from local property taxation	21 N.J.R. 3345(a)		
5:23-1.1, 3.4, 4.5, 10	Uniform Construction Code: Radon Mitigation Subcode	21 N.J.R. 3696(a)		
5:23-1.4	Uniform Construction Code: underground storage tank compliance	21 N.J.R. 3345(b)		
5:23-2.18A	Utility load management devices: installation programs	21 N.J.R. 233(a)	R.1989 d.550	21 N.J.R. 3458(a)
5:23-2.18A	Utility load management devices: public hearing concerning installation programs	21 N.J.R. 1185(b)		
5:23-3.5	Uniform Construction Code: educational facility use group	21 N.J.R. 2783(a)	R.1989 d.555	21 N.J.R. 3460(a)
5:23-3.14	Uniform Fire Code and Building Subcode: tents and tensioned membrane structures requiring permits	21 N.J.R. 1654(a)		
5:23-3.15	UCC: plumbing subcode	21 N.J.R. 3346(a)		
5:23-4.3	UCC: assumption of local enforcement powers	21 N.J.R. 2436(a)	R.1989 d.551	21 N.J.R. 3460(b)
5:23-4.5, 4.19, 4.20	UCC enforcing agencies: standardized forms; remittance of training fees	21 N.J.R. 3346(b)		
5:23-4.17	Dedication of fee revenue for UCC enforcement	21 N.J.R. 3348(a)		
5:23-4.24A	Uniform Construction Code: alternative plan review program for large projects	21 N.J.R. 1770(a)		
5:23-7.2-7.6, 7.8, 7.9, 7.11, 7.12, 7.17, 7.18, 7.30, 7.37, 7.41, 7.55-7.57, 7.61, 7.67, 7.68, 7.71-7.73, 7.75, 7.76, 7.80-7.82, 7.87, 7.94-7.97	Barrier Free Subcode	21 N.J.R. 2774(a)		
5:23-8.8	Asbestos hazard abatement subcode: administrative correction			21 N.J.R. 3747(a)
5:23-9.3	Uniform Construction Code: FRT plywood as roof sheathing	21 N.J.R. 3870(a)		
5:25-5.4	New Home Warranty Security Plan: builder premium rates	21 N.J.R. 3698(a)		
5:27	Rooming and boarding houses	21 N.J.R. 3871(a)		
5:29-1, 2.2	Landlord registration form for one and two-unit rental dwellings	21 N.J.R. 3349(a)		
5:29-1.2	Landlord registration form for one and two-unit rental dwellings: administrative correction	21 N.J.R. 3699(a)		
5:31	Local authorities	21 N.J.R. 3046(a)	R.1990 d.4	22 N.J.R. 26(a)
5:33	Urbanaid program	21 N.J.R. 3046(b)	R.1990 d.16	22 N.J.R. 26(b)
5:35	State aid for planning local effectiveness program	21 N.J.R. 3046(b)	R.1990 d.16	22 N.J.R. 26(b)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
5:52-1	Volunteer coaches' safety orientation and training skills programs: minimum standards	21 N.J.R. 2159(a)	R.1990 d.12	22 N.J.R. 26(c)
5:80-9.13	Housing and Mortgage Finance Agency: notice of rent increases	21 N.J.R. 2160(a)	R.1989 d.591	21 N.J.R. 3748(a)
5:80-18.1, 18.2, 18.3, 18.8	Housing and Mortgage Finance Agency: debarment from agency contracting	21 N.J.R. 3350(a)		
5:80-28.1	Housing and Mortgage Finance Agency: nonpublic records	21 N.J.R. 3351(a)		
5:91-1.2, 4.5, 6.2, 7.1-7.6	Council on Affordable Housing: mediation and post mediation process	21 N.J.R. 1773(a)		
5:92-18	Council on Affordable Housing: municipal conformance with State Development and Redevelopment Plan	21 N.J.R. 1186(a)		
5:100	Ombudsman for institutionalized elderly: practice and procedure	21 N.J.R. 1510(a)		
5:100	Ombudsman practice and procedure: extension of comment period	21 N.J.R. 1995(a)		

Most recent update to Title 5: TRANSMITTAL 1989-9 (supplement October 16, 1989)

#### MILITARY AND VETERANS' AFFAIRS (formerly DEFENSE)—TITLE 5A

Most recent update to Title 5A: TRANSMITTAL 1989-1 (supplement July 17, 1989)

#### EDUCATION—TITLE 6

6:3-1.18	Certification of school business administrators	21 N.J.R. 2915(a)		
6:7	Evaluation of building principals in State-operated districts	21 N.J.R. 3352(a)	R.1990 d.13	22 N.J.R. 28(a)
6:8-9	Elementary and secondary school summer sessions	21 N.J.R. 2441(c)	R.1989 d.601	21 N.J.R. 3933(a)
6:11-4.3, 8.2, 8.4, 8.5	Certification of bilingual and ESL teachers	21 N.J.R. 2721(a)	R.1989 d.615	21 N.J.R. 3937(a)
6:11-5.1-5.7, 7.2	Provisional certification of first-year teachers	21 N.J.R. 2717(a)	R.1989 d.614	21 N.J.R. 3934(a)
6:11-6.1, 6.2	Certification of nursery teachers	21 N.J.R. 3209(a)		
6:11-10.4, 10.10, 10.11, 10.14	Certification of school business administrators	21 N.J.R. 2915(a)		
6:20-2	Local district bookkeeping and accounting	21 N.J.R. 2919(a)		
6:20-2A	Double entry bookkeeping and GAAP accounting	21 N.J.R. 2919(a)		
6:21	Pupil transportation	21 N.J.R. 2724(a)	R.1989 d.610	21 N.J.R. 3939(a)
6:22-1.1, 1.3, 1.4, 1.7, 1.8, 2.5	Private school and State facilities for handicapped pupils	21 N.J.R. 3210(a)		
6:24-5.4	Tenure charges against persons within Human Services, Corrections and Education	21 N.J.R. 1939(b)	R.1989 d.553	21 N.J.R. 3461(a)
6:26	Repeal (see 6:8-9)	21 N.J.R. 2441(c)	R.1989 d.601	21 N.J.R. 3933(a)
6:27	Repeal (see 6:8-9)	21 N.J.R. 2441(c)	R.1989 d.601	21 N.J.R. 3933(a)
6:29	Health, safety and physical education	21 N.J.R. 3815(b)		
6:31	Bilingual education	21 N.J.R. 2443(a)	R.1989 d.600	21 N.J.R. 3948(a)
6:46-1.1, 4.6, 4.10, 4.12	Private vocational schools: instructional hours	21 N.J.R. 3700(a)		
6:68	State Library Assistance Programs	21 N.J.R. 3822(a)		
6:70	Library network services	21 N.J.R. 1940(a)	R.1989 d.572	21 N.J.R. 3462(a)

Most recent update to Title 6: TRANSMITTAL 1989-8 (supplement September 18, 1989)

#### ENVIRONMENTAL PROTECTION—TITLE 7

7:1G	Worker and Community Right to Know	21 N.J.R. 1944(a)	R.1989 d.544	21 N.J.R. 3478(a)
7:1G-3.2	Worker and Community Right to Know: administrative correction concerning environmental survey	_____	_____	21 N.J.R. 3482(a)
7:2-11.12	Natural Areas System: West Pine Plains	21 N.J.R. 1480(b)	R.1989 d.566	21 N.J.R. 3482(b)
7:2-11.12	Designation of West Pine Plains to Natural Areas System: extension of comment period	21 N.J.R. 2240(b)		
7:3-3	Advertising by tree experts	21 N.J.R. 3212(a)		
7:5C	Endangered Plant Species Program	21 N.J.R. 2847(a)		
7:7A-2.7(d)1, 2	Preliminary municipal approvals exemption: notice of rule invalidation	_____	_____	21 N.J.R. 3482(c)
7:7A-2.7(f)	Transition area exemption: notice of rule invalidation	_____	_____	21 N.J.R. 3482(d)
7:7A-8.2	Freshwater wetlands protection: administrative correction	_____	_____	21 N.J.R. 3748(b)
7:11-2.1, 2.2, 2.3, 2.9	Delaware and Raritan Canal-Spruce Run/Round Valley Reservoir System: schedule of rates	21 N.J.R. 3836(a)		
7:11-4	Manasquan Reservoir Water Supply System: rate schedule	21 N.J.R. 3838(a)		
7:11-5	Use of water from Manasquan Reservoir water supply system	21 N.J.R. 3701(a)		
7:13-7.1	Redelineation of Rowe Brook in Tewksbury Township, Hunterdon County	21 N.J.R. 3843(a)		
7:13-7.1	Redelineation of Pond Run in Hamilton Township, Mercer County	21 N.J.R. 3843(b)		
7:14A-1.8	NJPDES fee schedule for permittees and applicants	21 N.J.R. 3590(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:14A-4.7	Hazardous waste management: polychlorinated biphenyls (PCBs)	21 N.J.R. 1047(a)		
7:14A-6.15	NJPDES program: list of hazardous constituents for groundwater monitoring	21 N.J.R. 3844(a)		
7:14A-12.22, 12.23	Sewer connection ban exemptions	21 N.J.R. 2240(c)		
7:14B-1.3, 1.4, 1.6, 2.1-2.5, 2.7, 2.8, 3.1, 3.2, 3.4, 3.5, 4-12, 15	Underground storage tank systems	21 N.J.R. 2242(a)		
7:14B-13	Underground Storage Tank Improvement Fund loan program	21 N.J.R. 2265(a)		
7:18-1.1, 1.4, 1.6, 1.7, 1.9, 2.1-2.4, 2.6, 2.7, 2.10-2.13, 2.15, 5.3, 5.4, 5.5, 5.7, 5.8	Radon laboratory certification program	21 N.J.R. 3354(a)		
7:19	Water supply allocation permits	21 N.J.R. 3594(a)		
7:22A-1, 2, 3, 6	Sewage Infrastructure Improvement Act grants	21 N.J.R. 1948(a)		
7:25-2.20	Higbee Beach Wildlife Management Area	21 N.J.R. 2849(a)		
7:25-6	1990-1991 Fish Code	21 N.J.R. 1775(b)	R.1989 d.567	21 N.J.R. 3483(a)
7:25-12	Surf clam management	21 N.J.R. 3214(a)		
7:26-1.4, 7.4, 7.7, 8.2, 8.3, 8.4, 8.13, 9.1, 9.2, 10.6, 10.7, 10.8, 11.3, 11.4, 12.1	Hazardous waste management: polychlorinated biphenyls (PCBs)	21 N.J.R. 1047(a)		
7:26-1.4, 7.4, 8.2	Hazardous waste management: testing facility exemptions for treatability studies	21 N.J.R. 3705(a)		
7:26-1.13, 8.15	Hazardous waste management: exclusion or exemption from rules; discarded commercial chemicals	21 N.J.R. 3219(a)		
7:26-5	Hazardous and solid waste management: civil administrative penalties and adjudicatory hearings	21 N.J.R. 2734(a)		
7:26-6.5	Interdistrict and intradistrict solid waste flow: Bergen County	21 N.J.R. 1486(b)		
7:26-8.2, 12.3	Radioactive mixed wastes	21 N.J.R. 1053(a)		
7:26-8.13	Manifesting of nonhazardous waste: preproposal	21 N.J.R. 3220(a)		
7:26-8.21, 12.2	NJPDES program: list of hazardous constituents for groundwater monitoring	21 N.J.R. 3844(a)		
7:26-9.10, 9.13, App. A	Hazardous waste facility liability coverage: corporate guarantee option	21 N.J.R. 823(a)	R.1989 d.609	21 N.J.R. 3914(c)
7:26-10.6, 11.3	Interim status hazardous waste facilities: closure and post-closure requirements	21 N.J.R. 1054(a)	R.1989 d.608	21 N.J.R. 3917(a)
7:26-16.5, 16.13	Solid and hazardous waste operations: licensing of individuals	21 N.J.R. 2275(a)	R.1989 d.586	21 N.J.R. 3658(b)
7:27-16.3	Vapor control during marine transfer operations	21 N.J.R. 1960(a)	R.1989 d.595	21 N.J.R. 3748(c)
7:27-23.2, 23.3, 23.4, 23.5	Volatile organic substances in consumer products	21 N.J.R. 1055(a)	R.1989 d.568	21 N.J.R. 3488(a)
7:27-23.2-23.7	Volatile organic substances in architectural coatings and air fresheners	21 N.J.R. 3360(a)		
7:27A-3	Air pollution control: civil administrative penalties and adjudicatory hearings	21 N.J.R. 729(a)	R.1989 d.596	21 N.J.R. 3751(a)
7:27A-3	Air pollution control: operative date of civil administrative penalties and adjudicatory hearing rules	_____	_____	22 N.J.R. 29(a)
7:28-1.4, 20	Particle accelerators for industrial and research use	21 N.J.R. 3364(a)		
7:28-27	Certification of radon testers and mitigators	21 N.J.R. 3369(a)		
7:45-1.2, 1.3, 2.6, 2.11, 4.1, 6, 9, 11.1-11.5	Delaware and Raritan Canal State Park review zone rules	21 N.J.R. 828(a)		
7:50-2.11, 4.2, 4.3, 4.5, 4.53, 4.62, 4.66, 5.2, 5.13, 5.23, 5.24, 5.28, 5.43, 5.44, 5.47, 6.65, 6.154, 6.156	Pinelands Comprehensive Management Plan	21 N.J.R. 3381(a)		

**Most recent update to Title 7: TRANSMITTAL 1989-10 (supplement October 16, 1989)**

**HEALTH—TITLE 8**

8:18	Catastrophic Illness in Children Relief Fund Program	21 N.J.R. 1781(a)	R.1989 d.557	21 N.J.R. 3501(a)
8:19-2	Newborn biochemical screening	21 N.J.R. 3633(a)		
8:19-2	Newborn biochemical screening: public hearing	21 N.J.R. 3708(a)		
8:20	Birth defects registry	21 N.J.R. 3636(a)		
8:23	Veterinary public health	21 N.J.R. 3274(a)		
8:31-30	Health care facility construction: plan review fee (recodify as 8:31-1)	21 N.J.R. 2447(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
8:31A	Standard Hospital Accounting and Rate Evaluation (SHARE)	21 N.J.R. 3872(a)		
8:31A-9.1	SHARE hospital reimbursement: labor proxies	21 N.J.R. 2922(a)	R.1989 d.603	21 N.J.R. 3951(a)
8:31B-3.3, 4.6, 4.41	Hospital reimbursement: uncompensated care audit	21 N.J.R. 3638(a)		
8:31B-3.17	Hospital reimbursement: on-site audits	21 N.J.R. 3639(a)		
8:31B-3.22	Hospital reimbursement: standard costs per case	21 N.J.R. 3275(a)		
8:31B-3.23	Hospital reimbursement: emergency room patients	21 N.J.R. 3275(b)		
8:31B-3.24	Hospital reimbursement: employee health insurance	21 N.J.R. 3277(a)		
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8:31B-3.51	Hospital reimbursement: Schedule of Rates notification appeal and review	21 N.J.R. 3278(b)		
8:31B-4.37, 7.3	Reinsurance Program and charity care; Statewide uncompensated care add-on	21 N.J.R. 2448(a)	R.1989 d.619	21 N.J.R. 3951(a)
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8:31B-4.38-4.40	Hospital reimbursement: uncompensated care	21 N.J.R. 2449(a)	R.1989 d.620	21 N.J.R. 3953(a)
8:31B-4.40	Hospital reimbursement: appropriate collection procedures	21 N.J.R. 3873(a)		
8:31B-4.62	Hospital reimbursement: MICU services	21 N.J.R. 2453(a)	R.1989 d.604	21 N.J.R. 3970(a)
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8:31B-5.3	Hospital reimbursement: Diagnosis Related Groups classification	21 N.J.R. 3873(b)		
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8:33A	Surgical facilities: certificate of need	21 N.J.R. 3888(a)		
8:33F	End-Stage Renal Disease (ESRD) services: certification of need	21 N.J.R. 2923(b)	R.1989 d.602	21 N.J.R. 3973(a)
8:33I-1.2, 1.3, 1.5	Megavoltage radiation oncology units: need review	21 N.J.R. 3640(a)		
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8:43G-1, 2, 5, 19, 21, 22, 24, 26, 29, 30, 31, 35	Hospital licensure: administration, obstetrics, oncology, pediatrics, plant safety, psychiatry, physical and occupational therapy, renal dialysis, respiratory care, postanesthesia care	21 N.J.R. 2926(a)		
8:43G-3	Hospital licensure: compliance with mandatory rules and advisory standards	21 N.J.R. 1608(a)		
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8:43G-7	Hospital licensure: cardiac services	21 N.J.R. 2162(a)		
8:43G-8	Hospital licensure: central supply	21 N.J.R. 1609(a)		
8:43G-9	Hospital licensure: critical and intermediate care	21 N.J.R. 2167(a)		
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8:52-4.6	Local boards of health: basic educational program concerning HIV infection	21 N.J.R. 2696(a)	R.1989 d.574	21 N.J.R. 3663(b)
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8:66	Intoxicated Driving Program/Intoxicated Driver Resource Center	21 N.J.R. 3283(a)		
8:71	Interchangeable drug products (see 21 N.J.R. 755(b), 1429(b))	20 N.J.R. 3078(a)	R.1989 d.379	21 N.J.R. 2108(a)
8:71	Interchangeable drug products (see 21 N.J.R. 2107(c), 2996(a))	21 N.J.R. 662(a)	R.1989 d.575	21 N.J.R. 3665(a)
8:71	Interchangeable drug products (see 21 N.J.R. 2997(a))	21 N.J.R. 1790(a)	R.1989 d.573	21 N.J.R. 3664(a)
8:71	Interchangeable drug products	21 N.J.R. 3292(a)		
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9:4-7.6	Evaluation of community college presidents	21 N.J.R. 2697(a)		
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10:53-1.2	Bed reserve in long-term care facilities	21 N.J.R. 1634(a)		
10:63	Long Term Care Services Manual	21 N.J.R. 2752(a)	R.1989 d.622	21 N.J.R. 3918(a)
10:63-1.13, 1.16	Bed reserve in long-term care facilities	21 N.J.R. 1634(a)		
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10:72-3.4	Medicaid program: newborn care	21 N.J.R. 965(a)		
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10:121	Adoption of children	21 N.J.R. 3048(b)		
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10A:5-3.1, 3.2	Administrative segregation	21 N.J.R. 3409(a)		
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10A:16-11	Special Medical Units	21 N.J.R. 111(a)		
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10A:22-2.6	Release of confidential inmate or parolee records	21 N.J.R. 3411(a)		
10A:22-4	Expungement or sealing of inmate records	21 N.J.R. 2852(a)	R.1989 d.582	21 N.J.R. 3665(a)
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10A:31	Adult county correctional facilities	21 N.J.R. 2853(a)		
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11:1-10.7	Foreign and alien property and casualty insurers: appeals regarding admission denials	21 N.J.R. 3418(a)	R.1990 d.17	22 N.J.R. 30(a)
11:1-20.2	Cancellation and nonrenewal of commercial policies: administrative correction	_____	_____	21 N.J.R. 3919(a)
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11:2-3.1, 3.12	Credit life and credit accident and health insurance premium rates	21 N.J.R. 3052(a)		
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11:2-28	Credit for property/casualty reinsurance	21 N.J.R. 3625(a)		
11:2-29	Orderly withdrawal of insurance business	21 N.J.R. 3622(a)		
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11:3-1	Commercial Automobile Insurance Plan	21 N.J.R. 3613(a)		
11:3-8.2, 8.4	Nonrenewal of automobile policies	21 N.J.R. 1306(a)		
11:3-15.3, 15.5, 15.7-15.10	Automobile insurance: Coverage Selection Form	21 N.J.R. 3244(a)	R.1989 d.624	21 N.J.R. 3922(a)
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11:3-16A	Automobile coverage: flex rate percentage calculations	21 N.J.R. 3719(a)		
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11:4-34.6	Long-term care insurance: administrative correction			21 N.J.R. 3777(c)
11:5-1.28	Approval real estate schools: pre-proposal	21 N.J.R. 1641(a)		
11:13-1.2, 1.3	Farm-owners insurance	21 N.J.R. 1641(b)	R.1989 d.621	21 N.J.R. 3926(a)
11:13-6	Commercial insurance: rating plans for individual risk premium modification	21 N.J.R. 3430(a)		
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11:17A, 17B, 17C, 17D	Insurance producer conduct: marketing; commissions and fees; funds management; administrative penalties	21 N.J.R. 1317(a)	R.1990 d.11	22 N.J.R. 30(b)
11:18-1	Medical Malpractice Reinsurance Recovery Fund surcharge	21 N.J.R. 2698(a)	R.1989 d.613	21 N.J.R. 3927(a)

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12:40-1	Worker Adjustment and Retraining Notification (WARN) procedures	21 N.J.R. 3630(a)		
12:45-1	Vocational rehabilitation services	20 N.J.R. 3107(a)	Expired	
12:45-3	Vocational rehabilitation services: vehicle modification requirements	21 N.J.R. 2213(b)	R.1989 d.564	21 N.J.R. 3535(b)
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12A:55	Solar energy systems: criteria for sales and use tax exemption	21 N.J.R. 282(a)		
12A:55	Solar energy systems criteria for sales and use tax exemptions: extension of comment period	21 N.J.R. 1969(a)		
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13:30-8.3	Use of general anesthesia in dental practice	21 N.J.R. 3062(a)		
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13:36-3.5, 3.6, 3.7	Mortuary science: examination requirements and review procedure	21 N.J.R. 1820(a)		
13:36-10	Mortuary science: continuing education	21 N.J.R. 3655(a)		
13:37	Board of Nursing rules	21 N.J.R. 3854(b)		
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13:38-1.2	Practice of optometry: unlawful advertising	21 N.J.R. 2467(a)	R.1989 d.552	21 N.J.R. 3475(a)
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13:44C-4	Provisional licensure as audiologist or speech-language pathologist (repeal)	21 N.J.R. 3433(a)		
13:44C-7.2	Audiology and speech language pathology: practice exemptions	21 N.J.R. 2702(a)		
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13:45A-25.2	Sellers of health club services: registration fee	21 N.J.R. 3657(a)		
13:47-14.3	Rental or use of premises for bingo games	21 N.J.R. 2233(a)	R.1989 d.562	21 N.J.R. 3475(b)
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13:62	Motor vehicle race tracks	21 N.J.R. 3646(a)		
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13:70-29.19	Thoroughbred racing: elimination from place and show wagering	21 N.J.R. 3254(a)		
13:71	Harness racing	21 N.J.R. 3861(a)		
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16:28-1.12	School zone speed limit along Route 168 in Gloucester Township	21 N.J.R. 3868(a)		
16:28-1.14, 1.57, 1.66, 1.76, 1.103, 1.116, 1.118	Speed limit zones along Route 33, U.S. 30, Routes 175, 15, 91, 53, and 50	21 N.J.R. 3717(a)		
16:28A-1.7, 1.10, 1.21, 1.34, 1.41, 1.57, 1.61, 1.85, 1.93, 1.110	Restricted parking and stopping along U.S. 9, Route 20, U.S. 30, Routes 49 and 77, U.S. 206, U.S. 9W, Route 161, U.S. 322, and Route 91	21 N.J.R. 3256(a)	R.1990 d.10	22 N.J.R. 57(a)
16:30-3.6	Cars-only shoulder lanes along U.S. 1 in West Windsor Township	21 N.J.R. 3317(a)	R.1990 d.8	22 N.J.R. 59(a)
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16:53D-1.1	Zone of rate freedom: 1990 percentage maximums	21 N.J.R. 2914(a)		
16:77-1	Use or occupancy of NJ TRANSIT-owned property	21 N.J.R. 3259(b)		

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17:9-2.18, 3.1	State Health Benefits Program: continuation of coverage for disabled children	21 N.J.R. 885(a)		
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17:13 (12A:10-1)	Goods and services contracts for small businesses, urban development enterprises and micro businesses	21 N.J.R. 2810(a)	R.1989 d.554	21 N.J.R. 3545(b)
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N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
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