

NEW JERSEY REGISTER



**IN THIS ISSUE,
THE COMBINED "REGISTER INDEX
OF RULE PROPOSALS AND ADOPTIONS"**

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RULE PROPOSALS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules of Practice Non-Lawyer Representation in Contested Cases

Proposed Amendment: N.J.A.C. 1:1-3.12

Authorized By: Ronald I. Parker, Acting Director, Office of Administrative Law.

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

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

At the close of the period for comments, the Office of Administrative Law thereafter may adopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. The adoption of these rules becomes effective upon publication in the Register of a notice of their adoption.

This proposal is known as PRN 1984-582.

The agency proposal follows:

Summary

On October 15, 1984, the OAL promulgated rules and amendments governing non-lawyer representation in con-

tested cases in conformity with R. 1:21-1(e) of the Rules Governing the Courts of the State of New Jersey. In the period of time since September 12, 1983, when the New Jersey Supreme Court promulgated R. 1:21-1(e), the OAL has discovered various problems, the scope of which were anticipated, in promulgating its own rules regarding non-lawyer representation. For example, numerous meetings with local, State and Federal representatives disclosed a number of individuals who are performing representational services which might, if permitted to continue, violate R. 1:21-1(e) and N.J.A.C. 1:1-3.12.

In order to make the new non-lawyer representation practice and procedures more manageable, the OAL has decided to begin experimenting with only those categories of representatives wherein the OAL has had some prior experience. The OAL has previously dealt with non-lawyers whose appearance has been required by Federal law or who have appeared on behalf of State agencies, county and municipal welfare agencies, legal services, closed corporations and labor unions. The OAL has had no previous experience with allowing non-lawyer representatives of persons who cannot afford an attorney and who are unable to obtain legal services representation. The OAL is neither aware of the numbers of such persons nor the precise need for such representation, given the permissible categories of non-lawyer representation contained in N.J.A.C. 1:1-3.12. The OAL is also unsure of the implementation and control problems that these persons might present.

Therefore, until the OAL discovers the ramifications of the new procedures on OAL adjudications and resolves any difficulties which may arise in implementing them, the OAL feels that it is preferable to defer the operation of those provisions of the rule which relate to a category of non-lawyer representatives of which the OAL has had no previous experience.

Social Impact

If this representation category is eliminated, some person may be forced to represent themselves in administrative hearings. However, the OAL is unable to determine what precise social impact the proposed amendment will have on the public as there is insufficient data available on the amount of cases to which the eliminated provisions would have applied.

NEW JERSEY REGISTER

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The NEW JERSEY ADMINISTRATIVE CODE is published on a continuing basis by Administrative Publications of the Office of Administrative Law. Subscription rates for this 32-volume, regularly updated set of all State administrative rules are available on request. The Code is sold either in the full set or in one to three volumes depending on the Department coverage desired.

Economic Impact

The OAL is unable to determine what, if any, economic impact the proposed amendment will have on the public or the State as there is insufficient data available on the amount of cases to which the eliminated provisions would have applied.

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

1:1-3.12 Representation and assistance by non-lawyers; authorized situations, applications, notice of appearance, approval procedures, limitations, practice requirements

(a) In conformity with R.1:21-1(e) of the Rules Governing the Courts of the State of New Jersey, the following non-lawyers may apply for permission to represent or assist a party at a contested case hearing:

1.-6. (No change.)

[7. Persons seeking to assist a party who is unable to afford an attorney and unable to obtain legal service representation.]

(b) The non-lawyer applicants mentioned in (a) above may apply for permission to appear by supplying the following information and by complying with the following procedures:

1.-2. (No change.)

3. Written applications shall be made in the following cases. Such applications may be in letter form, and shall be signed by the non-lawyer applicant, filed with the Clerk of OAL no later than 10 calendar days prior to the scheduled hearing date and served on all parties.

i.-iii. (No change.)

[iv. In cases where an individual cannot afford to retain an attorney and cannot obtain free legal representation, the non-lawyer applicant shall include in his or her written application an explanation of how the individual would benefit from the assistance of the non-lawyer; an explanation of the non-lawyer's capabilities for rendering such assistance; and a statement by the individual needing assistance that he or she lacks the means to retain an attorney and that representation is not available through a Legal Services program.]

4. (No change.)

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

(f) The presiding judge may revoke any non-lawyer's right to appear in a case if and when the judge determines that a material statement is incorrect in any Notice of Appearance or in any written or oral application by a non-lawyer [or party concerning representation or assistance by the non-lawyer].

1. (No change.)

(g)-(h) (No change.)

(a)

OFFICE OF ADMINISTRATIVE LAW

**Uniform Administrative Procedure Rules of Practice
"Hearings on the Papers" and Motor Vehicle Cases**

**Proposed Readoption with Amendments:
N.J.A.C. 1:2-3**

Authorized By: Ronald I. Parker, Acting Director,
Office of Administrative Law.

Authority: N.J.S.A. 52:14F-56 e, f and g.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

At the close of the period for comments, the Office of Administrative Law thereafter may adopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. The readoption of these rules becomes effective upon acceptance for filing by the Office of Administrative Law of a notice of their readoption. The amendments to the readoption become effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1984-546.

The agency proposal follows:

Summary

On July 2, 1984, the Office of Administrative Law promulgated amendments to N.J.A.C. 1:2-3 to expand the OAL rules for hearings on the papers to include insurance surcharge cases transmitted by the Division of Motor Vehicles pursuant to N.J.A.C. 13:19-12. The OAL rules for hearings on the papers previously only applied to DMV cases involving excessive point violations. The on the papers hearing rules in existence prior to July 2, 1984 were not changed except to accommodate the surcharge case process and to make some other alterations.

Although DMV's case is based solely on documentation submitted to the OAL and without any personal appearance by a representative of DMV, the current rules afford the licensee the choice of either appearing in person at a hearing or proceeding with a hearing on the papers. If the licensee opts for a hearing on the papers, he or she completes a certification at the time of the prehearing conference explaining why the surcharge bill or driver abstract is inaccurate. This certification, along with any other documentation provided by the licensee, is transmitted to the OAL by DMV at the time it transmits the materials supporting its own case.

The rules pertaining to excessive points cases will expire on March 21, 1985, at which time the OAL expects to complete its evaluation and implementation of the hearings on the papers summary proceedings experiment. The rules pertaining to surcharge cases were adopted with a six-month expiration date because the OAL was concerned that a large volume of transmitted cases could inhibit affording the licensee the option of either appearing at an in-person hearing or proceeding with a hearing on the papers. The actual number of transmitted cases proved to be less than anticipated and in OAL's opinion can be handled expeditiously and effectively even though the licensee is offered a choice of proceeding on the papers or in person. Consequently, the OAL has decided to propose a readoption of the rules pertaining to surcharge cases in order to incorporate them into the OAL summary proceedings experiment.

Thus, the expiration date for the rules pertaining to surcharge cases has been extended to coincide with the expiration date for the overall summary proceedings experiment.

Social Impact

The proposed readoption will prevent the lapse of the current rules pertaining to surcharge cases prior to completion of the OAL summary proceedings experiment. The readoption of the rules will save time by eliminating the necessity in every case for face-to-face hearings, saving the administrative law judge not only travel time but also time involved in conducting in-person hearings. Licensees who have requested in-person hearings at the prehearing conference nevertheless receive a notice of hearing which provides another opportunity to submit their cases on the papers in lieu of making a personal appearance at the scheduled hearing. At the same time, the OAL expects that in-person hearings will continue to be scheduled rapidly and frequently at central locations. It is anticipated that licensees requesting in-person hearings solely for delay will be unsuccessful. The readoption of the rules will continue to provide an orderly procedure for processing surcharge cases which will benefit the licensees, DMV and the OAL.

Economic Impact

The proposed readoption will afford the OAL sufficient time to complete its evaluation of the current surcharge hearing process and to develop the most timely, expeditious and cost-saving management of these cases. The readoption will maintain a process designed to save time and cost involved in hearing surcharge cases, to the benefit of both the licensee and the government. Speedier resolution of these cases should result in a quicker decision and recovery of those surcharges correctly levied against licensees, to the benefit of the Joint Underwriting Association fund and, ultimately, all New Jersey drivers. The readoption of the rules will maintain an orderly procedure for processing surcharge cases.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 1:2-3.

Full text of the proposed amendment to the readoption follows (deletions indicated in brackets [thus]).

1:2-3.11 Expiration date

The rules [pertaining to excessive point cases] in this subchapter shall expire on March 21, 1985. [The rules pertaining to surcharge cases shall expire six months from their effective date.]

BANKING**(a)****DIVISION OF BANKING****Loss Deferral Accounting for Mutual Savings Banks**

Proposed New Rule: N.J.A.C. 3:6-7.1
Proposed Repeal: N.J.A.C. 3:6-7.1 to 3:6-7.8

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

Authority: N.J.S.A. 17:1-8.1 and 17:9A-256(a).

Interested persons may submit, in writing, data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Dominick A. Mazzagetti,
 Deputy Commissioner
 Department of Banking
 Division of Consumer Complaints Legal &
 Economic Research
 CN 040
 Trenton, New Jersey 08625

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

This proposal is known as PRN 1984-556.

The agency proposal follows:

Summary

The proposed new rule establishes for mutual savings banks, a loss deferral accounting procedure similar to those regulations adopted by the Federal Home Loan Bank Board for federal savings and loan associations. The proposed rule will encourage a stable restructuring of an institution and allow economic realities to prevail in accounting methods.

The existing rules in subchapter 7 (N.J.A.C. 3:6-7.1 et seq.), governing investment restatement accounting are being repealed since the F.D.I.C. has never recognized these procedures and mutual savings banks have continued to file with the F.D.I.C. under "generally accepted accounting principles" and benefits have not accrued to Mutual Savings Banks under the existing regulations. The new loss deferral accounting regulations are simpler and should be able to give mutual savings banks the tools necessary to restructure their asset portfolio.

Social Impact

The proposed new rule will allow mutual savings banks the flexibility and additional time to restructure their investment portfolios to deal with continuing high interest rates. By emphasizing the strength of these institutions to meet daily liabilities through strong cash liquidity, the regulations will prevent public alarm and strengthen confidence in state chartered mutual savings banks. Also, the additional time to restructure investment portfolios will prevent the need for forced or supervisory mergers of otherwise viable institutions.

Economic Impact

The proposed rule will require no additional expense to the State nor produce any additional income. The proposed rule will economically benefit mutual savings banks by allowing the flexibility and additional time to restructure their investment portfolios to deal with continuing high interest rates and simplify reporting requirements.

Full text of the proposed repeal appears in the New Jersey Administrative Code at N.J.A.C. 3:6-7.

Full text of the proposed new rule follows.

SUBCHAPTER 7. LOSS DEFERRAL ACCOUNTING FOR MUTUAL SAVINGS BANKS

3:6-7.1 Procedure for election of loss deferral accounting

(a) An institution, by resolution of its board of directors or managers, may elect to defer and amortize all gains and losses (net of related income taxes computed in accordance with generally accepted accounting principles) on any sale or other disposition, occurring in the fiscal year that the action to defer and amortize is taken, of mortgage loans, redeemable ground-rent leases, mortgage-related securities, preferred stock that at the time of issuance provides for redemption on a fixed date in a fixed dollar amount or for redemption pursuant to a fixed schedule of periodic payments and has a remaining term to maturity of at least five years, and debt securities that do not qualify as liquid assets because of their maturities or that have remaining terms to maturity of at least five years. Using the same procedure, an institution may revoke any prior election(s) to amortize gains and losses on the disposition of such assets.

(b) An institution making this election shall amortize as follows:

1. Demonstrate an intent to use the sale proceeds so as to improve the institution's future profitability and/or reduce interest-rate risk;

2. Account for such gains and losses as follows:

i. Such gains and losses (net of related income taxes computed in accordance with generally accepted accounting principles) shall be carried in a separate account and shall be readily identifiable in the institution's statement of condition;

ii. Such gains or losses shall be amortized by the straight-line or level-yield methods over a period not to exceed the average of the remaining terms to maturity of the disposed mortgage loans or qualifying securities, or, in the case of redeemable ground-rent leases, a period not to exceed 40 years, with the yield calculated to reflect the length of the amortization period. Amortization periods for gains shall be established in the same manner as are amortization periods for losses deferred in the same fiscal year.

(c) The amortization of discounts and losses shall be matched as follows:

1. For purposes of this subsection (c) only:

i. The term "long-term, deep-discount security" means any loan, lease or security identified in (a) above that has a remaining term of maturity, at the time of purchase, of ten years or more, and is purchased at a price of less than 90 percent of its stated (par) value or principal balance.

ii. The term "matching loss" is an amount determined by multiplying (1) the net amount of loss deferred in accordance with an election made pursuant to (a) above during a period beginning six months prior to the purchase of a long-term, deep-discount security, and ending six months after the date of such purchase, by (2) a fraction (not to exceed one), the numerator of which is the total of amounts paid or other consideration given for long-term, deep-discount securities during the twelve-month period described in (a) above, and the denominator of which is the total proceeds (in cash or any other consideration) from dispositions during the same period for which the election under (a) above is in effect.

2. When long-term, deep-discount securities are purchased or otherwise acquired within six months preceding or subsequent to the disposition of a mortgage loan, mortgage-related security or debt security with respect to which an election to defer and amortize any loss or gain has been made pursuant to (a) above, the resulting discount shall be amortized over the

same period and by the same method used to amortize any matching loss: Provided, that:

i. The method used for the loss is also an appropriate method by which to amortize a discount, and

ii. If the average of the remaining terms to maturity of the securities purchased is shorter than the period used to amortize the matching loss, then the average of the remaining terms to maturity of the securities purchased may be used as the amortization period for the discount.

3. If necessary to meet the requirements of (c)(2) above, an institution may change the method and period by which the matching loss is being amortized. When making such a change, the amount of the matching loss shall be that portion of the loss that remains to be amortized as of the date of the change.

(d) For the purposes of this section, "disposition" includes, but is not limited to:

1. Prepayment at a discount of an institution's mortgage loans by existing borrowers;

2. Sales of loans (including participation interests therein), leases and securities identified in (a) above; and

3. Exchanges of assets eligible for disposition under this section.

(e) The accounting treatment authorized by this section may be used only for mortgages and qualifying securities sold or otherwise disposed of during fiscal years ending on or after July 31, 1984. The board of directors of any institution that has a fiscal year ending prior to December 31, 1985 must make the election authorized by (a) above prior to January 1, 1984.

(f) It is intended that this rule parallel for state-chartered mutual savings and loan associations and mutual savings banks those regulations adopted by the Federal Home Loan Bank Board for federal savings and loan associations and savings banks so that any interpretation of these regulations shall refer to comments and interpretation of those federal regulations unless otherwise determined by the commissioner.

(a)

DIVISION OF BANKING

Loss Deferral Accounting for Mutual Savings and Loan Associations

Proposed New Rule: N.J.A.C. 3:28-5.1

Proposed Repeal: N.J.A.C. 3:28-5.1 to 3:28-5.8

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

Authority: N.J.S.A. 17:1-8.1 and 17:12B-197.

Interested persons may submit, in writing, data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Dominick A. Mazzagetti,
Deputy Commissioner
Department of Banking
Division of Consumer Complaints Legal &
Economic Research
CN 040
Trenton, New Jersey 08625

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

This proposal is known as PRN 1984-557.

The agency proposal follows:

Summary

The proposed new rule establishes for mutual savings and loan associations a loss deferral accounting procedure similar to those regulations adopted by the Federal Home Loan Board for federal savings and loan associations. The proposed rule will encourage a stable restructuring of an institution and allow economic realities to prevail in accounting methods.

The existing rules in subchapter 5 (N.J.A.C. 3:28-5.1 et seq.), governing investment restatement accounting, are being repealed since they require a savings and loan association to report to the Department of Banking in a manner different than that which they report to the Federal Home Loan Bank Board under loss deferral accounting regulations. The new loss deferral accounting rule is simpler and should be able to give mutual savings and loan associations the tools necessary to restructure their asset portfolio.

Social Impact

The proposed new rule will allow mutual savings and loan associations the flexibility and additional time to restructure their investment portfolios to deal with continuing high interest rates. By emphasizing the strengths of these institutions to meet daily liability through strong cash liquidity, the rules will prevent public alarm and strengthen confidence to State chartered savings and loan institutions. Also, the additional time to restructure investment portfolios will prevent the need for forced or supervisory mergers of otherwise viable institutions.

Economic Impact

The proposed rule will require no additional expense to the State nor produce any unusual income. The proposed rule will economically benefit mutual savings and loan associations by allowing the flexibility and additional time to restructure their investment portfolios to deal with continuing high interest rates and simplify reporting requirements.

Full text of the proposed repeal appears in the New Jersey Administrative Code at N.J.A.C. 3:28-5.

Full text of the proposed new rule follows.

SUBCHAPTER 5. LOSS DEFERRAL ACCOUNTING FOR MUTUAL SAVINGS AND LOAN ASSOCIATIONS

3:28-5.1 Procedure for election of loss deferral accounting

(a) An institution, by resolution of its board of directors or managers, may elect to defer and amortize all gains and losses (net of related income taxes computed in accordance with generally accepted accounting principles) on any sale or other

disposition, occurring in the fiscal year that the action to defer and amortize is taken, of mortgage loans, redeemable ground-rent leases, mortgage-related securities, preferred stock that at the time of issuance provides for redemption on a fixed date in a fixed dollar amount or for redemption pursuant to a fixed schedule of periodic payments and has a remaining term to maturity of at least five years, and debt securities that do not qualify as liquid assets because of their maturities or that have remaining terms to maturity of at least five years. Using the same procedure, an institution may revoke any prior election(s) to amortize gains and losses on the disposition of such assets.

(b) An institution making this election shall amortize as follows:

1. Demonstrate an intent to use the sale proceeds so as to improve the institution's future profitability and/or reduce interest-rate risk;

2. Account for such gains and losses as follows:

i. Such gains and losses (net of related income taxes computed in accordance with generally accepted accounting principles) shall be carried in a separate account and shall be readily identifiable in the institution's statement of condition;

ii. Such gains or losses shall be amortized by the straight-line or level-yield methods over a period not to exceed the average of the remaining terms to maturity of the disposed mortgage loans or qualifying securities, or, in the case of redeemable ground-rent leases, a period not to exceed 40 years, with the yield calculated to reflect the length of the amortization period. Amortization periods for gains shall be established in the same manner as are amortization periods for losses deferred in the same fiscal year.

(c) The amortization of discounts and losses shall be matched as follows:

1. For purposes of this subsection (c) only:

i. The term "long-term, deep-discount security" means any loan, lease or security identified in (a) above that has a remaining term of maturity, at the time of purchase, of ten years or more, and is purchased at a price of less than 90 percent of its stated (par) value or principal balance.

ii. The term "matching loss" is an amount determined by multiplying (1) the net amount of loss deferred in accordance with an election made pursuant to (a) above during a period beginning six months prior to the purchase of a long-term, deep-discount security, and ending six months after the date of such purchase, by (2) a fraction (not to exceed one), the numerator of which is the total of amounts paid or other consideration given for long-term, deep-discount securities during the twelve-month period described in (a) above, and the denominator of which is the total proceeds (in cash or any other consideration) from dispositions during the same period for which the election under (a) above is in effect.

2. When long-term, deep-discount securities are purchased or otherwise acquired within six months preceding or subsequent to the disposition of a mortgage loan, mortgage-related security or debt security with respect to which an election to defer and amortize any loss or gain has been made pursuant to (a) above, the resulting discount shall be amortized over the same period and by the same method used to amortize any matching loss: Provided, that:

i. The method used for the loss is also an appropriate method by which to amortize a discount, and

ii. If the average of the remaining terms to maturity of the securities purchased is shorter than the period used to amortize the matching loss, then the average of the remaining terms to maturity of the securities purchased may be used as the amortization period for the discount.

3. If necessary to meet the requirements of (c) 2. above, an institution may change the method and period by which the matching loss is being amortized. When making such a change, the amount of the matching loss shall be that portion of the loss that remains to be amortized as of the date of the change.

(d) For the purposes of this section, "disposition" includes, but is not limited to:

- 1. Prepayment at a discount of an institution's mortgage loans by existing borrowers;
- 2. Sales of loans (including participation interests therein), leases and securities identified in (a) above; and
- 3. Exchanges of assets eligible for disposition under this section.

(e) The accounting treatment authorized by this section may be used only for mortgages and qualifying securities sold or otherwise disposed of during fiscal years ending on or after July 31, 1984. The board of directors of any institution that has a fiscal year ending prior to December 31, 1985 must make the election authorized by (a) above prior to January 1, 1984.

(f) It is intended that this rule parallel for state-chartered mutual savings and loan associations and mutual savings banks those regulations adopted by the Federal Home Loan Bank Board for federal savings and loan associations and savings banks so that any interpretation of these regulations shall refer to comments and interpretation of those federal regulations unless otherwise determined by the commissioner.

EDUCATION

(a)

STATE BOARD OF EDUCATION

Approved Public Elementary School Summer Sessions

Proposed Readoption with Amendments: N.J.A.C. 6:26-3

Authorized By: New Jersey State Board of Education,
Saul Cooperman, Secretary.

Authority: N.J.S.A. 18A:4-10, 18A:4-15, 18A:6-38 and
18A:38-4.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Lorraine L. Colavita
Executive Assistant for Administrative
Practice and Education
225 West State Street
Trenton, New Jersey 08625

At the close of the period for comments, the State Board of Education may adopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on February 1, 1985. The re-adoption of the existing rules becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of their re-adoption. The amendments to the existing rules become effective upon publication in the Register of a notice of their adoption.

This proposal is known as PRN 1984-554.

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order No. 66, 1984, the State Board of Education proposes to readopt, with amendments, N.J.A.C. 6:26-3.1 through 6:26-3.4 concerning approved elementary school summer sessions. The current rules will expire on February 1, 1985.

The State Board of Education, pursuant to the authority of N.J.S.A. 18A:4-10, 18A:4-15, 18A:6-38, and 18A:38-4, is proposing technical and perfecting amendments only. The Divisions of General and Academic Education and County and Regional Services sent copies of the existing code to each county superintendent of schools, asking for comments and changes. The responses overwhelmingly indicated that the existing rules were workable and necessary to insure the compliance functions of the county superintendent and the continued integrity of summer courses.

Therefore, the proposed amendments bring these rules into conformity with changes made in other portions of the administrative code.

In 1973, the State Board of Education affirmed the Commissioner's decision in the matter of the Appeals of the Boards of Education of the Black Horse Pike Regional School District and the Sterling Regional School District, Camden County, 1973 S.L.D. 130 and S.L.D. 138. These decisions denied the petitions of the two district boards of education to continue charging pupils, domiciled within their districts, a registration fee for enrolling in summer school sessions directly related to the normal school program. A substantial basis for the decision was N.J.A.C. 6:27-3.1, Operation. This section was subsequently amended, effective February 2, 1977 and again February 8, 1980.

The past effectiveness of the rules has been very positive, based on information reported to the Department. The rules have provided guidance to district boards of education in the processes and procedures necessary for the proper conduct of summer sessions offering remedial and/or enrichment courses. The rules have provided additional guidance for the evaluation and a description of course work completed and the grade placement of the pupil. Additionally, the rules have provided guidance to district boards of education on the types of certificates and experience administrative and teaching staffs must possess to be employed during summer sessions.

The existing rules insure that enrollment of pupils living within a particular district, and requiring remedial programming is based on educational need versus the ability to pay for enrollment in the summer session. The rules, additionally, give the district board of education the option of charging a reasonable fee for courses intended as enrichment and unrelated to the normal school program.

The amendments proposed do not in any way change the intent or application of the existing rules. The offices of the

county superintendents of schools stressed that the rules were necessary to insure the Department's ability to monitor program planning and delivery and continue the high quality of currently planned or operating summer programs.

A review of the existing rules and proposed amendments follows:

N.J.A.C. 6:26-3.1, Operation

This section specifies that the rules for the approval of full-time elementary schools shall apply to all elementary summer sessions. The section also specifies that summer programs shall be offered without charge to pupils domiciled within the district. Reasonable tuition may be charged, however, for enrichment courses which carry no credit and are determined by the county superintendent of schools to be unrelated to the curriculum of the regular school program. Application for renewal of approval shall be reviewed and approved annually by the county superintendent. For purposes of this subchapter, a remedial course is any course or subject which is a review of a course or subject previously taken; and advanced course is any course or subject not previously taken in an approved school program; an enrichment course is a course or subject of avocational nature. One technical change has been proposed.

N.J.A.C. 6:26-3.2, Staffing

This section specifies that a member of the administrative, supervisory or teaching staff, with the appropriate certification, shall be assigned the responsibility of administration and supervision during the summer session. It also specifies that teachers shall possess valid certifications for subjects taught. This section allows that persons involved in curriculum enrichment may be resource persons, serving for specific periods of time, and are under supervision of an administrator, supervisor or teacher. No change in text is proposed.

N.J.A.C. 6:26-3.3, Admission of pupils

This section specifies that assignment of pupils in summer sessions for remedial courses shall be based on the recommendation of the principal from the school the pupil normally attends. The subjects which the pupil may take and the purposes for taking such courses must also be specified. The section also states that one year's work in enrichment or advance work shall be regarded as a maximum. In remedial work two subjects shall be regarded as a maximum. No change in text is proposed.

N.J.A.C. 6:26-3.4, Grade placement

This section provides guidance on the placement of an evaluation and a description of the work completed into the pupil's cumulative record. Additionally, the section specifies that the principal of the sending school will determine the grade placement of the pupil. One unnecessary sentence has been eliminated.

Social Impact

The proposed amendments do not alter the intent of the existing rules. They are written to expand a district board of education's policy making options and insure that those districts which offer summer sessions provide tuition free instruction to pupils domiciled within the district. It is the intent of the rules to insure equal access to educational opportunity regardless of a pupil's income or socio-economic level. The rules also foster the educational leadership of school level personnel by requiring a principal's recommendation and concurrence before a pupil is required to take or enroll in remedial courses.

If these rules were allowed to lapse, there would be a definite erosion in the caliber and quality of summer school programs. Through the monitoring and compliance network established by the county superintendent of schools, each summer session program is continually assessed to insure excellence in programs and staff. Additionally, without the existing rules pupils would not have the assurance that tuition would not be charged. Finally, the existing rules establish a uniform, Statewide, delivery mechanism for summer sessions. Pupils and their parents or legal guardians are assured of the best possible instruction.

Economic Impact

The proposed amendments have no economic impact either on the State or district boards of education. Each district board of education, under the planning process created by the Department's curriculum delivery system, may elect to offer summer sessions or opt to collaborate with contiguous districts. These programs are linked to the normal school program, with the exception of optional enrichment courses, and are budgeted for in the annual request to the Department and district board of education.

The proposed amendments to the existing rules will have no direct or indirect economic impact since they are clarifying amendments made to protect the policy making role of district boards of education and bring the existing rules into conformity with other Department of Education amended rules.

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

6:26-3.1 Operation

(a) The rules for the approval of full-time public elementary schools shall apply to all public elementary school summer sessions.

(b) No public school summer session may be operated or approved unless it is operated by a **district** board of education without charge to pupils domiciled within the district.

(c) Remedial, advancement and enrichment courses may be offered to meet pupil needs.

1. As used in this subchapter, a remedial course is any course or subject which is a review of a course or subject previously taken. Credits or placement may be awarded on completion of the course.

2. As used in this subchapter, an advanced course is any course or subject not previously taken in an approved school program. Additional credits or advanced placement may be awarded on successful completion of the course.

3. As used in this subchapter, an enrichment course is any course or subject of avocational nature for which no credits are to be awarded.

(d) Reasonable tuition may be charged for enrichment courses which are determined by the county superintendent of schools to be unrelated to the curriculum of the regular school program.

(e) Application for [renewal of] approval shall be reviewed and approved annually by the county superintendent of schools.

6:26-3.2 Staffing

(a) A member of the district's administrative, supervisory or teaching staff who is certified to supervise instruction shall be assigned the responsibilities of administration and supervision of the summer session.

(b) Teachers in summer sessions shall possess valid certificates for each teaching assignment. Curriculum enrichment may involve resource persons serving for specific period of time under the supervision of a certified administrator, supervisor or teacher.

6:26-3.3 Admission of pupils

(a) The assignment of pupils in summer session for remedial courses shall be based on the recommendation by the principals of the schools which the pupils regularly attend, naming the subjects and the purposes for such assignments.

(b) The equivalent of one year's work in a subject in enrichment or advanced work shall be regarded as a maximum. In remedial work, two subjects shall be regarded as a maximum.

6:26-3.4 Grade placement

(a) Rules concerning remedial, advanced and enrichment courses include the following:

1.] An evaluation and a description of work completed shall be included in the pupil's cumulative record and the principal of the sending school will determine the grade placement of the pupil.

(a)

STATE BOARD OF EDUCATION

Approved Secondary School Summer Sessions

Proposed Readoption with Amendments:
N.J.A.C. 6:27-3

Authorized By: New Jersey State Board of Education,
Saul Cooperman, Secretary.

Authority: N.J.S.A 18A:4-15, 18A:4-23 through
18A:4-25, 18A:6-38, 18A:38-4, and 18A:45-1.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

At the close of the period for comments, the State Board of Education may adopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on February 1, 1985. The re-adoption of the existing rules becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of their re-adoption. The amendments to the existing rules become effective upon publication in the Register of a notice of their adoption.

This proposal is known as PRN 1984-553.

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order No. 66, 1978, the State Board of Education proposes to readopt, with amendments, N.J.A.C. 6:27-3.1 through 6:27-3.4, concerning approved secondary school summer sessions. The current rules will expire on February 1, 1985.

The State Board of Education, pursuant to the authority of N.J.S.A. 18A:4-15, 18A:4-23 through 18A:4-25, 18A:6-38, 18A:38-4, and 18A:45-1 is proposing technical and perfecting amendments only. The Divisions of General and Academic Education and County and Regional Services sent copies of the existing code to each county superintendent of schools, asking for comments and changes. The responses, overwhelmingly, indicated that the existing rules were workable and necessary to insure the compliance functions of the county superintendent.

Therefore, the proposed amendments bring these rules into conformity with changes made in other portions of the administrative code.

In 1973, the State Board of Education affirmed the Commissioner's decision in the matter of the Appeals of the Boards of Education of the Black Horse Pike Regional School District and the Sterling Regional School District, Camden County, 1973 S.L.D. 130 and S.L.D. 138. These decisions denied the petitions of the two district boards of education to continue charging pupils domiciled within their districts a registration fee for enrolling in summer school sessions. A substantial basis for the decision was N.J.A.C. 6:27-3.1, Operation. This section was subsequently amended, effective February 2, 1977 and again February 8, 1980.

The past effectiveness of the rules has been very positive, based on information reported to the Department. The rules have provided guidance to district boards of education in the processes and procedures necessary for the proper conduct of summer sessions offering remedial and/or enrichment courses. The rules have provided additional guidance on awarding credit for courses successfully completed, applied both for promotion and graduation credit. Additionally, the rules have provided guidance to district boards of education on the types of certificates and experience administrative and teaching staffs must possess to be employed during summer sessions.

The existing rules link the conduct of summer sessions with the remainder of the school year and specify class size for remedial and enrichment programs. The rules also govern the operation of approved private secondary school summer sessions, and fold these operations within the umbrella of the normal school year.

The existing rules insure that enrollment of pupils living within a particular district, and requiring remedial programming is based on educational need versus the ability to pay for enrollment in the summer session. The rules, by specifying the manner in which credits earned may be transferred to the regular school program, insure that credits earned will be applied to prerequisites for promotion and graduation. The rules, additionally, give the district board of education the option of charging a reasonable fee for courses intended as enrichment and unrelated to the normal school program.

The amendments proposed do not in any way change the intent or application of the existing rules. The offices of the county superintendents of schools stressed that the rules were necessary to insure the Department's ability to monitor pro-

gram planning and delivery and continue the high quality of currently planned or operating summer programs.

A review of the existing rules and proposed amendments follows:

N.J.A.C. 6:27-3.1, Operation

This section specifies that the rules for the approval of full-time secondary schools shall apply to all secondary summer sessions. The section also specifies that summer programs shall be operated as an integral part of the normal school program and offered without charge to pupils domiciled within the district. Reasonable tuition may be charged, however, for enrichment courses which carry no credit and are determined by the county superintendent of schools to be unrelated to the curriculum of the regular school program. For purposes of this subchapter, a remedial course is any course or subject which is a review of a course or subject previously taken; an advanced course is any course or subject not previously taken in an approved school program; an enrichment course is a course or subject of avocational nature. Two technical changes have been proposed.

Application approval shall be reviewed and approved annually by the county superintendent.

N.J.A.C. 6:27-3.2, Staffing

This section specifies that a member of the administrative, supervisory or teaching staff, with the appropriate certification, shall be assigned the responsibility of administration and supervision during the summer session. It also specifies that teachers shall possess valid certifications for subjects taught.

This section allows that persons involved in curriculum enrichment may be resource persons, serving for specific periods of time, and are under the direct supervision of an administrator, supervisor or teacher. Technical changes are proposed.

N.J.A.C. 6:27-3.3, Admission of pupils

This section specifies that assignment of pupils in summer sessions for remedial courses shall be based on the permission of the principal from the school the pupil normally attends. The subjects which the pupil may take and the purposes for taking such courses must also be specified.

The section also states that one year's work in enrichment or advanced work shall be regarded as a maximum. No change is proposed.

N.J.A.C. 6:27-3.4, Credit

This section provides guidance on the number of minutes required to receive credit for advanced work, applied toward high school graduation credit requirements and specifies that such credit may be transferred to the normal school program only if it is taken from an approved summer program.

The section also specifies that in subjects given for review or for other remedial purposes, not including advanced credit, at least 3,600 minutes of instruction shall constitute one unit.

Additionally, this section specifies that instruction in English, mathematics, social studies, science and a foreign language may be given at different instructional levels in the same class, if class size does not exceed 10 pupils. Individualized instruction programs shall not exceed 20 pupils.

The section requires that when advanced and remedial work occurs within the same classroom only one instructional level in that subject may be taught.

Finally, this section requires that the amount of time a pupil has spent in receiving class instruction shall become a part of the pupil's permanent record.

Social Impact

The proposed amendments do not alter the intent of the existing rules. They are written to expand a district board of education's policy making options and insure that those districts which offer summer sessions provide tuition fee instruction in subjects directly related to the normal school curriculum to pupils domiciled within the district. It is the intent of the rules to insure equal access to educational opportunity regardless of a pupil's income or socio-economic level. The rules also foster the educational leadership of school level personnel by requiring a principal's recommendation and concurrence before a pupil is required to take or enroll in remedial courses. Additionally, by establishing a mechanism for the transference of credits earned to the normal school program, the rules assist pupils in acquiring promotion and graduation credits.

If these rules were allowed to lapse there would be a definite erosion in the caliber and quality of summer school programs. Through the monitoring and compliance network established by the county superintendents of schools, each summer session program is continually assessed to insure excellence in programs and staff. Additionally, without the existing rules pupils would not have the assurance that tuition would not be charged. Finally, the existing rules establish a uniform, State-wide, delivery mechanism for summer sessions. Pupils, and their parents or legal guardians, are assured of the best possible instruction.

Economic Impact

The proposed amendments have no economic impact either on the State or district boards of education. Each district board of education, under the planning process created by the Department's curriculum delivery system, may elect to offer summer sessions or opt to collaborate with contiguous districts. These programs are linked to the normal school program, with the exception of optional enrichment courses, and are budgeted for in the annual request to the Department and district board of education.

The proposed amendments to the existing rules will have not direct or indirect economic impact since they are clarifying amendments made to protect the policy making role of district boards of education and bring the existing rules into conformity with other Department of Education amended rules.

Full text of the re Adoption with amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]).

6:27-3.1 Operation

(a) The rules for the approval of full-time secondary schools shall apply to all secondary summer sessions. No secondary school summer session may be operated or approved unless it:

1. is operated by a **district** board of education without charge to pupils domiciled within the district; or
2. Is operated as an integral part of the program of an approved private secondary school.

(b) Remedial, advancement and enrichment courses may be offered to meet pupil needs.

(c) Reasonable tuition may be charged for enrichment courses which carry no credit and are determined by the county superintendent of schools to be unrelated to the curriculum of the regular school program.

1. As used in this subchapter, a remedial course is any course or subject which is a review of a course or subject

previously taken. Credits or placement may be awarded on completion of the course.

2. As used in this subchapter, an advanced course is any course or subject not previously taken in an approved school program. Additional credits or advanced placement may be awarded on successful completion of the course.

3. As used in this subchapter, an enrichment course is any course or subject of avocational nature for which no credits are to be awarded.

(d) Application for [renewal of] approval shall be reviewed and approved annually by the county superintendent of schools.

6:27-3.2 Staffing

(a) In each public school, a member of the administrative, supervisory or teaching staff who is certified to supervise instruction shall be assigned the responsibilities of administration and supervision of the summer session.

(b) Teachers in summer sessions conducted by the district boards of education shall possess valid certificates for subjects taught. Curriculum enrichment may involve resource persons serving for specific periods of time under the supervision of a certified administrator, supervisor or teacher.

(c) Administrators, supervisors and teachers in the [summary] summer session of private schools shall be members of the regular staff of that school or some other approved secondary school, or possess valid certificate for each assignment. Curriculum enrichment may involve resource persons serving for specific periods of time under the supervision of an administrator, supervisor or teacher.

6:27-3.3 Admission of pupils

(a) The assignment of pupils in summer session for remedial courses shall be based on the permission from the principal of the school which the pupil regularly attends, naming the subjects which the pupil may take and the purpose for which each subject is taken.

(b) The equivalent of one year's work in a subject (one unit) in enrichment or advance work shall be regarded as a maximum.

6:27-3.4 Credit

(a) Rules concerning advanced work include the following:

1. To receive advanced credit for a subject not previously taken in high school, the pupil shall receive class instruction in summer session equivalent to an amount not less than the minimum customarily required in high school; namely, 3,600 minutes class instruction for [2 1/2] **two and one-half** high school credits [(1/2 unit)] **(one-half unit)** or 7,200 minutes for five high school credits (one unit). The time calculation shall not include time for passing of classes or for regularly scheduled recess periods. Class instruction shall be supplemented by regular home or study-hall assignments as required in regular high school organization.

(b) Rules concerning transfer of credits include the following:

1. Credit for work taken in an approved secondary school summer session shall be transferable in the same manner as work taken in any approved secondary school. Credits from unapproved secondary school summer sessions shall not be transferable.

(c) Rules concerning remedial subjects include the following:

1. In subjects which are given for review or for other purposes not including advanced credit, a subject meriting a full

year's credit (one unit) shall be organized to provide at least 3,600 minutes of classroom instruction in addition to home or study-hall assignments. One semester course [(1/2 unit)] **(one-half unit)** shall provide a proportionate amount of classroom instruction.

2. Instruction in English, mathematics, social studies, science or foreign language may be given at different instructional levels concurrently in the same class, if the class size does not exceed [ten] **10** pupils. Specific exceptions regarding class size may be granted for educational programs utilizing individualized instruction for all pupils in the class. Such individualized instruction programs shall not exceed 20 pupils per class.

(d) Rules concerning separation of advanced and remedial classes include:

1. If pupils in advanced work and in remedial work are instructed in the same class, instruction shall be limited to one instructional level in one subject, such as algebra I, English III, Spanish I or music instruction.

(e) Rules concerning records and transcripts include:

1. The amount of time which a pupil has spent in receiving class instruction shall become part of his **or her** permanent record and shall be included whenever [his] **the** record is transferred to another secondary school.

(a)

STATE BOARD OF EDUCATION

**State Approved Adult High Schools (Locally Issued, State Endorsed, Diplomas for Adults)
Adult High School Graduation Requirements**

Proposed Amendments: N.J.A.C 6:30-2.5

Authorized By: New Jersey State Board of Education, Saul Cooperman, Secretary.

Authority: N.J.S.A. 18A:4-15, 18A:48-1 and 18A:7C-1 et seq.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Lorraine L. Colavita
Executive Assistant for Administrative
Practice and Procedure
225 West State Street
Trenton, New Jersey 08625

At the close of the period for comments, the State Board of Education may adopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Upon adoption of these amendments, a notice of the adoption shall be published in the Register. The adoption shall become effective upon publication of that notice in the Register.

This proposal is known as PRN 1984-555.

The agency proposal follows:

Summary

The State Board of Education, pursuant to the authority of N.J.S.A. 18A:4-15, 18A:48-1 and 18A:7C-1 et seq., proposes to amend the rules concerning graduation requirements for State Approved Adult High Schools (Locally Issued, State Endorsed, Diplomas for Adults), N.J.A.C. 6:30-2.5.

Effective with the 1984-85 school year, adult high school students will have to take the Statewide assessment test in order to satisfy the basic skills requirement established in N.J.S.A. 18A:7C-2 and N.J.A.C. 6:8-4.2. The proposed amendments would allow adult high school students to meet the basic skills requirement for the State endorsed diploma by taking an equivalent test approved by the Commissioner of Education under the authority granted in N.J.S.A. 18A:7C-8.

Adult high schools are organized on the basis of open enrollment and open exit. Students may complete their graduation requirements at any time during the school year. Tests for assessing basic skills mastery have been administered by adult high schools on a continuous basis; however, with the most recent high school graduation requirements for successful completion of the Statewide assessment test, the adult high school student would have to wait until the Statewide test is administered in March. The proposed amendments would permit the use of appropriate sections of the General Educational Development Test (GED) as an acceptable measure of basic skills mastery for the high school diploma.

The proposed amendments include revisions which have been made only for the purposes of clarity. The word "adult" has been inserted before "high school" to clarify that the reference is to the adult secondary program. In N.J.A.C. 6:30-2.5(a)2, "minimum basic skills mastery" has been deleted because the requirements for basic skills mastery now appear in the preceding new section, N.J.A.C. 6:30-2.5(a)1.

Social Impact

A survey of adult high schools indicates that a minimum of 2,500 students met all requirements for graduation between April 1983 and March 1984. If these students had been restricted to the Statewide assessment test administered only in March, the majority of these students would have had to wait months before being able to graduate. The timely award of their high school diploma allowed many of these adult graduates to enroll in college, enter military service, and to retain or secure employment. The proposed use of selected sections of the GED test will enable these 2,500 adults to demonstrate basic skills mastery in a manner which is timely to their graduation from the adult high school.

Economic Impact

The equivalent test which this proposed amendment would authorize provides the adult student an option to the annual administration of the Statewide assessment test. There is no charge to students who take the Statewide assessment test. However, students who choose this optional route would be responsible for the examination cost. The examination fee for the GED test would be approximately \$10.00 per student which is the cost of administering and scoring the test. School districts may elect to assume the cost of the student's examination fee, but would not be required to do so.

Without the provisions for an equivalent test, adult students who have satisfied all course requirements for graduation would have to wait until the annual administration of the Statewide assessment to qualify for their diplomas. This delay could also delay their ability to secure a job and therefore require their continued dependence upon public assistance or

unemployment benefits, or could delay their ability to earn additional income as a result of securing a better job.

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

6:30-2.5 Graduation

(a) Each **adult** high school shall establish graduation requirements on the basis of [minimum] basic skills mastery and demonstrated proficiency through either course credits, program completion, or a combination of course credits and program completion **as follows**:

1. Basic skills mastery: Each adult high school shall establish graduation requirements on the basis of mastery on either the Statewide assessment test or an equivalent test approved by the Commissioner of Education.

[1.] **2. Course Credits:** [By October 15, 1983, e]Each **adult** high school shall establish graduation requirements on the basis of [minimum basic skills mastery and] a minimum number of credits to be not less than 92, of which no more than 20 may be in physical education, health and safety, and must include 20 credits in communication, 10 credits in computation, 10 credits in social studies and history; five credits in fine, practical and/or performing arts, five credits in natural or physical science and 2.5 credits in career exploration or development. Course credits may be obtained in any of the following ways:

- i. Credits transferred from other accredited schools or institutions;
- ii. Basic military training: A maximum of 10 credits;
- iii. College courses at accredited schools: Amount of credit determined by the district board of education;
- iv. Previous work experience: Amount of credit determined by the district board of education, not to exceed 10 credits;
- v. Apprenticeship and on-the-job training: Amount of credit determined by the district board of education, not to exceed 30 credits;
- vi. Credit by examination: All tests used for credit by examination will be kept on file for review by the Department of Education. A maximum of five credits per examination will be allowed;
- vii. Independent study: Amount of credit to be determined by the district board of education and kept on file for review by the Department of Education;
- viii. Class participation: Successful completion of course instruction based on proficiencies which meet the State required number of class hours per credit awarded.

[2.] **3. Program completion:** District boards of education may determine and establish a set number of curricular activities or programs for promotion, credit and graduation purposes:

- i. Programs shall be planned for individuals and/or a group based on specific proficiencies;
- ii. The principal shall certify completion of curricular activities or programs based upon specific proficiencies;
- iii. Group programs based on specific proficiencies; shall be approved in the same manner as other approved courses. Individual programs shall be on file in the local district subject to review by the [C]commissioner or his[/] **or** her representative.

(a)

STATE BOARD OF EDUCATION

Bilingual Education

Proposed Readoption with Amendments:
N.J.A.C. 6:31

Authorized By: New Jersey State Board of Education,
Saul Cooperman, Secretary.
Authority: N.J.S.A. 18A:4-15, 18A:35-15 to 35-26,
18A:7A-1 et seq.

Three regional public hearings concerning this proposal will be held as follows:

Northern Region
Tuesday, October 30, 1984
4:00 P.M. to 7:00 P.M.
Second Floor Conference Room of the Bergen
County Office of Education
304 Valley Boulevard
Wood Ridge, New Jersey 07075

Central Region
Thursday, November 1, 1984
4:00 P.M. to 7:00 P.M.
State Board Conference Room of the
Department of Education
225 West State Street
Trenton, New Jersey 08625

Southern Region
Thursday, November 1, 1984
4:00 P.M. to 7:00 P.M.
RCSU—South
Tanyard and Salina Roads
Sewell, New Jersey 08080

All interested members of the public as well as other public agencies are invited to appear and place their views upon the record. Persons seeking to be heard should so indicate in writing or by telephone to the person and address shown below. Such notice shall be no later than:

October 26, 1984 for the Northern Region Meeting and
October 30, 1984 for the Central Region and Southern Region Meetings

Vivian Amaro
Division of Compensatory/Bilingual Education
Department of Education
CN 500, 225 West State Street
Trenton, New Jersey 08625
(609) 292-8777

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

At the close of the period for comments, the State Board of Education may adopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Pursuant to Executive Order No. 66 (1978), these rules would otherwise expire on February 1, 1985. The re-adoption of the existing rules becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of their readoption. The amendments to the existing rules become effective upon publication in the Register of a notice of their adoption.

This proposal is known as PRN 1984-544.

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order No. 66 1978, the State Board of Education proposes to readopt with amendments N.J.A.C. 6:31-1.1 through 6:31-1.15 concerning bilingual education. These rules will expire on February 1, 1985.

The State Board of Education, pursuant to the authority of N.J.S.A. 18A:4-15, 18A:35-15 to 35-26, 18A:7A-1 et seq., proposes several significant changes. The experience of the last several years has led the Department to clarify that the full bilingual and English as a second language programs must also address special learning needs of children of limited English proficiency.

N.J.S.A. 18A:35-15 to 35-26 was originally enacted in January, 1975, requiring school districts to implement bilingual programs to meet the needs of the pupils of limited English speaking ability. It was necessary for the State Board of Education to promulgate rules to guide districts in implementing these new programs. These rules were first adopted in October, 1975. In February, 1980 the rules were substantially recodified and amended based on the experience of the first five years of program implementation.

The overall intent of the proposed amendments is to ensure that district curricula in bilingual and English as a second language education address the use of two languages within the bilingual classroom and that full access to educational offerings are open to all pupils, including pupils of limited English proficiency.

A review of the existing rules and proposed amendments follows:

N.J.A.C. 6:31-1.1 Definitions

In the section on definitions, the word "bicultural" was deleted. This change was a technical change, made to ensure that these programs are referred to as they are in the law. The definition states very clearly that instruction must address the native culture of the children enrolled in the program, as well as that of the United States. The term "English as a second language program" has been expanded to clarify that this program is a developmental, rather than a supplemental program. No other definitions have been amended.

N.J.A.C. 6:31-1.2 Identification of eligible participants

This section prescribes the procedures to be followed in order to identify pupils of limited English speaking ability.

The identification of a pupil's dominant language assists teachers in making decisions regarding curriculum and instruction. Therefore, the provision for determining language dominance has been recodified under the bilingual program section, rather than under the section related to identification procedures.

N.J.A.C. 6:31-1.3 Bilingual education program

Programs of bilingual education are required whenever there are 20 or more pupils of limited English speaking ability from the same language background enrolled in the school district. However, pupils whose native language is English may also enroll in the program. The bilingual curriculum should include all subjects addressed in the regular district curriculum. These provisions remain unchanged. However, a provision requiring districts to develop a formal program curriculum which addresses the use of two languages was incorporated to ensure that there is a smooth transition from native language to English instruction across grades within the bilingual program.

The amended rules stipulate that sufficient opportunities be offered to pupils of limited English speaking ability enrolled at the secondary level to fulfill not only credit, but also other requirements, for high school graduation.

In order to ensure that all educational opportunities are extended and special educational needs are met, a provision requiring districts to develop services and programs to address special educational needs of pupils of limited English speaking ability was added to the rules.

N.J.A.C. 6:31-1.4 Programs for English proficiency

If there are less than 10 pupils of limited English speaking ability in the district, no formal program need be established. Nevertheless, these districts must provide services designed to develop the English language skills of these pupils. Additionally, at the secondary level, these pupils must be offered sufficient courses and opportunities to fulfill high school graduation requirements.

English as a second language programs must be established whenever there are 10 or more pupils of limited English speaking ability. In addition to requiring districts to develop formal curricula for English as a second language development, there is also a new provision for addressing special needs of limited English speaking pupils in the program.

Districts without formal English as a second language instructional programs will not be required to submit their educational plan for these pupils to the State for approval purposes.

N.J.A.C. 6:31-1.5 Approval procedures

This section lists district information that must be reported to the State Department of Education. Plans for programs must be submitted for approval annually, rather than once every three years with interim year updates. However, the information which districts must report has been reduced.

The rules now include budgetary and census reporting responsibilities required of school districts under other areas for these programs.

N.J.A.C. 6:31-1.6 Supportive services

This section makes clear that equal supportive services must be afforded to pupils of limited English speaking ability. This remains unchanged.

N.J.A.C. 6:31-1.7 Administration and supervision

School districts must assure adequate administration and supervision of bilingual and English as a second language programs. There is no change in text.

N.J.A.C. 6:31-1.8 Inservice training

Inservice training developed around identified professional needs must be provided to not only bilingual and ESL program staff but also general program staff when appropriate.

N.J.A.C. 6:31-1.9 Certification

Teachers working in bilingual and English as a second language classes must hold the appropriate New Jersey teacher's certificates. There is no change in text.

N.J.A.C. 6:31-1.10 Bilingual and ESL program participation

Pupils of limited English speaking ability must be enrolled in the appropriate program until they meet exit criteria. There is no change in text.

N.J.A.C. 6:31-1.11 Location

Bilingual classrooms must be approved by the county superintendent of schools. There is no change in text.

N.J.A.C. 6:31-1.12 Notification

Parents of pupils enrolled in programs must be informed of their child's participation and academic progress in the program. They also must be informed of their right to review and challenge the identification process including procedures and pertinent data resulting in the identification of their child as having limited English speaking ability.

N.J.A.C. 6:31-1.13 Joint programs

Districts may join together to provide programs under procedures established by the Department of Education. There is no change in text.

N.J.A.C. 6:31-1.14 Parental involvement

Districts must provide for parental involvement in the development of programs. There is no change in text.

N.J.A.C. 6:31-1.15 Bureau of Bilingual Education

The duties of the office have been expanded to include monitoring of district programs funded by State, local, and Federal sources in conjunction with the county offices of education.

N.J.A.C. 6:31-1.16 State advisory committee on bilingual education

A State advisory committee on bilingual education must be established to advise the Departments of Education and Higher Education in developing policies related to bilingual education. There is no change in text.

Social Impact

Over the past eight years since the enactment of the New Jersey Bilingual Education Act, the number of children identified as of limited English speaking ability and the number of district programs developed to serve them has grown dramatically. These numbers are expected to increase over the next several years, because of the continuing flow of migrants, refugees and other immigrants entering the country and State.

Although there has been some controversy regarding the best instructional approach for developing English language proficiency in children of limited English speaking ability, educators and the general public tend to agree that there is a need for special programs to meet the educational needs of these children. In New Jersey the law requires transitional bilingual education programs. If these rules were not re-adopted many districts would be without guidance in regard to establishing and carrying out such instructional programs.

Economic Impact

There will be no significant additional costs to school districts resulting from most of the proposed amendments, since they are primarily administrative in nature.

The provisions for providing services designed to meet the special needs of limited English proficient children may incur additional costs to school districts; however, it is not possible to predict these costs since they will vary according to the needs of the individual pupils. Districts receive bilingual categorical aid for all pupils enrolled in bilingual and English as a second language (ESL) programs. The fiscal year 1984 allocation of bilingual categorical aid was \$14,722,386. There is also State funding available for vocational education services. Remedial services can be provided to eligible children through the use of Chapter I funds which are Federal monies made available to districts on an entitlement basis. Therefore, there should not be significant additional costs for providing these services to limited English speaking ability children. There would be no additional costs for hiring staff who have a bilingual endorsement and appropriate content certification for any of these programs. There may be, however, additional costs for providing ESL instruction, especially to classified pupils whose IEPs require isolated ESL instruction. The number of pupils whose IEP would call for such instruction is not known, but it generally would be expected that very few children would need such instruction.

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

6:31-1.1 Definitions

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

“Act” means Chapter 197, P.L. 1974 (N.J.S.A. 18A:35-15 to 26).

“Bilingual [/bicultural] education program” means a full-time program of instruction in all those courses or subjects which a child is required by law [,] **or** rule [or regulation] to receive, given in the native language of the children of limited English speaking ability enrolled in the program and also in English; in the aural comprehension, speaking, reading, and writing of the native language of the children of limited English speaking ability enrolled in the program and in the aural comprehension, speaking, reading and writing of English; and in the history and culture of the country, territory or geographic area which is the native land of the parents of children of limited English speaking ability enrolled in the program and in the history and culture of the United States. [Throughout the text of this chapter, whenever reference is made to bilingual/bicultural education programs, such reference shall be cited as bilingual education programs.]

“Children of limited English speaking ability” means pupils whose native language is other than English and who have

sufficient difficulty speaking, reading, writing or understanding the English language to deny the pupil the opportunity to learn successfully in the classrooms where the language of instruction is English. This term means the same as limited English proficiency, the term used in federal guidelines.

“Dominant language” with respect to the pupil means the language most relied upon for communication as determined by a test of language dominance or other screening process in accordance with guidelines prescribed by the Department of Education.

“Educational needs” means the particular educational requirements of pupils of limited English speaking ability, the fulfillment of which will provide them with equal educational opportunities.

“English as a second language (ESL) program” means a **developmental second language** program which teaches English vocabulary and structures using second language teaching techniques, and incorporates the cultural aspects of the pupils’ experiences in their ESL instruction.

“Exit criteria” means those criteria that must be considered before a pupil may be terminated or exited from a bilingual program. These criteria include, but are not limited to, the English language proficiency test score and documentation of the pupil’s academic work in English.

“Native language” means the language first acquired by the pupil; the language most often spoken by the pupil; or the language most often spoken in the pupil’s home, regardless of the language spoken by the pupil.

6:31-1.2 Identification of eligible participants

(a) Whenever a pupil enrolls in the district, that district shall ascertain the pupil’s native language. Each district shall maintain a census indicating all pupils identified whose native language is other than English.

(b) The district shall determine the English language proficiency of all pupils whose native language is other than English by means of an initial screening process and the administration of an English language proficiency test, in accordance with guidelines prescribed by the Department of Education.

[(c) The district shall assess all pupils whose native language is other than English to determine their dominant language.]

6:31-1.3 Bilingual education program

(a) When, at the beginning of any school year, there are within the schools of the district, 20 or more pupils of limited English speaking ability in any one language classification, the **district** board of education shall establish for each such classification, a program in bilingual education for all pupils therein; providing also, that a **district** board of education may establish a program in bilingual education for any language classification with less than 20 pupils.

(b) A program of bilingual education may make provisions for the voluntary enrollment on a regular basis, of pupils whose dominant language is English, in order that they may acquire an understanding of the language and the cultural heritage of the pupils of limited English speaking ability for whom the particular program of bilingual education is designed, provided that no bilingual class contains a majority of pupils whose native language is English.

(c) The district shall assess all pupils enrolled in the bilingual program to determine their dominant language, which shall be used initially as their primary language of instruction.

[(c)](d) The bilingual program curriculum shall include the full range of required courses and activities offered on the

same basis and under the same rules [and regulations] that apply to all pupils within the school district. In subjects and activities in which verbalization is not essential to understanding, including but not limited to art, music and physical education, pupils of limited English speaking ability shall participate fully with English speaking pupils in the regular class of activities provided. **There shall be a formal bilingual program curriculum which addresses the use of two languages within the curriculum.**

[(d)](e) At the secondary level, sufficient courses [or] and other relevant opportunities shall be offered to enable the pupil to fulfill all credits [required] and other requirements for graduation. When sufficient numbers of pupils are not available to form a bilingual class of a subject area, plans must be developed in consultation with the Department of Education to meet the needs of the pupils.

(f) Bilingual programs and services designed to meet the special needs of pupils of limited English speaking ability including, but not limited to, compensatory education, special education and vocational education services, shall be provided by districts in accordance with N.J.S.A. 18A:7A-4.

6:31-1.4 Programs for English proficiency

(a) Whenever there are one or more, but less than 10, pupils of limited English speaking ability enrolled within the schools of the district, the district board of education shall provide services designed to improve the English language proficiency of those pupils pursuant to N.J.S.A. 18A:7A-4. The school district shall [submit to the Department of Education a narrative description of the services being provided] **develop a special instructional plan which has as its goal the development of English language proficiency.**

1. At the secondary level, sufficient courses and relevant opportunities shall be offered to enable the pupils to fulfill all credits and other requirements for graduation.

(b) When there are 10 or more pupils identified as being of limited English speaking ability, regardless or whether they speak the same native language enrolled in a district, those pupils shall be taught by a certified ESL teacher in an ESL program.

(c) ESL curriculum and services shall be developed to address the basic instructional needs of pupils of limited English speaking ability. ESL programs and services designed to meet the special needs of pupils of limited English speaking ability, including but not limited to, compensatory education, special education and vocational training for these pupils, shall be provided in accordance with N.J.S.A. 18A:7A-4.

6:31-1.5 Approval procedures

(a) Each school district providing a bilingual or ESL program shall submit [a three year] **an annual** plan for a program of bilingual or ESL education to the Department of Education for approval. [Districts receiving approval for their plans shall submit an update of that plan for each of the following two years.]

(b) Plans submitted by districts for approval shall include information on the following:

1. [Needs assessment process] **Identification of pupils;**
2. Program description;
3. School information;
4. [Personnel] **Evaluation design;**
5. [Fiscal information] **Evaluation data.**
- [6. Inservice activities;]
- [7. Parental involvement;]
- [8. Evaluation.]

(c) Districts shall submit annually the Report of the Limited English Proficient Students, as part of the Fall Survey.

(d) Districts shall also submit annually their bilingual and ESL program budget, as part of the Annual Improvement Budget.

6:31-1.6 Supportive services

(a) Pupils enrolled in bilingual and ESL education programs shall have full access to educational services available to other pupils in the school district.

(b) School districts should use full or part-time bilingual personnel to provide supportive services (such as counseling) to pupils to limited English speaking ability.

6:31-1.7 Administration and supervision

(a) School districts should ensure the adequate administration and supervision of bilingual and ESL education programs.

(b) Personnel selected for administrative and/or supervisory positions shall provide evidence to the chief school administrator of specialized training and/or experience in bilingual [/] or ESL education.

6:31-1.8 Inservice training

(a) Districts shall develop a plan for [the] inservice training **in the area of bilingual and ESL education for [of its] bilingual, [and] ESL and other** program staff based on their needs.

(b) The Professional Improvement Plan of the Annual Report (N.J.S.A. 18A:7A-11(e)) shall include the needs of bilingual and ESL teachers to be addressed through inservice training.

6:31-1.9 Certification

(a) All teachers of bilingual classes shall hold a valid New Jersey teacher's certificate for the appropriate grade level and/or content area and an endorsement in bilingual education pursuant to N.J.S.A. 18A:6-34 et seq. and N.J.S.A. 18A:35-15 to 26.

(b) All teachers of ESL classes shall hold a valid New Jersey teacher's certificate in English as a second language pursuant to N.J.S.A. 18A:6-34 et seq. and N.J.S.A. 18A:35-15 to 26.

6:31-1.10 Bilingual and ESL program participation

(a) All school age pupils of limited English speaking ability shall be enrolled in the bilingual or ESL education program established by the school district, as prescribed in N.J.A.C. 6:31-1.3(a) and 6:31-1.4(b).

(b) Pupils enrolled in the bilingual or ESL education program shall be placed in a regular program when they have met exit criteria established by the district in accordance with guidelines established by the Department of Education. These criteria shall include a review process that will insure the readiness of the individual pupil to function successfully in the regular program.

6:31-1.11 Location

All bilingual programs shall be conducted within classrooms approved by the county superintendent of schools within the regular school buildings of the district.

6:31-1.12 Notification

(a) No later than 10 working days after the enrollment of any pupil in a bilingual or ESL education program, the district shall notify, by mail, the parents or legal guardian that

the pupil has been enrolled in a bilingual or ESL education program. The notice shall contain a simple, non-technical description of the purposes, method and content of the program in which the pupil is enrolled. **The notice shall also inform parents of their right to review and discuss with district administrators the procedures and pertinent data used to identify their child as having limited English speaking ability. The notice shall also advise parents of the appeal process to be followed pursuant to N.J.S.A. 18A:6-9, if they wish to challenge the identification of their child. During the pendency of any such appeal before the commissioner, the child shall remain enrolled in the program.** The notice shall be in English and in the language in which the parents possess a primary speaking ability.

(b) School districts shall send progress reports to parents of pupils enrolled in bilingual or ESL education programs in the same manner and frequency as progress reports are sent to parents of other pupils enrolled in the school district.

(c) Progress reports shall be written in English and in the native language of the parents of pupils enrolled in the bilingual program. The progress reports for pupils enrolled in an ESL program shall be written in English and in the native language of the parents unless it can be demonstrated that this requirement would place an unreasonable burden on the local school district.

6:31-1.13 Joint programs

A school district may join with any other school district or districts, according to procedures prescribed by the Commissioner of Education with the approval of the county superintendent, to provide programs in bilingual or ESL education.

6:31-1.14 Parental involvement

(a) Each district shall provide for the maximum practicable involvement of parents of pupils of limited English speaking ability in the development and the review of program objectives; and dissemination of information to and from the local school districts and communities served by the bilingual or ESL education program.

(b) Each school district implementing a bilingual education program shall establish a parent advisory committee on bilingual education on which the majority will be parents of pupils of limited English speaking ability.

(c) The parent advisory committee shall be convened a minimum of four times per school year.

6:31-1.15 Bureau of Bilingual Education

(a) There shall be established in the State Department of Education a Bureau of Bilingual Education.

(b) The Bureau of Bilingual Education shall be charged with the following:

1. Administration of the provisions of this chapter;
2. Providing technical assistance to school districts in the implementation of their bilingual and ESL programs.
3. Coordination and monitoring in conjunction with the county office of education of local, State and Federal programs designed to meet the educational needs of pupils of limited English speaking ability.

6:31-1.16 State advisory committee on bilingual education

(a) The State Board of Education and the State Board of Higher Education shall jointly establish a State advisory committee on bilingual education. The Commissioner of Education and the Chancellor of Higher Education shall appoint the members of the committee.

(b) The committee shall advise the Department of Education and the Department of Higher Education in the formulation of policies and procedures relating to the act.

(c) The committee shall be composed of at least 15, but not more than 25 members, one of whom shall be elected chairperson. The membership shall include the following representation:

1. A minimum of two but not more than four parents of pupils of limited English speaking ability.
2. A minimum of three but not more than four persons from institutions of higher education experienced in the training of teachers of bilingual and ESL education;
3. A minimum of four but not more than six teachers experienced in bilingual and ESL teaching techniques;
4. A minimum of one but not more than three persons serving on a [local school] district board of education implementing a bilingual or ESL education program;
5. A minimum of two but not more than four school administrators of bilingual or ESL education programs;
6. A minimum of two but not more than four laymen knowledgeable in the field of bilingual and ESL education.

HEALTH

(a)

CONSUMER HEALTH SERVICES

Animal Control Officers Certification Act Standards Animal Control Officer Certification

Proposed New Rule: N.J.A.C. 8:23-5

Authorized By: J. Richard Goldstein, M.D., Commissioner Department of Health.

Authority: N.J.S.A. 4:19-15.1 et seq., specifically 4:19-15.16 (P.L. 1983, c.525).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions and any inquiries should be addressed to:

Ms. Annette M. Hirsch, R.N., M.P.H.
Chief
Biological Services Program
Community Health Services
CN 364
Trenton, NJ 08625

The Department of Health thereafter may adopt this proposal without further notice (see N.J.S.A. 1:30-2.5). The adoption becomes effective upon publication in the register of a notice of adoption.

This proposal is known as PRN 1984-547.

The agency proposal follows:

Summary

In 1983, legislation was introduced in response to a need expressed by local animal control officers, various animal welfare organizations and members of the public to have a mandatory training certification course made available by an accredited New Jersey college or university. Chapter 525, Public Law 1983 was signed into law in January 1984. It mandates the Commissioner of Health to promulgate regulations governing the training and certification of animal control officers, including but not limited to a course of study approved by the Commissioner which acquaints a person with: (1) the law as it affects animal control and welfare; (2) animal behavior and the handling of stray or diseased animals; (3) and community safety as it relates to animal control. This proposal provides the minimum course of study required to prepare an individual for animal control officers certification. An informational notice regarding the new law requiring certification through training and exemption from training up to January 17, 1987 was sent to Mayors, Municipal Clerks, Health Officers, Animal Control Officers and contracting animal impounding facilities. The notice provided interested persons with information as to how and where they may make application for certification.

Social Impact

Currently the only formal training for Animal Control Officers is provided out of state and generally unaccessible or prohibitive to Animal Control Officers by distance, length of time required to attend and the cost associated with tuition, room and board. Subsequently, few Animal Control Officers avail themselves of the out of state training and are dependent on learning the skills and knowledges of the position through on-the-job training when available. Lack of uniformity or improper interpretation of the law and unskilled handling of community animal control problems, results in unnecessary legal problems, poorly operated animal control programs, higher incidence of animal bites and treatment of humans bitten by stray animals.

The proposed new rule will provide a clearer understanding of the Animal Control Officer's role in the community by formally addressing through education the legal aspects of animal control and the public health aspects of animal disease control. This will result in: (1) improved municipal licensing of domestic pets; (2) improved municipal animal census taking; (3) stricter enforcement of leash laws; (4) more effective handling of stray pet animals; (5) decrease the number of animal-related automobile accidents and reduce the number of bites to humans.

An individual who has responsibility for enforcing state laws and local ordinances can be more effective when properly prepared by being provided with the necessary knowledge and skills through education and training.

Economic Impact

During 1983, a survey of impounding and shelter facilities were conducted. The survey revealed that 150,000 dogs and cats were impounded in 92 facilities contracting with 477 municipalities throughout the State. For each animal that is picked-up, held for seven days and disposed of by reclamation, adoption or euthanasia, the estimated cost to municipalities is \$58.00 per animal. The stray animal control problem cost municipalities and ultimately the taxpayer approximately 8.7 million dollars annually. By providing municipalities with Certified Animal Control Officers, improved enforcement of State laws and local ordinances governing such activities as licensing, canvass for unlicensed dogs, leash laws and domes-

tic animal control will result in more responsible pet ownership, reduce the number of pet animals roaming the streets, reduce the cost to municipalities for stray pick-up and impounding and most importantly reduce the threat of rabies.

The proposed new rule will not pose any significant adverse economic affects on municipalities, contracting shelters and impounding facilities, or individuals. The law provides until January 17, 1987, for municipalities to comply with hiring a Certified Animal Control Officer. The law also allows Animal Control Officers currently employed in the State of New Jersey in the capacity of and with similar responsibilities to those required of Certified Animal Control Officer for a period of three years to be certified without training. Therefore, the cost to municipalities or contracting impounding facilities will be limited to the cost of training newly hired Animal Control Officers, which is considered minimal for those who do not qualify for grandfathering. The cost to the Department of Health for the administration of the certification process is the cost associated with printing and issuing certificates which is considered to be minimal.

Full text of the proposed new rule follows.

SUBCHAPTER 5. ANIMAL CONTROL OFFICER CERTIFICATION

8:23-5.1 Definitions

"Certified Animal Control Officer" means a person 18 years of age or older who has satisfactorily completed a course of study approved by the Commissioner of Health on the control of animals or who has been employed in the State of New Jersey in the capacity of, and with similar responsibilities to those required of certified animal control officers pursuant to the provisions of N.J.S.A. 4:19-15.1 et seq., for a period of three years.

"Certification" means the process whereby an individual who has successfully completed an approved course of study and/or up to January 17, 1987, has been employed in the State of New Jersey in the capacity of and with similar responsibilities to those required of a Certified Animal Control Officer for a period of three years which is attested to by a written statement of the employer, shall be certified by the Commissioner of Health as meeting the training or experienced standards prescribed and is authorized to perform the functions and duties of an Animal Control Officer.

8:23-5.2 Approved course of study

(a) An approved course of study will provide a minimum of 45 hours or the equivalent to three credit hours offered by an accredited New Jersey college or university which includes, but is not limited to, the following subject areas:

1. New Jersey Statutes, Rules and Regulations governing rabies and the control of dogs, wildlife control, wildlife protection, and enforcement;
2. Animal disease recognition and prevention;
3. First aide for injured animals;
4. Principles and procedures of capture and handling stray domestic animals and wildlife;
5. Cruelty documentation, evidence and courtroom procedures;
6. Shelter operations, adoption and humane euthanasia procedures.

8:23-5.3 Course approval

(a) An accredited New Jersey college or university may submit a course outline and description covering the subject

areas mentioned in N.J.A.C. 8:23-5.2 to the Department of Health, Biological Services, Trenton, NJ 08625.

(b) Upon review and acceptance of the course outline and description, the Department will issue written approval to the college or university.

8:23-5.4 Certification

(a) An individual who successfully completes an approved course of study may make application to the State Department of Health, Biological Services Program, Trenton, New Jersey for certification.

(b) Individuals in New Jersey may also be certified by submitting to the Department of Health Biological Services a written statement from the employer attesting they have been employed in the State of New Jersey in the capacity of and with similar responsibility to those required of certified animal control officers for a period of three years.

8:23-5.5 Mandatory compliance

After January 17, 1987, municipalities must hire only Certified Animal Control Officers and the only method of certification will be through the satisfactory completion of an approved course of study. Municipalities shall meet this requirement by requiring contracting facilities to provide a Certified Animal Control Officer.

(a)

HOSPITAL REIMBURSEMENT

Standard Hospital Accounting and Rate Evaluation (SHARE) 1985 Rate Review Guidelines

Proposed Amendment: N.J.A.C. 8:31A-7.3 and 7.4

Authorized By: J. Richard Goldstein, M.D., Commissioner, Department of Health with the approval of the Health Care Administration Board.

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

Interested persons may submit in writing, data, views or arguments relevant to the proposed rule on or before November 14, 1984. These submissions and any inquiries about submissions and responses should be addressed to:

Joseph I. Morris, Assistant Commissioner
Health Planning and Resource Development
New Jersey Department of Health
CN 360
Trenton, NJ 08625

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

This proposal is known as PRN 1984-550.

The agency proposal follows:

Summary

The proposed amendments update the SHARE Rate Review Guidelines and contain minor changes to the regulations. Language has been added concerning hospitals that exceed the rate year licensed bed capacity. The reference to the one time elimination of the 1979 overspending challenge for Specialized and Rehabilitation Hospitals, accepting either the Global or Alternate Rate in 1984, has been deleted and new language reflecting the adjustment for 1985 has been added. Additional language relating to changes in volume has been added.

Social Impact

The proposed amendments in terminology will add clarity to the intent of the regulation. The review of substantial change in volume will allow the Department of Health to determine an appropriate adjustment to the hospital reimbursement rate based on volume which impacts on the total cost of the institution. The 1979 overspending adjustment will be carried forward into the current rate year and continue to provide financial solvency for Rehabilitation and Specialty Hospitals.

Specialty and Rehabilitation Hospitals must obtain a waiver when providing services to patients beyond their licensed bed capacity in order to continue to maintain licensing requirements.

Economic Impact

The 1979 overspending adjustment will be increased for inflation and incorporated into the covered inpatient cost base enabling the Specialty and Rehabilitation Hospitals to maintain a stable financial position. The review of substantial volume changes by the Department of Health allows the Rehabilitation and Specialty Hospitals to receive an appropriate rate adjustment which corresponds to their level of activity.

Rehabilitation and Specialty Hospitals that do not request a waiver exceeding licensed bed capacity may suffer loss of reimbursement.

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

8:31A-7.3 Auditing of costs

(a) (No change.)

(b) Hospitals which exceed the rate year licensed bed capacity shall not be entitled to reimbursement for those excess admissions unless a waiver has been granted by the Director of Licensure.

8:31A-7.4 Methodology for calculating Global Rates

(a) Global Rate will be developed from the hospital's prior year Global Rate established pursuant to the SHARE Guidelines. Acceptance of the Global Rate shall constitute a waiver of any right of appeal concerning the rate and no adjustments to any prior year shall affect the Global Rate.

1. (No change.)

2. The adjusted approved Global Rate will be calculated by adjusting the prior year's Global rate in existence on December 1 by the following factors:

i. A volume adjustment will be calculated on the variances between budgeted volumes and the projected volumes using volume variances as detailed in Appendix A. **Substantial changes in volume will be reviewed for reasonableness in cost.**

ii.-v. (No change.)

3.-7. (No change.)

[(b) The 1979 overspending adjustment approved for Specialized and Rehabilitation hospitals accepting the Global or

Alternate Rate in 1983 will be adjusted by the Economic Factor, as determined in N.J.A.C. 8:31A-7.10, and be included in the 1984 Global and Alternate Rates.]

(b) The hospital's prior year Global Rate and/or Base year Alternate Rate covered inpatient cost base includes the 1979 overspending adjustment. The current rate year Global and/or Alternate Rate will be determined from the prior year Global and/or Alternate Rate.

(a)

HOSPITAL REIMBURSEMENT

1985 Uniform Bill—Patient Summary (Inpatient) Regulations

Proposed Readoption Amendments: N.J.A.C. 8:31B-2

Authorized By: J. Richard Goldstein, M.D., Commissioner, Department of Health, (with the approval of the Health Care Administration Board).

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

Interested persons may submit in writing, data, views or arguments relevant to the proposed rule on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Joseph I. Morris, Assistant Commissioner
Health Planning and Resources Development
New Jersey Department of Health
CN 360
Trenton, NJ 08625

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

This proposal is known as PRN 1984-551.

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978) N.J.A.C. 8:31B-2 has been reviewed in its entirety and is being readopted with amendments.

The entire subchapter has been revised to incorporate the National Uniform Bill (UB-82 HCFA-1450) (See the proposal at 48 Federal Register 76, April 19, 1983 p. 16750, which has not yet been adopted), as the common billing format.

8:31B-2.1 Purpose: The amendment incorporates the UB-82 Form, states the need for the revised rule and specifies how the rule relates to the requirements of the Federal government and the Department of Health. The new form will contain both the State and the Federal requirements, because unique State requirements will appear on the Federally mandated form.

8:31B-2.2 Implementation: The readopted portion specifies the effective date of the new rule, when approved, and states the patient information necessary for the reconciliation of payments. Without this patient information, the State would not be able to determine the appropriateness of the revenue received by the hospital under the rate setting requirements. This subsection addresses the requirement for the hospital to give written Diagnosis Related Group (DRG) information to the patient upon admission to the hospital. The patient is informed of the existence of an appeals process, prompt payment discount, and the hospital contact person for DRG related problems. The amendment reorders the payor codes and states that the regulations are compatible with the Procedural and Methodological Regulations at N.J.A.C. 8:71-B, states that as of January 31, 1981, N.J.A.C. 8:31B-2.1, the Rule on Hospital Reporting of Uniform Bill Patient Summaries (Inpatient) has been used, and that the revision is effective as of January 1, 1985.

8:31B-2.3 Billing form: Provides a description of the new form and its availability. This form now represents a common billing format for use in every state.

8:31B-2.4 Guidelines for completion of the patient billing and abstract form includes directions for use of UB-82 form. An addendum to the National Uniform Bill Manual, which contains the Federal requirements and has previously been distributed to the hospitals, will describe in detail the additional data elements required by the Department of Health to allow the State to maintain the integrity of the present data base.

This addendum will be available at adoption of this rule. This subsection also addresses the timeliness of billing completion, to insure that the consumer is billed in a timely manner for services received.

8:31B-2.5 Data submission: the previous subsection entitled "Filing Time, Quality Control of Data" has been deleted in its entirety to provide clarity for the reader in the revision. The amendment addresses the selection of the Data Intermediary by the hospital; required contractual arrangements; quality control measures for data; audit requirement; data editing; report production by the Data Intermediary for the Department of Health; data submission to the Department of Health and the provision for imposing penalties for non-compliance of time periods; and data confidentiality.

In the past, the data intermediary was also the fiscal intermediary. The amendment will change the selection method to allow the hospital to choose separate fiscal and data intermediaries, thus stimulating competition to improve the data submission process and reduce costs to the consumer.

8:31B-2.6 The previous subsection entitled "Functions of the UB-PS Intermediaries" has been deleted in its entirety, however, some elements have been included in the revised 8:31B-2.5.

This revision will improve the clarity and readability of the regulation.

The Department believes that the clarification of certain terms used in this rule would be of benefit to the reader and they are as follows:

"Final reconciliation" means the year end determination of a hospital's approved revenue based on the actual volume and case-mix for that year as applied to the approved DRG

rates and other financial elements (refer to N.J.A.C. 8:31B-2.5(g)2.).

“Final error” means a data error that is so severe that it will cause the entire patient record to be rejected by the system; for example, omission of a patient’s discharge date (refer to N.J.A.C. 8:31B-2.5(g)2.).

“Periodic” means on a quarterly basis to satisfy the requirements of the system (refer to N.J.A.C. 8:31B-2.5(d)).

It should also be noted that under N.J.A.C. 8:31B-2.2(c)2. The reference to Outpatient Data (Reserved) is shown. It is the intention of the Department of Health to phase-in the requirement for this new aspect of the system at a later date when specific guidelines will be presented.

Social Impact

The use of the Federally mandated Uniform Bill 82 requires hospitals to collect additional information on each patient discharge to comply with the Federal regulation. Hospitals must re-program their financial and statistical information systems to accommodate the National Standards Coding requirements while maintaining the ability to provide the same data elements to the Department of Health as in the past.

There is no discernable social impact on the consumer, because the regulation is strictly a data control measure. None of the Federally mandated requirements are required by the Department. The Department will use the Federal form.

Economic Impact

New data processing expenses will be incurred by all hospitals as they convert their billing systems from the Uniform Bill—Patient Summary (UB-PS) form to the Federally required Uniform Bill - 82. The actual costs to the hospitals are undetermined at this time, however, they may be substantial depending upon the present efficiency level of the individual hospital’s data information system.

The continued enforcement of a cut-off date for the hospital data submissions to the Department of Health may increase the incidence of a penalty being imposed, on a daily basis up to \$200.00.

To the extent that the hospitals need to expend significant additional resources to implement UB-82, the corresponding rates may raise costs to health care consumers. The cost to the consumer may be reduced through the stimulation of competition derived from no longer requiring the fiscal and data intermediaries to be one and the same.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 8:31B-2, as amended in the New Jersey Register.

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

RULE ON HOSPITAL REPORTING OF UNIFORM BILL—PATIENT SUMMARIES (INPATIENT)

8:31B-2.1 Purpose

(a) The purpose of this rule is to provide the basis for a single patient data reporting system to satisfy the requirements of Chapter 83, P.L. 1978. [The proposed rule is based

on an expanded UB16-78, a uniform billing form developed by the American Hospital Association and other interested parties, and is designed so as to:

1. Coordinate and consolidate the requirements on hospital billing systems to allow all payors to be billed through a single common format rather than the current system of different claim forms for each payor,

2. Simplify claims administration and coordination of benefits of third party payors through the receipt of bills from all providers, in a common format,] **The revised rule is designed to incorporate the National Uniform Bill (UB-82 HCFA-1450) as the common hospital billing format for all payors. The data and design of the form have been determined by the National Uniform Billing Committee (NUBC). The NUBC includes representatives of the Federal Government, major payors, and hospital associations.**

(b) This rule will continue to allow hospitals to:

[3.] **1.** [Eventually satisfy] **Satisfy** [present] Department of Health reporting requirements for bills and abstracts, [thereby, eliminating a costly and difficult process of combining bills and abstracts,

4. Eliminate duplicative reporting to both the Department and third party payors,]

[5.] **2.** Allow for common and consistent reporting of revenues for services related to patient care used in the calculation of Preliminary Cost Bases under Chapter 83, P.L. 1978, and

[6.] **3.** Promote uniformity and accuracy of patient data reporting. Confidentiality of individual patients and physicians shall be maintained in fulfilling the above purposes.

8:31B-2.2 Implementation

(a) [Uniform Bill-Patient Summaries (UB-PS) shall be used and reported as described herein for each inpatient discharged and ambulatory same day surgery outpatient treated on or after January 1, 1981, from each hospital covered under Chapter 83, P.L. 1978.] **Beginning January 1, 1981 N.J.A.C. 8:31B-2.1, the rule on Hospital Reporting of Uniform Bill-Patient Summaries (Inpatient), has been used as a common billing form and reporting mechanism for each inpatient discharged and ambulatory same day surgery outpatient treated in each hospital covered under Chapter 83, P.L. 1978.**

(b) As of January 1, [1981, this Rule replaces NJAC 8:31-16.17 (Rule Concerning Reports to Relate Ancillary Service Charges with Hospital Case-Mix).] **1985, revisions to N.J.A.C. 8:31B-2 become operative.**

(c) [For those hospitals scheduled to have a Preliminary Cost Base established by the New Jersey Hospital Rate-Setting Commission during calendar year 1980, a plan of implementation of the UB-PS shall be developed jointly among the hospital, its UB-PS Intermediary(ies) and the Department of Health. This plan shall include

1. Expedient implementation of the UB-PS as soon as possible, however, in no event later than January 1, 1981; and

2. Submission on or before March 31, 1981 of sufficient patient information for reconciliation of 1980 schedule of rates payments consistent with the N.J.A.C. 8:31B-4 and N.J.A.C. 8:31B-3.42 through 3.48.] **The revisions to N.J.A.C. 8:31B-2 provide for the submission of sufficient patient information for reconciliation of payments consistent with N.J.A.C. 8:31B-3.71 through 3.86.**

[i.] **1.** “Sufficient patient information” shall consist of the following for all inpatients discharged and ambulatory same day surgery outpatients treated [on or after January 1, 1980] and shall be submitted in the [UB-PS input] format specified

pursuant to [subsection 6(e)] **N.J.A.C. 8:31B-2.5(g)** [of this subchapter:]

- [(1)] i. Hospital Provider Number;
- [(2)] ii. Patient Control Number;
- [(3)] Date of Birth;
- (4) Admission Date;
- (5) Primary Payor Code;
- (6) Secondary Payor Code;
- (7) Tertiary Payor Code;
- (8) Medical Records Number; DRG Number and Outlier Indicator; all billing items—(Items 38, 40-51, 84-87); Discharge Date; Principal and Other Diagnosis Codes (13) and Principal and Other Procedure Codes.]
- iii. **Discharge Date;**
- iv. **Date of Birth;**
- v. **Admission Date;**
- vi. **Medical Record Number;**
- vii. **DRG Number and Outlier Indicator;**
- viii. **Principal and Other Diagnosis Codes;**
- ix. **Principal and Other Procedure Codes;**
- x. **Payor Codes;**
- xi. **and all billing information.**

2. Outpatient Data (Reserved)

(d) The reasonable cost of compliance with the revisions to this Subchapter net of any cost savings shall be considered by the Commission in accordance with **N.J.A.C. 8:31B-3.45**. [Until such time as a hospital has a Preliminary Cost Base established, a hospital shall identify in its SHARE submission (or, if necessary, in a separate subsequent submission) and the Department shall recognize the reasonable costs incurred as a direct result of compliance with this regulation net of any savings incurred.

(e) Each hospital shall submit to its UB-PS Intermediary-(ies) and the Department of Health, 30 days prior to the effective date of use of this rule for reporting a description of individual items and procedures charged for each revenue center related to patient care as defined in **N.J.A.C. 8:31B-4**. However, hospitals for which a 1980 Preliminary Cost Base is established by the Commission shall submit this list to the Department of Health as of the date of implementation of the Schedule of rates pursuant to **N.J.A.C. 8:31B-3.29**. Additions to this list must be submitted in a timely manner prior to use of the additions on UB-PS submissions.

(f) On or before June 30, 1980, any non-acute care institution otherwise subject to the requirements of this regulation may submit, in writing, a request to the Commissioner of Health to be waived from compliance with this regulation. Such a request must identify the reasons the institution cannot use the UB-PS system herein described for billing or claims purposes. A waiver will be issued only in instances where such reasons are deemed substantial and compliance with this regulation would not be in the public interest.]

(g) Upon admission to the hospital, each patient shall be given written DRG information to include at least the following:

1. Patient's right to appeal a DRG assignment and/or inequitable bill to the hospital Utilization Review Committee and the State Certified Utilization Review Organization.
2. Patient's right to a prompt-payment discount with the currently approved discount schedule, and
3. The primary contact person in the hospital for DRG related problems.

8:31B-2.3 [Input] Billing form

(a) [Any printed version of the UB-PS information for billing or filing purposes must conform to the UB-PS form. A

variation of the form is allowed for input or processing using computerized systems such as teleprocessing or tape-to-tape systems.] **The UB-82 is a multi-part form set printed in green ink. Form sets will be composed of three payor copies and one or more hospital copies. If more than three payors are involved, a second bill will be required. Detailed specifications are included with the UB-82 completion guidelines.**

(b) [This form shall be modified or redesigned to conform with a national uniform bill if and when such a uniform bill is mandated under federal regulation.] **The form is designed to be typed or computer printed. It will be available as unit sets or in a printed version. The number of copies in each form set will be determined by the hospital according to its planned use of the forms.**

[(c) The patient copy of a UB-PS form need not include any items after Item 87, nor the DRG number. This information includes diagnostic information to which the patient may have only limited access.]

8:31B-2.4 Guidelines for completion of [UB-PS] the patient billing and abstract form

(a) [The following guidelines are to be followed in completing each UB-PS form. Separate instructions are provided, where necessary, for Medicare, Medicaid, Blue Cross, and Commercial/other. Any non-starred item may be modified to conform to the needs of the individual payor. Starred items must be entered as described herein.] **Procedural guidelines for completing the patient billing and abstract form follow:**

1. **Guidelines for completing the billing form, UB-82 HCFA-1450, have been developed by the NUBC for Medicare, Civilian Health and Medical Program of the Uniform Services (CHAMPUS), and Commercial Insurers.**

2. **Specific instructions for Blue Cross, Medicaid, and other payors will be provided by those payors.**

3. **Additional data elements required for the Department of Health by this rule are described in detail by an addendum to the National Uniform Bill Manual. Note: This addendum will be available at adoption.**

(b) **Building timeliness requirements are as follows:**

1. **A UB-82 must be completed and finalized for each patient within 30 days of discharge of the patient.**

2. **Where claims administration and cash flow considerations would dictate a more current billing than the 30 day requirement, a preliminary version of the UB-82 containing only those items required in (a) above for the particular payor need be utilized at the time of billing and such information is sufficient to adjudicate a claim for prompt payment discount. In such cases, the completed patient billing and abstract information noted in (c) below must be submitted to the appropriate Data Intermediary in compliance with the Data Intermediary time limits and the Department of Health Data Requirements (see **N.J.A.C. 8:31B-2.5(g)**).**

Editor's Note: All of the inpatient procedural guidelines and coding tables, not reproduced at **N.J.A.C. 8:31B-2.4, are obsolete.**

[8:31B-2.5 Filing Time, Quality Control of Data

(a) A UB-PS must be completed and finalized for each patient within 30 days of discharge of the patient. Where claims administration and cash flow considerations would dictate a more current billing than the 30 day requirement, a preliminary version of the UB-PS containing only those items required in 8:31B-2.4 for the appropriate payor class need be utilized at the time of billing and such information is sufficient to adjudicate a claim for prompt payment discount. In such cases, the completed UB-PS (including final diagnoses

and procedures) must be submitted through the appropriate UB-PS intermediary (See N.J.A.C. 8:31B-2.6) within 30 days after discharge of the patient. Upon request of a payor the final UB-PS information shall be provided to the payor, for its own cases, by the UB-PS Intermediary(ies).

(b) Only a complete UB-PS form will be acceptable for payment monitoring and reconciliation purposes (see N.J.A.C. 8:31B-3). Failure to complete a UB-PS within the specified time limit without approval of the appropriate UB-PS intermediary pursuant to Subsection 6(b) of this subchapter shall result in a reduction of approved revenue for the case for the reporting period at an interest rate established in accordance with N.J.A.C. 8:31B-3. Such approval shall not be unreasonably withheld by an Intermediary.

(c) Any information required from a hospital by a UB-PS intermediary for edit correction pursuant to Section 6 must be provided within 5 working days of the request unless separate arrangements are made between the hospital and intermediary.

(d) Each hospital is responsible for providing accurate, reliable data on each UB-PS. Reasonable quality control measures are to be taken by the hospital to assure that accurate, reliable data are provided on UB-PS forms. Pursuant to Subsection 6(b) each UB-PS intermediary is responsible for approving the quality control measures taken by the hospital since the Department of Health and third party payors use these data to determine payment to the hospital.

(e) In order to assess the accuracy and reliability of the data provided to the Department of Health, the Department of Health shall periodically audit statistically selected patient records in the hospital with no attempt to tie together patient names and patient identification numbers at the Department of Health. The results of any audit shall be used to estimate the impact on the assignment of DRGs and the Commissioner shall make appropriate adjustments to the case-mix and reconciliation of the period or take other appropriate corrective action.]

8:31B-2.5 Health data submissions to the Department of Health

(a) A data intermediary shall be selected as follows:

1. A data intermediary is an approved data processor responsible for collecting, editing, generating selected reports, and submitting the billing and abstract data to the Department of Health.

2. A single data intermediary shall be chosen by each hospital from the NJDOH approved list of data processors, and shall be responsible for all patients regardless of payor class.

(b) Contractual arrangements between the hospital and the data intermediary shall include the following:

1. The contractual arrangements between a hospital and its data intermediary shall include:

i. Provisions for compliance with the data submission time limits specified in N.J.A.C. 8:31B-2.4(b);

ii. Provisions for permitting delays in such submissions to the intermediary when circumstances require;

iii. Provisions for resolution of any resulting disputes.

2. Provisions must not affect the ability of the intermediary to comply with the timing requirements set forth in (g) below.

(c) The contractual arrangements shall provide for the quality control measures needed to ensure accurate and reliable data submission by the hospital.

(d) Audit requirements will be conducted as follows:

1. To assess the accuracy and reliability of the data provided to the Department of Health, the Department of Health shall periodically audit selected patient records in the hospital with no attempt to tie together patient names and patient identification numbers at the Department of Health.

2. The results of any audit shall be used to estimate the impact on the assignment of DRGs and the Commissioner shall make appropriate adjustments to the case-mix and reconciliation of the period or take appropriate corrective action.

(e) Data shall be edited as follows:

1. The data received by the Intermediary from the hospital must be edited prior to submission to the Department of Health.

i. The edits to be performed shall be agreed upon and confirmed by amendments to the current memorandum of understanding between the Department of Health and the Data Intermediaries and approved by September 1, 1984.

2. Problems detected by these edits shall be corrected by the Intermediary and the hospital.

3. Information required from the hospital by the Intermediary for edit correction must be provided within five working days of the request unless separate arrangements are made between the hospital and intermediary.

(f) Reports shall be produced as follows:

1. Each data intermediary shall produce, for the Department of Health and each hospital, a set of periodic reports which will accurately represent the data submitted by each hospital.

2. The reports to be produced will be agreed upon and confirmed by amendment to the current memorandum of understanding between the Department of Health and the data intermediaries.

3. A single intermediary may be selected from among the approved intermediaries to produce these reports. In such a case, all other intermediaries will transmit the data for their hospitals to the appropriate intermediary in a timely manner.

4. These reports are to be used by the hospitals, in conjunction with any other information provided by their data collector or the Department of Health, to verify the accuracy and reliability of the data submitted.

5. The ultimate responsibility for the completeness and accuracy of the data submitted to the Department of Health, pursuant to N.J.A.C. 8:31B-3.45 and N.J.A.C. 8:31B-4, rests with the hospital.

(g) Data shall be submitted to the Department of Health as follows:

1. Those data elements required to be submitted to the Department of Health by each hospital through their data intermediary are described in detail in the addendum to the UB-82 guidelines.

i. These required data, edited pursuant to (e) above, shall be submitted to the Department of Health in a computer processable format and medium, specified by amendment to the current memorandum of understanding, within 90 days of the end of each calendar quarter.

ii. Each submission is to include the data on all patients discharged during the calendar quarter.

2. Records not received by the Department of Health (including corrections of fatal errors), within the time frames specified, may not be included in the hospital's Final Reconciliation, and the direct costs associated with them may be forgone by the hospital unless a penalty is paid to the Hospital Rate Setting Commission.

i. The amount of the penalty may be up to \$200.00 times the number of working days from the date the patient billing

and abstract records were due to the date the last record is received by the Department of Health.

ii. The imposition of the penalty, and amount to be paid (within the stated limit), will be at the discretion of the Commissioner.

iii. Under no circumstances will data be allowed to be submitted after June 30 of the year following the close of the rate year without the imposition of a fine.

3. All data submitted to the Department of Health will be edited upon receipt and any problems detected shall be corrected by the data intermediary with any necessary assistance from the hospital.

(h) All data collected by the data intermediary pursuant to this regulation are confidential in accordance with Section 1106(a) of the Federal Privacy Act of 1974 as amended by the Congressional Reports Elimination Act of 1982 (p.197-375).

[8:31B-2.6 Functions of the UB-PS Intermediaries

(a) A UB-PS Intermediary is the approved data processor responsible for collection, editing, selected report generation and submission of UB-PS data to the Department of Health.

1. The fiscal intermediary(ies) for a hospital's Medicare and Medicaid claims shall serve as UB-PS Intermediary(ies) for those cases covered by Medicare or Medicaid.

2. For those cases covered by the Hospital Service Plan of New Jersey (New Jersey Blue Cross) (including Federal Employees Health Benefits Program and Host Bank Cases) and for those cases covered by any and all other payors, including self-pay patients and commercial payors, a single UB-PS Intermediary shall be chosen for each by the hospital with the approval of the Department of Health to later than June 30, 1980.

i. Compliance to the timetable set forth in Section 2 of this subchapter must be met regardless of the date of choosing this intermediary.

(b) All contractual arrangements between a hospital and UB-PS Intermediary must be completed prior to Department approval of an Intermediary no later than June 2, 1980. The minimum contractual arrangements are specified below.

1. The contractual arrangements between a hospital and its UB-PS Intermediary(ies) shall include provisions for compliance with the data submission time limits specified in subsections 5(a) through 5(c) of this subchapter provisions for permitting delays in such submissions when circumstances require, and provisions for resolution of any resulting disputes. Such provisions must not affect the Intermediary(ies) ability to comply with the timing requirements set forth in subsection (e) of this section.

2. The contractual arrangements shall also provide for the development and approval by the Intermediary of quality control measures to ensure the validity and reliability of data provided under this regulation.

(c) The data submitted to a UB-PS Intermediary must be edited prior to submission of the data to the Department of Health.

1. The edits to be performed shall be agreed upon and confirmed in a memorandum of understanding signed before July 1, 1980 by both the Department of Health and UB-PS Intermediary.

2. Any edits performed on the UB-PS data as part of the claims processing of a fiscal intermediary need not be repeated on the same data prior to submission to the Department of Health.

3. Any problems detected by these edits must be corrected by the UB-PS Intermediary and the hospital, pursuant to subsections 5(a) through 5(c) of this subchapter, in a timely manner. The time requirements set forth in Subsection (e) of this section shall not be affected by edit correction efforts.

(d) Each UB-PS Intermediary shall produce for the Department and each hospital selected periodic reports including, but not limited to, the number of cases by DRG and charges by cost center by DRG for the period. The reports to be produced for the Department shall be agreed upon and confirmed in a memorandum of understanding signed before July 1, 1980, by both the Department of Health and UB-PS Intermediary. A single UB-PS Intermediary may be selected by a hospital for its report production. In such cases all other Intermediaries shall transmit the data for the hospital to the appropriate intermediary in a timely manner agreed to with the hospital. Arrangements for production of reports for a hospital shall be specified in the contractual arrangements between the hospital and its Intermediary(ies).

(e) The UB-PS Guidelines in N.J.A.C. 8:31B-2.4 indicate in a separate column those items required to be submitted to the Department of Health by the UB-PS Intermediary. These required data, edited pursuant to (c) above shall be submitted to the Department of Health in a computer processable format and medium, specified by the Department of Health before July 1, 1980, within 90 days of the end of each calendar quarter. Each submission is to include the data on all patients covered by the UB-PS Intermediary pursuant to (a) above and discharged during the calendar quarter.

1. Records not received by the Department (including corrections of fatal errors) within the time frames specified may not be included in the hospital's Final Reconciliation, and the direct costs associated with them may be foregone by the hospital unless a penalty is paid to the Commission. The amount of the penalty may be up to \$200.00 times the number of working days from the date the records were due to the date the last record is received by the Department.

2. The imposition of the penalty, and the amount to be paid (within the state limit), will be at the discretion of the Commission.

3. All data submitted to the Department of Health will be edited upon receipt and any problems detected shall be corrected by the UB-PS Intermediary with any necessary assistance from the hospital.

(f) All data collected by a UB-PS Intermediary for cases covered under its activities as a fiscal intermediary or insurance carrier are confidential pursuant to currently existing agreements with the Medicare and Medicaid programs or the hospital. Data collected for any and all other cases are confidential and only information required for submission to the Department of Health or for editing the data need be submitted to the UB-PS Intermediary for these cases. Any use or release of information on these cases by a UB-PS Intermediary not requested and approved by the Department of Health, a hospital for its own cases, or a payor for its own cases is expressly prohibited. This prohibition includes unauthorized use of any reports generated for the Department of Health or a hospital.]

(a)

HEALTH ECONOMICS SERVICES

**Hospital Rate Setting
Uniform Bill-Patient Summary; Procedural
and Methodological Regulations; Financial
Elements and Reporting**

N.J.A.C. 8:31B-2, -3 and -4

Waiver of Executive Order No. 66(1978)

Authorized By: Governor Thomas H. Kean.

Take notice that the Department of Health regulations concerning hospital reimbursement, N.J.A.C. 8:31B-3 and 8:31B-4 will expire on October 17, 1984; and, N.J.A.C. 8:31B-2, concerning the patient data reporting system, will expire on November 14, 1984 pursuant to the sunset provision of Executive Order No. 66(1978).

The Department of Health began its annual review of these regulations early in 1984 for the purpose of reoption with or without change. On June 1, 1984 the Federal Government notified New Jersey of its intent to terminate the pre-existing Medicare Waiver. The Department is now preparing a substantial technical proposal accompanied by proof of prospective regulation changes needed to meet the Federal Government's technical specifications. This event has halted the ability of the Department of Health to propose reoption of N.J.A.C. 8:31B-3 and N.J.A.C. 8:31B-4 within the time limits imposed by Executive Order No. 66(1978).

In accordance with the Federally mandated patient data reporting system (National Uniform Bill-82) the regulation N.J.A.C. 8:31B-2 requires extensive revision to meet additional requirements and will be readopted with amendments. The present regulation must remain in effect until the amendments are adopted to enable the Department to continue enforcement of proper patient data and billing submission by the hospitals.

The Department of Health has therefore requested and has been granted from Governor Thomas H. Kean a one year waiver of the five year sunset provision of Executive Order No. 66(1978) for the hospital reimbursement regulations, N.J.A.C. 8:31B-3 and 8:31B-4, thus extending the expiration date of the current regulations from October 17, 1984 to and including October 17, 1985. The Governor also granted a 90-day waiver of the five year sunset provision of Executive Order No. 66(1978) for current patient data reporting regulation, N.J.A.C. 8:31B-2, thus extending the expiration date of the regulation from November 14, 1984 to and including February 12, 1985, when the proposed amendments will be in effect.

(b)

HOSPITAL REIMBURSEMENT

Procedural and Methodological Regulations

Notice of Correction: N.J.A.C. 8:31B-3.23

An error appears in the September 4, 1984 issue of the New Jersey Register at 16 N.J.R. 2323 concerning reasonable direct costs per case. N.J.A.C. 8:31B-3.23 should have appeared as follows:

8:31B-3.23 Reasonable direct costs per case

(a) Inpatient:

1. The Reasonable Direct Cost Per Case (DRG) of the Preliminary Cost Base for those hospitals first receiving rates in accordance with these regulations are determined for teaching and non-teaching hospitals, for every DRG with greater than five merged patients and shall include incentives and disincentives, as appropriate, which shall be termed the boundaries of payment and are calculated as follows:

$$\text{degree of confidence} \times \text{labor market standard} \\ \text{plus}$$

$$(1 - \text{degree of confidence}) \times \text{hospital current} \\ \text{non-physician direct cost per case} \\ \text{plus}$$

hospital current physician patient service cost per case

i. (No change.)

ii. Where:

$$\text{DC} = \text{degree of confidence} \\ \text{coefficient of variation}$$

$$X = \frac{.75 \text{ in } 1985}{.50 \text{ in } 1986} \\ .25 \text{ in } 1987 \text{ and following}$$

iii.-v. (No change.)

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

(c)

HOSPITAL REIMBURSEMENT

**Procedural and Methodological Regulations
Uniform Bill; Financial Reports**

Proposed Amendment: N.J.A.C. 8:31B-3.45

Authorized By: J. Richard Goldstein, M.D., Commissioner, Department of Health, with the approval of the Health Care Administration Board.

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

Interested persons may submit in writing, data, views or arguments relevant to the proposed rule on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Joseph I. Morris, Assistant Commissioner
Health Planning and Resource Development
New Jersey Department of Health
CN 360
Trenton, NJ 08625

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

This proposal is known as PRN 1984-549.

The agency proposal follows:

Summary

The Federal mandated National Uniform Bill-82 (See the proposal at 48 Federal Register 76, April 19, 1983 p. 16750, which has not yet been adopted) requires hospitals to collect additional information on all patient discharges effective January 1, 1985. The Department of Health believes in phasing-in new aspects of the Prospective Payment System to enable hospitals to more easily adapt to the required procedures, and, therefore, believes that it would be more beneficial to implement the outpatient billing and data collection for other payors at a later date. This delay in implementation will ensure that valid and reliable information will be available which will provide the basis for more appropriate analyses. Implementation can be delayed until January 1, 1985, due to the existing Medicare waiver, found at Health Care Finance Administration Contract No. 600-77-0022, obtained from the Federal government for the demonstration in New Jersey concerning the development of the prospective payment system.

Social Impact

The hospitals and data intermediaries will be able to develop the required procedures needed for outpatient data collection in a more effective and efficient manner with the relaxation of the time constraints now present for implementation.

There is no discernable social impact on the consumer.

Economic Impact

There will be no additional outpatient data required from the hospitals and data intermediaries under the amendment. There will therefore be no economic impact on the industry or the consumer, other than a possible, slight savings in time, and minimal expense for both the industry and the Department.

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

8:31B-3.45 Uniform Bill-case mix determination—financial reports

(a) Hospitals shall submit to the Department through the UB-PS Intermediary(ies) and within 90 days of the end of the calendar quarter, information on all inpatients discharged for the quarter containing final diagnoses and such other patient specific information as set forth in the Rule on Hospital Reporting of Uniform Bill-Patient Summaries. The net cost of the hospital of any information provided to the Department by a UB-PS Intermediary for a hospital under a memo-

randum of understanding developed under N.J.A.C. 8:31B-2.1 of the Rule on Hospital reporting of Uniform Bill-Patient Summaries shall be considered by the Commission in the Preliminary Cost Base established for the hospital. Beginning **on or before** [with] the first quarter of [1985] **1988** hospitals shall also submit Uniform Bill-Patient Summaries on all outpatients containing final diagnosis or reason for visit (as defined by the Department), for each outpatient. Included with such reporting shall be a statement of gross revenue by revenue center for patients discharged in the quarter (including in-house accounts of the previous period but excluding in-house accounts of the current quarter) for inpatient, emergency service, clinic, home health, outpatient dialysis, ambulatory surgery, same day psychiatry, and private referred patients. UB-PS records not received by the Department within the time frames specified may not be included in the hospital's Final Reconciliation unless the hospital pays to the Commission a fine as specified in the Uniform Bill-Patient Summary (inpatient) Regulation, Section IV-E. This decision will be at the discretion of the Commission.

(b)-(c) (No change)

(a)

THE COMMISSIONER WITH THE APPROVAL OF THE HEALTH CARE ADMINISTRATION BOARD

Deferral Certificate of Need Applications New and Expanded Surgical Services

Proposed New Rule: N.J.A.C. 8:33A-1.1

Authorized By: J. Richard Goldstein, M.D.,
Commissioner, Department of Health.
Authority: N.J.S.A. 26:2H-5 and 26:2H-8.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions and any inquiries about submissions and responses should be addressed to:

John A. Calabria
New Jersey State Department of Health
Health Planning Services, Room 604
CN 360
Trenton, NJ 08625

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

This proposal is known as PRN 1984-548.

The agency proposal follows:

Summary

The Department of Health is currently developing standards and criteria for the planning and certification of need of surgical facilities and services within the State. These rules, which are being developed in cooperation with a Commissioner's Technical Advisory Committee and the Statewide Health Coordinating Council, are expected to be promulgated in the late fall of 1984 with an anticipated date of adoption in late winter.

The Department is proposing to delay further processing of certificate of need applications for new or additional surgical capacity until March 15, 1985, at which time it is expected that the standards and criteria for review of certificate of need applications for surgical services will have been approved by the Health Care Administration Board in the Department of Health.

The proposed new rule will expire on March 15, 1985. The Department proposes herein that no additional certificate of need applications shall be accepted for processing and all pending applications shall be deferred during this period.

This deferral on the processing of certificate of need applications will give the Department the opportunity to finalize rules identifying standards and criteria by which applications for new and additional surgical capacity will be reviewed. It will insure consistent and equitable treatment of all applications for this service type.

Social Impact

N.J.S.A. 26:2H-1 et seq. (as amended) recognizes as "public policy of the State the hospitals and related health care services of the highest quality, of demonstrated need, efficiently provided and properly utilized at a reasonable cost are of vital concern to the public health. In order to provide for the protection and promotion of the health of inhabitants of the State, promote the financial solvency of hospitals and similar health care facilities and contain the rising cost of health care services, the State Department of Health . . . shall have the central comprehensive responsibility for the development and administration of the State's policy with respect to health planning, hospital and health care services, and health facility cost containment programs. . . ."

The Department has received a significant number of applications for certificates of need for new and expanded surgical capacity. In order to avoid unnecessary new costs to health care payors, it is essential to develop appropriate rules for reviewing these applications. Standards must be identified with regard to need for the services, appropriate staffing, costs, quality features and distribution throughout the State.

This proposed deferral of the processing of applications is essential to insuring that only quality services, of demonstrated need, efficiently provided and properly utilized at reasonable costs are approved through the certificate of need process. In addition, decision-making based on appropriate rules to guide review of requests for new and additional surgical capability will promote access and the availability of these services to all persons.

In short, a surgical facility regulation would positively address and impact on those issues that relate to improved patient care for all residents of New Jersey. Until the regulation is finalized, the Department of Health is proposing to delay the processing of certificate of need applications for new and expanding surgical capabilities.

Economic Impact

The Department of Health has witnessed significant increases in the number of certificate of need applications being

submitted for the provision of increased surgical services. Increases in the number of applications for free-standing ambulatory-surgery facilities, which would compete directly with hospital-based same day surgery programs, have been particularly evident.

Rules for reviewing applications for surgical facilities must be developed with consideration to issues concerning need, quality, access, appropriate costs and cost impacts on existing providers. The Department wants to avoid any unnecessary proliferation of surgical units at a major and recurring expense to health care payors throughout the State.

The proposed deferral of the processing of applications until such time as the rules for reviewing these applications are adopted is essential to promoting only needed new surgical capability and avoiding potential major unnecessary new capital and operating costs which may result from approvals in the absence of these review standards.

Full text of the proposal follows.

8:33A-1.1 Deferral of Certificate of Need applications

No certificate of need applications will be processed for new or expanded surgical capability until such time as rules governing the criteria for review of surgical services are adopted. This rule shall expire on March 15, 1985. During this period all pending certificate of need applications for surgical services shall be deferred and no new applications will be processed. This rule shall not apply to the processing of applications for cardiac diagnostic and surgical services whose next batching cycle will be November 15, 1984.

(a)

OCCUPATIONAL AND ENVIRONMENTAL HEALTH SERVICES

Worker and Community Right to Know Act

Proposed Amendments: N.J.A.C. 8:59-1.3, 4.1, 5.1, 5.5, 6.1, 6.2, 6.3, 7.2, 7.5 and 8.5

Authorized By: J. Richard Goldstein, M.D., Commissioner, Department of Health.

Authority: L. 1983, c. 315, N.J.S.A. 34:5A-1 et seq., specifically 34:5A-32.

Interested persons may submit in writing, data, views, or arguments relevant to the proposal on or before November 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Richard Willinger, Esq.
Occupational Health Program
New Jersey Department of Health
CN 368
Trenton, NJ 08625

The Department of Health thereafter may adopt this proposal without further notice (see N.J.A.C. 1:30-3.5). The adoption

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

This proposal is known as PRN 1984-565.

The agency proposal follows:

Summary

Regulations implementing the Worker and Community Right to Know Act were promulgated in the New Jersey Register on October 1, 1984. Twenty-six persons submitted written comments and thirteen persons testified at three public hearings regarding the proposed regulations published in the Register on July 16, 1984 at 16 N.J.R. 1869(a). The comments received raised a number of substantive issues and convinced the Department to amend the proposed rules by changing and adding several subsections. Since the changes the Department wishes to make are substantive and may be controversial, the Department feels that additional public comment is necessary to consider the changes before they are adopted in accordance with the Administrative Procedure Act. The Department proposes to make the following changes:

Section 1 - Definition of "process container". A process container is defined as a container, the content of which is changed frequently. The rule defines the phrase "changed frequently" to mean that the contents of the container change at least once per shift. The Department proposes to change the definition of "changed frequently" to mean that the contents of the container change at least once every 24 hours.

Section 4 - Hazardous Substance Fact Sheet. Subsection 4.1(d) requires an employer to maintain and make available to employees material safety data sheets in the same manner as hazardous substance fact sheets. The Department proposes to delete this subsection. All references to material safety data sheets will be deleted in the rules.

Section 5 - Labeling Containers. Subsection 5.1(b) requires the labeling of containers containing unknown substances with a label stating "Contents Unknown" or "Contents Partially Unknown." Since this states that no substance in a container may be unknown (which would include trace quantities of chemicals), the Department proposes to amend this section to require the above referenced labels only when an employer does not know more than one percent of the contents of a container. These labels would be in addition to the labels for hazardous and other substances on the container.

The Department proposed an exemption to the labeling requirements which allowed for an alternative labeling system for container of two ounces or smaller. The Department now proposes to increase the container size for alternate labeling systems to one liter (1.057 quarts).

The Department originally proposed that containers labeled pursuant to the Federal Food, Drug and Cosmetic Act be exempted from new labeling under the Right to Know Act for containers which contain one kilogram (2.205 pounds) or less of a substance or mixture. The Department proposes to increase this exemption to containers which are five gallons (18.9 liters) or smaller.

The Right to Know Act provides an exception for labeling for those containers which are labeled pursuant to the Federal Insecticide, Fungicide and Rodenticide Act. The Right to Know Act also gives discretion to the Department to exempt from Right to Know Act labeling containers labeled pursuant to other Federal laws. The Department has allowed labeling exceptions for the Federal Food, Drug and Cosmetic Act, the Toxic Substances Control Act, and others in subsection 5.5. The Department proposes to add new exceptions for contain-

ers which are labeled pursuant to the Toxic Substances Control Act (for PCBs), the United States Department of Transportation's Minimum Federal Standards for Gas Lines, and the Atomic Energy Act.

Section 8 - Enforcement. The Right to Know Act requires an employer to supply employee health and exposure records to the Department upon request. In light of the Act's concern over the protection of trade secrets, the Department is proposing to add a subsection (c) to allow an employer to claim a trade secret for the name of a hazardous substance which is listed in employee health and exposure records.

Social Impact

The social impact of the Right to Know Act has been discussed extensively in prior New Jersey Registers. To summarize the social impact, the information provided to employees as a result of the workplace surveys, labeling of containers, hazardous substance fact sheets, and education and training programs, will provide them with information they can use to protect themselves from hazardous substances through proper handling, responding to emergency exposures, and determining whether their illnesses and injuries result from exposure to hazardous substances. Increased availability of hazard information on hazardous substance fact sheets will assist employers in devising appropriate protective measures for their employees. The law will serve to limit or reduce the number of occupational diseases and result in early treatment of chronic diseases. Physicians will be able to use the information generated from the law in medical diagnoses and treatment. Epidemiologists will be able to analyze the effects of hazardous substances on public health. Fire and police departments will use the information to properly respond to public health emergencies and better protect the public health and safety.

Economic Impact

The economic impact of the Right to Know Act has been discussed extensively in prior New Jersey Registers. To summarize the economic impact, employers will benefit from lower production costs as a result of increased productivity, reduced employee absenteeism and turnover, reduced health benefit costs, and lower workers compensation awards. Employees will significantly benefit by the lowering of future health care costs. Anticipated costs to employers to comply with the Act should be significantly reduced with the allowance of labels currently required by the Federal Food, Drug and Cosmetic Act, Toxic Substances Control Act, the United States Department of Transportation's Minimum Federal Standards for Gas Lines, and Atomic Energy Act, to be used in lieu of new labeling; by the increase in size for labeling with a code or number system; by the expanded definition of "process container"; and by the deletion of the requirement to maintain and make available material safety data sheets.

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

SUBCHAPTER 1. GENERAL INFORMATION

8:59-1.3 Definitions

"Process container" means a container, excluding a pipeline, the content of which is changed frequently; or a container of 10 gallons or less in capacity, into which substances are transferred from labeled containers, and which is intended only for the immediate use of the employee who performs the transfer; or a container on which a label would be obscured

by heat, spillage or other factors; or a test tube, beaker, vial, or other container which is routinely used and reused. The contents of a container will be deemed to be "changed frequently" if the contents are changed at least once [per shift] **every 24 hours**. "Routinely used and reused" shall not include the situation where the same substances are continually being added and removed from the process container as in a continuous flow process.

SUBCHAPTER 4. HAZARDOUS SUBSTANCE FACT SHEET

8:59-4.1 General provisions

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

[(d) An employer shall maintain and make available to employees material safety data sheets that have been developed or acquired for a mixture in the same manner as hazardous substance fact sheets. The material safety data sheets shall be distributed in addition to hazardous substance fact sheets and not as a substitute. The material safety data sheets shall be made available to the department upon request.]

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

SUBCHAPTER 5. LABELING CONTAINERS

8:59-5.1 General provisions

(a) (No change.)

(b) By March 1, 1985, every container at an employer's facility [containing an unknown substance **in which more than one percent of the content of the container are unknown**, shall bear a label stating "Contents Unknown" or "Contents Partially Unknown", as appropriate, **in addition to other labeling required by N.J.A.C. 8:59-5.**

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

(i) Containers which are **one liter (1.057 quarts)** or smaller [than 56.7 grams (2 ounces)] may be labeled by means of a code or number system if the code or number system will allow the employee free and ready access at all times to a fact sheet which will provide the employee with the chemical name or common name permitted by N.J.A.C. 8:59-5.7, and Chemical Abstracts Service number of the substance contained in the container, or the trade secret registry number assigned to the substance, allow the employee access to this information without the permission or assistance of management, and be available to the employee at close proximity to his specific job location or locations.

(j) (No change.)

8:59-5.5 Exceptions to labeling requirements

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

(d) The information required on a label for a drug, cosmetic, food, flavor or fragrance pursuant to the Federal Food, Drug and Cosmetic Act (FDCA) may be substituted for the information required by N.J.A.C. 8:59-5.1. This exception shall apply to all containers where the name of all hazardous and other substances of active, excipient, and "inactive" chemicals as defined by FDCA are included on the label according to N.J.A.C. 8:59-5.1(a) and (c). If all active, excipient and "inactive" chemicals are not included on the label then this exception shall apply only to containers which [contain 1 kilogram (2.205 pounds) or less of a substance or mixture of substances] **are five gallons (18.9 liters) or smaller**. An employer shall make available to employees on request, all hazardous substance fact sheets prepared by the department relevant to the above products, including hazardous substance fact sheets on inactive ingredients as defined by the FDCA.

(e) (No change.)

(f) **Electrical equipment containing dielectric fluid may be labeled according to Section 761 of the Federal Toxic Substances Control Act.**

(g) **Gas utility pipelines in transmission and distribution systems that meet the United States Department of Transportation's Minimum Federal Standards for Gas Lines may be labeled pursuant to those standards. An employer shall maintain and make readily accessible to employees a document that describes and identifies the contents of gas utility pipelines. An employer shall make available to employees on request, all hazardous substance fact sheets prepared by the department relevant to a gas utility pipeline.**

(h) **Containers containing nuclear fuel regulated by the Atomic Energy Act and the Nuclear Regulatory Commission may be labeled according to regulations promulgated by the Nuclear Regulatory Commission pursuant to the Atomic Energy Act.**

SUBCHAPTER 6. EDUCATION AND TRAINING PROGRAM

8:59-6.1 General provisions

(a) Every employer shall establish an education and training program for its employees, which shall be provided on paid employer time and shall:

1. Inform employees in writing and orally of the potential health and safety risks of the hazardous substances listed on the Workplace Hazardous Substance List and the particular hazards of mixtures [listed on material safety data sheets] that contain one or more hazardous substances, to which they are exposed or are potentially exposed in the course of their employment; and

2. Train them in the proper and safe procedures for handling the hazardous substances under all circumstances.

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

8:59-6.2 Program for employees

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

(e) Prior to entering an employment agreement with a prospective employee, an employer shall notify the prospective employee of the availability of workplace surveys and appropriate hazardous substances fact sheets [and material safety data sheets] at the Department of Health; county health department, county clerk, or designated county lead agency; and employer's facility for the facility at which the prospective employee will be employed.

8:59-6.3 Contents of program

(a) (No change.)

(b) An education and training program for employees shall contain, at a minimum, the following:

1.-3. (No change.)

4. Information regarding the provisions of the Worker and Community Right-to-Know Act:

i.-iii. (No change.)

iv. A description of the existence, location, and hours of operation of the central file maintained by the employer for storing the workplace survey and appropriate hazardous substance fact sheets [and material safety data sheets];

v. An explanation of the employee's right and relevant procedures to obtain a copy of the workplace survey [,] and hazardous substance fact sheets [,] and material safety data sheets] from the employer, from the county health department, county clerk, or designated county lead agency, or from the Department of Health; to obtain copies from the county

health department, county clerk, or designated county lead agency, and Department of Health in confidence; and the employer's obligation to supply, without cost, copies of the workplace survey and appropriate hazardous substance fact sheets [and, where appropriate and available, material safety data sheets,] to employees within five working days of a request;

vi. (No change.)

5.-6. (No change.)

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

(e) Research and development laboratories shall provide their employees with appropriate hazardous substance fact sheets [and available material safety data sheets] as part of their education and training program.

SUBCHAPTER 7. EMPLOYEE AND PUBLIC ACCESS TO INFORMATION

8:59-7.2 Employer obligations

(a) Every employer shall, upon completion of a workplace survey, establish and maintain a central file at its facility in which it shall retain a completed workplace survey for the facility, appropriate hazardous substance fact sheets [and material safety data sheets], Workplace Hazardous Substance List, and, if applicable, a copy of the completed environmental survey for the facility.

(b) Every employer shall post on bulletin boards readily accessible to employees a notice of the availability of workplace surveys, hazardous substance fact sheets, [material safety data sheets,] Workplace Hazardous Substance List, and environmental surveys, from the employer, from the Department of Health, from the Department of Environmental Protection, and from the county health department, county clerk, or designated county lead agency. At such time as the department supplies a poster to the employer, this poster shall be used to meet the requirements of this subsection.

(c) (No change.)

(d) An employer shall, upon request, provide an employee or employee representative with a copy of a workplace survey, appropriate hazardous substance fact sheets and, if applicable, [material safety data sheets and] and environmental survey, at no cost. The information shall be provided as soon as possible but at the latest within five working days of the request.

(e)-(g) (No change.)

(h) If an employer cannot supply a hazardous substance fact sheet or the chemical name and Chemical Abstracts Service number of a substance to an employee who requested it, because the employer has not received the hazardous substance fact sheet which the employer requested from the department, or does not know the name of the substance or substances constituting the components of the product and has reported this to the department, the employer shall:

1. Inform the employee in writing that it has requested and not received the hazardous substance fact sheet from the department, [and provide the employee with the appropriate available material safety data sheet,] or

2. Inform the employee in writing that it has reported to the department that it does not know the name of the substance or substances constituting the components of the product [, and provide the employee with the appropriate available material safety data sheet].

(i) (No change.)

8:59-7.5 Employee rights

(a) Any employee or employee representative may request, in writing, from his or her employer, a copy of a workplace survey, hazardous substance fact sheet, or, where applicable, [material safety data sheet or] environmental survey, for the facility at which he or she is employed.

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

SUBCHAPTER 8. ENFORCEMENT

8:59-8.5 Employee health and exposure records

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

(c) **An employer who wishes to file a trade secret claim for the name of a substance on employee health and exposure records may do so. Said employer shall contact the department for instruction regarding the filing of such a claim.**

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Pharmacy Manual Fee Increase for Emergency Services and Impact Areas

Proposed Amendment: N.J.A.C. 10:51-1.17

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.

Authority: N.J.S.A. 30:4D-6b(6), 7 & 7b, 4D-20, 22,
24.

Interested persons may submit in writing, data, views, or arguments relevant to the proposal on or before November 14, 1984. These submissions and responses, should be addressed to:

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

At the close of the period for comments, the Department of Human Services may adopt this proposal, with any minor changes not in violation of the rule-making procedures at N.J.A.C. 1:30-3.5. Upon adoption of these rules a notice of adoption shall be published in the Register. The adopted rules shall become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1984-562.

The agency proposal follows:

Summary

This proposal concerns a fee increase to pharmaceutical providers in both the New Jersey Medicaid and/or Pharmaceutical Assistance for the Aged and Disabled (PAAD) Programs. The fee increase applies to two items within the general category of additional increments to the basic dispensing fee. The first item allows for a six cent increase (from five cents to 11 cents) for those pharmaceutical providers that provide twenty-four hour emergency services. The second item allows for a six cent increase (from nine cents to 15 cents) for pharmacies in impact area locations. In order to qualify as a pharmacy in an impact area, the provider must have a combined Medicaid and PAAD prescription volume equal to or greater than 50 percent of his total prescription volume.

Social Impact

There should be a positive social impact on both pharmaceutical providers and the community. The providers should continue to participate in both the Medicaid and PAAD programs, thereby enabling qualified individuals to receive necessary pharmaceutical services.

Economic Impact

The estimated cost to the Division will be approximately \$800,000. The cost to the State will be approximately \$525,000 and the Federal government should contribute approximately \$275,000. The reason for the difference in Federal-State dollars is that only the Medicaid program is entitled to Federal matching funds. The PAAD program is wholly State funded. The monies were appropriated by a supplemental appropriation that took effect September 8, 1984 (P.L. 1984, Ch. 144).

There is no cost to the Medicaid patient for prescription drugs. The PAAD beneficiary must pay a \$2.00 co-payment for each prescription as required by law (N.J.S.A. 30:4D-22).

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

10:51-1.17 Legend drug dispensing fee

(a) The dispensing fee for legend drugs, dispensed by providers having Retail Permits to patients other than those in long-term facilities, shall be \$3.155. Additional increments shall be given to pharmacy providers who provide the following:

1. Twenty-four hour emergency services: [\$0.05.] **\$0.11**. The provider must have 24-hour per day, 365 days per year prescription service available and must have provided Medicaid recipients opportunities to utilize this service.

2. Patient consultation: \$0.08. In addition to routinely monitoring patient profiles for drug interactions, contraindications, allergies, etc., the provider shall, where appropriate, discuss the course of drug therapy with the patient. This discussion shall include emphasis on compliance with the prescriber's orders; proper drug utilization; cautions about possible side effects; foods to avoid; proper drug storage conditions; and any other information that will prove beneficial to the patient while on drug therapy.

3. Impact area locations: [\$0.09] **\$0.15**. The provider must have a combined Medicaid and PAAD prescription volume equal to or greater than 50 percent of his total prescription volume.

i. Effective April 1, 1981, the long-term care prescription volume will be included for the determination of total prescription volume in determining entitlement to the impact allowance.

(b) In order to receive any or all of the above increments, the provider must certify annually to the Division on Form FD-70, that the service(s) as defined in (a) above, are being provided and/or that the provider is entitled to the impact increment as defined in (a) above.

1. Each claimed increment is subject to audit and retroactive recovery with appropriate penalties, if warranted, if the New Jersey Medicaid Program determines that the provider was not entitled to reimbursement for them.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

**Pharmaceutical Services Manual
Appendixes B, C, D, E**

**Proposed Amendments: N.J.A.C. 10:51-1,
Appendixes B, C, D, E**

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.

Authority: N.J.S.A. 30:4D-6b(6), 7 and 7b; 30:4D-22,
24.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions and responses, should be addressed to:

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

At the close of the period for comments, the Department of Human Services may adopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Upon adoption of these rules, a notice of adoption shall be published in the Register. The adopted rules shall become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1984-561.

The agency proposal follows:

Summary

The Division of Medical Assistance and Health Services is updating and revising Appendixes B, C, D and E of the Pharmaceutical Services Manual. Appendix B is the list of non-legend (over-the-counter) drugs for which Medicaid will reimburse pharmaceutical providers. Appendix C is a list of hypodermic syringes and needles. Appendix D is a list of legend devices, which are covered by both the Medicaid and PAAD (Pharmaceutical Assistance to the Aged and Disabled) programs. Appendix E is a list of protein replacements.

In general, the primary reasons for the additions to the respective appendixes include new products, reformulations, and reclassification from legend (prescription) to non-legend (over-the-counter) status. The main reasons for deletions include changes in the formula, the manufacturer discontinues production, and very infrequent usage.

The heading to Appendix E has also been revised. The products classified as protein replacement require prior authorization from the Medicaid District Office.

Social Impact

The issuance of this updated list will insure both Medicaid recipients and PAAD beneficiaries will be able to receive up-to-date pharmaceuticals, and that providers will be reimbursed for dispensing them.

Economic Impact

There is no change in the Division's reimbursement procedures, so there should be virtually no economic impact on both the Medicaid and PAAD programs.

Pharmaceutical providers will continue to be reimbursed in accordance with Medicaid policies, procedures, and fee schedules, so long as they use the updated listing.

There is no cost to the Medicaid patient. PAAD beneficiaries will continue to pay a \$2.00 co-payment as required by law (N.J.S.A. 30:4D-22).

Copies of the full text of N.J.A.C. 10:51-1 Appendix B, which is not reproduced below, may be obtained from or made available for review by contacting:

Henry W. Hardy, Esq.
 Division of Medical Assistance
 and Health Services
 Quakerbridge Plaza, Bldg. No. 7
 Quakerbridge Road
 CN 712
 Trenton, NJ 08625

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

APPENDIX C

Syringe and Needles Units, Disposable

[Insulin, U40, U80, W/26G, ½" Needle]	[Each]	[0000293-5546-01]
[Insulin, U80, W/26G, ½" Needle]	[Each]	[0000293-5568-01]
[Regular, 2½cc W/any Size Needle]	[Each]	[0000293-5251-01]

Syringes Only Glass Reusable With Disposable Needles

[Insulin, 1cc U80, W/ 30 Disp Needles 26G, ½"]	[Each]	[0000293-5009-01]
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APPENDIX D

Legend Devices

Debrisan Beads 25gm	[0000016-0024-05]	0000137-0024-05
Debrisan Beads 60gm	[0000016-0024-06]	0000137-0024-06
Debrisan Beads 120gm	[0000016-0024-12]	0000137-0024-12
Debrisan Beads 7 Unit Doses of 4gm	[0000016-0024-17]	0000137-0024-17
Debrisan Beads 14 Unit Doses of 4gm	[0000016-0024-27]	0000137-0024-27
Debrisan Paste 6 Unit Doses of 10gm	GM	0000137-0024-10
Inhal-Aid Drug Delivery System	Each	0000369-4600-01

APPENDIX E

[Protein Replacements
 Instructions for Use]

**THE FOLLOWING PRODUCTS
 REQUIRE PRIOR AUTHORIZATION**

Instructions for use:

The following products have been added to the Medicaid File for claim processing purposes.

[Protein replacements are eligible for reimbursement only when prior authorized.]

Contact the appropriate Medicaid District Office (MDO) for prior authorization.

When prior authorization has been obtained from the Medicaid District Office, complete the claim form MC-6. Report the quantity dispensed only as total number of cans, bottles, capsules, nursettes, etc., dispensed. **DO NOT** report grams or cc. Use only the NDC's or product codes listed for each product.

Compleat-B [Compleat-B R.T.U. 8oz]	Compleat-B R.T.U. † 8oz Bottles
Compleat-B R.T.U. † 8oz cans	Each 0000212-0200-51
Lactase Capsules 100	Cap 0000091-3500-01
Osmolite R.T.U. † 8oz cans	Each 0000074-0709-08
[Dextrose Pwdr-Baker 1 lb]	[Each] [0010106-1919-01]
[Dextrose Pwdr-Humco 1 lb]	[Each] [0000395-0725-01]
[Dextrose Pwdr-Purepac 1 lb]	[Each] [0000228-1269-16]
[Sustacal Pudding 6.88 lb all flavors]	[Each] [0000087-0415-42]
[Sustagen Powder 2.5lb]	[Each] [0000087-0393-02]

(a)

DIVISION OF PUBLIC WELFARE

**Public Assistance Manual
 Persons Eligible for Medical Assistance**

Proposed Amendment: N.J.A.C. 10:81-8.22

Authorized By: George J. Albanese, Commissioner,
 Department of Human Services.

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

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1984-559.

The agency proposal follows:

Summary

Currently, regulations at N.J.A.C. 10:81-8.22, pertaining to eligibility for medical assistance (Medicaid), do not establish a durational processing period to determine an individual's eligibility for Medicaid when the individual has been referred by a hospital to a county welfare agency (CWA).

The proposed amendment would establish such a processing period, setting a three-month limit, except for good cause, on the time allowed from the date the referral is made to the date the individual applies for assistance. In addition, where good cause can be established, the amendment provides for an extension of an additional three months.

Furthermore, the amendment stipulates that the individual must be an inpatient at the time the referral is made.

Social Impact

No adverse social impact is expected as a result of this amendment. Although the amendment sets a three-month time limit in which to apply after the referral is made, the deadline may be extended for an additional three months if, in the opinion of the CWA, an extension is justified.

Economic Impact

This amendment provides CWAs with guidelines for handling hospital referrals for Medicaid benefits. These guidelines merely provide time frames within which an individual must apply to determine whether he or she is eligible for Medicaid. Therefore, it is not expected that the number of applications for Medicaid will increase significantly as a result of this proposal. Hence, it is expected that the economic impact of this rule on county, State, and Federal expenditures will be minimal.

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

10:81-8.22 Persons eligible for medical assistance

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

(e) Individuals who were admitted to a hospital and were subsequently referred to the CWA through the use of Form PA-1C, Public Assistance Inquiry, may be eligible for Medicaid benefits from the date the PA-1C was completed, provided:

1. Such individual was an inpatient at the time the referral was made;

2. Except for good cause, the individual applies for Medicaid benefits within three months after the referral is made.

i. If the CWA determines that the individual had good cause for not applying within three months, an extension may be granted for an additional three months.

(a)

DIVISION OF PUBLIC WELFARE

**General Assistance Manual
Elimination of Fixed Penalty Period**

**Proposed Amendment: N.J.A.C 10:85-3.2
and 10.6**

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 44:8-11(d).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November

14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1984-560.

The agency proposal follows:

Summary

The proposed amendment would institute a provision for the "reinstatement" of persons rendered ineligible for General Assistance because they had been found "unwilling to work." In consultation with the Officer of the Attorney General, the Department has been advised that the imposition of an absolute durational penalty is not in keeping with the provisions of N.J.S.A. 44:8-114. That section requires that an individual be accorded the opportunity to show a willingness to work. This proposal thus intends to correct the current regulatory defect. The amendment also eliminates a redundancy. Rather than having two substantially identical penalty sections, the rule will contain only one.

Social Impact

For individuals who have been found unwilling to work, the proposed amendment can have a beneficial social impact in that it offers them the opportunity and the incentive to redeem themselves. By showing a willingness to work, an individual not only gains eligibility for cash benefits but also gains reinforcement of the concept that productive activity is beneficial to himself and to the community.

Economic Impact

There will be a beneficial economic impact in that persons disqualified under present rules may become eligible for financial assistance. To the extent that the work performed produces or leads to the receipt of continued wages by the individual, there will be a beneficial economic impact not only on the individual but on the program and the public treasury because the costs to the program after the expiration of what would have been the 90-day penalty period will be reduced or eliminated.

There is, of course, no accurate way in which to predict the ultimate change in dollar flow. An evaluation might be inferred, however, by noting the results of the reverse action, that is, the results of the elimination of the option. This occurred several years ago when the option, similarly worded, was deleted from the regulation in favor of the absolute penalty. The difference in dollar flow from the public treasury was imperceptible.

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

10:85-3.2 Application process

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

(g) Work requirement: Eligibility for public assistance in New Jersey is directly related to an individual's willingness to work when [he/she] **he or she** is able to do so. It is, therefore, a part of the application process to explain the work require-

ment to the applicant and to record in the case file the reasons for any exemption from this requirement.

1-6. (No change.)

[7. Failure to comply: Persons who are not exempt (see (g)3 above) and who fail or refuse without good cause (see (g)6 above) to comply with applicable parts of this work requirement section are considered to be unwilling to work and are subject to penalty as indicated in (g)7ii below.

i. In an eligible unit of more than one, when a person incurs a penalty of ineligibility, the grant will be reduced by the penalized person's pro-rate share.

ii. Penalties:

(1) Any person who fails or refuses without good cause to comply with any part of (g)2i-iii above or any person who voluntarily ceases employment without good cause or any person who has been involuntarily terminated from employment for reasons attributable to his/her own negligence shall be considered unwilling to work for the 90 day period immediately following such failure, refusal, or termination. The MWD will deny or terminate (with notice) all assistance to or for such person for the 90 day period or the remainder of it.]

7. Failure to comply: Any person who is not exempt (see (g)3 above) and who fails or refuses without good cause (see (g)6 above) to comply with applicable parts of this work requirement section or who voluntarily ceases employment, or who has been involuntarily terminated from employment for reasons attributable to his or her own negligence, shall be considered unwilling to work. Any such person is not eligible for program benefits. The MWD shall deny or terminate all assistance to or for such person. In eligible units of more than one, grant reductions for this reason shall be in the amount of the penalized person's per capita share. For any case denied or terminated for this reason, the notice of adverse action must state that the penalty will continue until willingness to work is demonstrated.

i. Reinstatement: The above penalty shall be withdrawn and a penalized individual reinstated upon satisfactory performance in employment or in the General Assistance Employability Program, or by the individual's credible statement or intent to comply.

8. (No change.)

(h)-(i) (No change.)

10:85-10.6 Compliance

[(a) Failure to perform: Any recipient who fails or refuses without good cause to perform satisfactorily in any worksite assignment made in accordance with the provisions of this chapter shall be ineligible for assistance for 90 days. Attendance at and participation in a drug or alcohol abuse program assigned or designated by the MWD or the Employment Service are essentials of satisfactory performance. Attendance at and participation in the sessions and activities involved in a training or occupational preparedness program assigned by the Employment Service are essentials of satisfactory performance. The MWD shall discontinue all assistance subject to the provision of 10 day notice of adverse action, upon a determination of the absence of good cause. (See N.J.A.C. 10:85-7.2 regarding timely notice and N.J.A.C. 10:85-7.3 regarding fair hearings and continued assistance.)

1. In the event that a person subject to penalty as above is a member of an eligible unit of more than one, the termination of assistance shall apply only to that person's per capita share of the grant. A notice explaining the change in the amount of the grant shall be sent to the other member(s) of the eligible unit with the assistance grant.] **Any person who fails or refuses without good cause to perform satisfactorily in any**

worksite assignment made in accordance with the provisions of this chapter shall be considered unwilling to work and shall be subject to the provisions of N.J.A.C. 10:85-3.2(g)7. The above shall apply equally to attendance at and participation in occupational preparedness activities such as training courses or drug or alcohol abuse programs to which an individual has been assigned as a worksite.

(a)

DIVISION OF PUBLIC WELFARE

**General Assistance Manual
Residential Health Care Facility
Resident/Monthly Assistance Allowance**

Proposed Amendment: N.J.A.C. 10:85-3.3

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 44:8-108, 109 and 111(d).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1984-558.

The agency proposal follows:

Summary

The Supplemental Security Income (SSI) program, the Federal program for the elderly, blind, and disabled, meets the financial needs of most publicly supported individuals in Residential Health Care Facilities (RHCFs), which are the specialized boarding homes for those who need help in daily activities but are not infirm enough to require nursing home care. The General Assistance program covers a few of the RHCF residents and pays the same rate for the same services. The Department's attention has been directed to some instances of placement in RHCFs of General Assistance recipients who do not require a high level of service. While the Department has neither the desire nor the authority to limit the proprietary rights of RHCF operators, it does, however, have the obligation to ensure that payments at the higher (SSI) rate are reserved for those who need the extra services. The proposed amendment makes use of the existing employable/unemployable dichotomy as established under N.J.S.A. 44:8-108 and 109 to limit the payments for healthy individuals to the same amount as would be payable for them in other circumstances.

Social Impact

The proposed amendment may serve to keep a few beds in RHCs available for those who need them. It may serve as an inconvenience to those who would abuse the program by seeking payment for a level of service above that which is needed in some cases.

Economic Impact

The proposed amendment is a preventive measure. While there have been a few situations in the past that would have been governed by this regulation had it existed then, there are no known instances at this time. Hence, there is no immediate economic impact expected. If impact occurs in the future, it is not expected to be perceptible, except to the persons directly involved.

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

10:85-3.3 Financial eligibility

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

(f) Assistance allowance standards are as follows[.]:

1.-3. (No change.)

4. Room and board living arrangements: When an individual is purchasing a room and board living arrangement, the following shall apply:

i. Residential Health Care Facility: When an individual who is [in need of extensive personal services on a regular and continuous basis] **unemployable in accordance with the provisions of N.J.A.C. 10:85-3.2(g)3v** is purchasing a room and board living arrangement in a Residential Health Care Facility[.] (licensed by the N.J. Department of Health for purposes other than the care or treatment of drug or alcohol abuse), the monthly assistance payment, including a personal allowance [per month], shall not exceed the rate approved by the New Jersey Department of **the** Treasury, less any countable income. [when] **When** a rate increase is approved, a public notice to that effect will be published in the New Jersey Register. Information about the current rate may also be obtained by contacting the Division of Public Welfare. However, the cost of purchasing such living arrangement shall not exceed the minimum amount which the establishment customarily charges to or for other guests not dependent on public assistance, for the same accommodations and/or services.

(1) When an individual who is employable is purchasing room and board in a Residential Health Care Facility as described above, the monthly assistance allowance shall be the amount for a single individual in a household of one as given in Schedule II, less any countable income.

ii.-v. (No change.)

5. (No change.)

(g) (No change.)

LAW AND PUBLIC SAFETY

(a)

DIVISION OF MOTOR VEHICLES

Enforcement Service Identifying Marks

Proposed Amendments: N.J.A.C. 13:20-34

Authorized By: Clifford W. Snedeker, Director, Division of Motor Vehicles.

Authority: N.J.S.A. 39:3-33.3, 39:3-33; 39:3-27 et seq; 39:3-84; 39:4-207.1; 39:3-20.

Interested persons may submit in writing, data, views, or arguments relevant to the proposed rule on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Clifford W. Snedeker, Director
Division of Motor Vehicles
25 South Montgomery Street
Trenton, New Jersey 08666

The Division of Motor Vehicles thereafter may adopt this proposal without further notice (N.J.A.C. 1:30-3.5). The adopted rules become effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1984-563.

The agency proposal follows:

Summary

The proposed amendments set forth the combinations of alphabetic and numeric characters used as identifying marks on license plates.

These amendments reflect changes that have been made in the Revised Statutes. The effect of these amendments will be to set forth a policy concerning the issuance of identifying marks.

Social Impact

These amendments are designed to make the public aware of the combinations of alphabetic and numeric characters permitted to be used on license plates.

Economic Impact

There will be no economic impact on the Division of Motor Vehicles or the public as a result of these amendments.

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

13:20-34.1 Definitions

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

“Courtesy marks” mean particular identifying marks having inscribed thereon motor vehicle registration numbers comprised of three alphabetic characters and any number from 1 through 20, except those combinations hereinafter reserved.

“Legislature courtesy marks” mean courtesy marks hereinafter reserved for members of the Senate and General Assembly of the State of New Jersey.

“Particular identifying mark or marks” mean motor vehicle license plates having inscribed thereon motor vehicle registration numbers comprised of combinations of letters or numbers, or both, requested by the registrants.

“Personalized marks” mean particular identifying marks having inscribed thereon motor vehicle registration numbers comprised of any combination of alphabetic characters or numbers, or both, except combinations defined as courtesy marks.

13:20-34.2 Registration numbers reserved

(a) The following registration numbers are reserved as specified:

1. Registration number comprised of two alphabetic characters only and registration numbers comprised of one alphabetic character and a single digit for vehicles owned or leased by members of the Senate of the State of New Jersey;

2. Registration numbers comprised of two alphabetic characters and one digit for vehicles owned or leased by members of the General Assembly of the State of New Jersey;

3. U.S.S. 1 and U.S.S. 2 for vehicles owned or leased by United States Senators representing the State of New Jersey;

4. U.S. 1 through U.S. 20 for vehicles owned or leased by members of Congress representing districts in the State of New Jersey;

5. MD A 1 through MD Z 999, 1 MD A through [999] 99 MD Z, **MD 1000 through MD 9999, 1000 MD through 9999 MD, and MD 1 A through MD 99 Z** for vehicles owned or leased by persons licensed to practice medicine and surgery in New Jersey or neighboring states;

6. NJP 1 through NJP 999 and 1 NJP through 999 NJP for vehicles owned or leased by persons accredited as members of the “Press” in New Jersey;

7. NYP 1 through NYP 999 and 1 NYP through 999 NYP for vehicles owned or leased by persons accredited as members of the “Press” in the City of New York, New York;

8. PBA, PBA 1 through PBA 999 and 1 PBA through 999 PBA for incumbent officers of the State Patrolmen’s Benevolent Association, Inc.;

9. QQA 1 through QQZ 999, 1 QQA through 999 QQZ and QQ1 A through QQ999 Z for “historic” vehicles registered pursuant to N.J.S.A. 39:3-27.3 et seq. **QQ1 to QQ99 for “historic” motorcycles;**

10. DAV 1 through DAV 999 [and] , 1 DAV through 999 DAV, **DV 1 through DV 9999 and 1 DV through 9999 DV** for vehicles owned [or leased] by members of “Disabled American Veterans” of New Jersey;

11. VFW 1 through VFW 999 and 1 VFW through 999 VFW for vehicles owned or leased by members of “Veterans of Foreign Wars of the United States, [Department] State of New Jersey”;

12. DAA 1 through DZZ 99 and 1 DAA through 99 DZZ for issuance to licensed motor vehicle dealers pursuant to N.J.S.A. 39:3-18;

13. **A 11 A through Z 99** for vehicles owned by any bona fide firefighter (paid, partially paid, or volunteer);

14. **F 1000 through F 999 and 1000 F through 9999 F** for vehicles owned by any bona fide members of first aid or rescue squads;

15. **P 1000 through P 9999 and 1000 P through 9999 P** for vehicles owned by any person who served in the armed forces of the United States and who was held as a prisoner of war by an enemy of the United States during any armed conflict;

16. **R 1000 through R 9999 and 1000 R through 9999 R** for vehicles manufactured before 1949 and registered with a New Jersey street rod club affiliated with the National Street Rod Association, Inc.;

17. **H 1000 through H 9999 , 10000 H through 9999 H, HA 1000 through HZ 9999 and 1000 HA through 999 HZ** for vehicles that qualify under New Jersey Motor Vehicle Law 39:4-204 through 207;

18. **NGA 1 through NGZ 999 and 1 NGA through 999 NGZ** and any combination beginning with NG for vehicles owned by active members of or former active members who have been honorably separated from members of the New Jersey Air National Guard or Army National Guard;

19. **A 1 AA through Z 9 ZZ** for vehicles owned or leased by a County Office of New Jersey. The first letter will designate the county code. Freeholder, Surrogate, County Clerk, and Sheriff will be assigned numbers one through three. All other plates will bear the title County Officer with assigned numbers four through nine;

20. **DDS 001 through DDS 999 and 001 DDS through 999 DDS and DMD 001 through DMD 999 and 001 DMD through 999 DMD** and any combination of one to three letters with **DDS or DMD** owned by New Jersey residents licensed to practice dentistry in New Jersey or neighboring states;

21. **DPM 100 through DPM 999 and 100 DPM through 999 DPM** and any combination of one to three letters with **DPM** owned by New Jersey residents licensed to practice podiatry in New Jersey or neighboring states;

22. **1 DC 1 through 1 DC 999** owned by New Jersey residents licensed to practice chiropractic medicine in New Jersey or neighboring states;

23. **USS NJ, USS NJ 1 through 9** to be set aside for the members of the USS New Jersey, Battleship Commission;

24. **Three alphabetic characters plus 1 through 20 and 1 through 20 plus three alphabetic characters designated as “courtesy plates” approved by county senators.**

(b) Notwithstanding the above reservations, the Director in his discretion may issue marks reserved for members of the United States Senate and House of Representatives, and the Senate and General Assembly of New Jersey to vehicles owned by spouses of said members or to vehicles owned by firms or corporations of which said members are owners, partners or employees.

13:20-34.3 Registration numbers excluded

(a) The following registration numbers shall be excluded from issuance as “particular identifying marks”:

1. Any combination except those hereinbefore reserved having the following arrangements: three alphabetic followed by three numeric characters (for example ABC 123); three numeric followed by three alphabetic characters (for example 123 ABC); three alphabetic followed by two numeric and one alphabetic character (for example, ABC 12 D). Any combination herein excluded and not in a series designated for special classes of vehicles may be reissued as “personalized marks” if the registrant to whom the marks were issued initially has

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surrendered said marks and corresponding registration certificate. Designated for general issue;

2. "1" through "30" except "22 and "25". Designated for State vehicles assigned to cabinet officers;

3. "100 through "19000". Designated for "constructor" registrations;

4. Any combination consisting of more than six characters;

5. Any combination consisting of one alphabetic followed by two numeric characters (for example, A 12). Designated for "contractor equipment in transit registration";

6. "AA 10" through ["FZ 99"] "YZ 99", except for QQ 1 to QQ 99. Designated for "contractor equipment in transit registration". "ZA 10" through "ZZ 99". Designated for "empty contractor equipment in transit registration";

7. Any combination having two alphabetic followed by three numeric characters (for example, AB 123) or three numeric followed by two alphabetic characters (for example, 123 AB). Designated for general motorcycle registrations (A100A through Z999Z new series);

8. "F 10000" through "F 99999" and "FA 10A" through "FZ 99Z". Designated for "farm use registrations";

9. "G" followed by three numeric characters (for example G 123) and three numerics followed by "G" (for example, 123 G). Designated for motorcycles owned by governmental agencies;

10. "H" followed by three numeric characters (for example, H 123) and three numerics followed by "H" (for example, 123 H). Designated for motorcycles owned by governmental agencies;

11. "I" as a single or isolated character;

12. "J" followed by three numeric characters (for example J 123) and three numerics followed by "J" (for example, 123 J). Designated for motorcycles owned by governmental agencies;

13. "MV 1" through "MV [9999] 10 and "1 MV" through "[9999] 10 MV". Designated for State vehicles assigned to [motor vehicle inspectors] **Division of Motor Vehicles personnel**";

14. "O" as a single character;

15. "Q" through "QQQQQQ";

[16. "QQA" through "QQZ" followed by 3 numeric characters (for example, QQA 123), 3 numeric characters followed by "QQA" through "QQZ" (for example, 123 QQA), "QQ" followed by 3 numeric and 1 alphabetic character (for example, QQ 123A). Designated for historic vehicles;]

[17.] 16. "S1100A" through "S1999Z", "100AS1" through "999ZS1" for School Vehicle Type I and ["SZ100A"] "S2100A" through ["SZ999Z"] "S2999Z", ["100ASZ"] "100AS2" through ["999ZSZ"] "999ZS2" for School Vehicle Type II;

[18.] 17. "TA 100" through "TZ 9999" "Taa 100" through "TZZ 999", "TA100A" through "TZ999Z", and "100 TAA" through "999 TZZ" for commercial trailers and semitrailers;

[19.] 18. "XA 100" through "XZ 9999", "XAA 100" through "XZZ 999", "XA1000" through "XZ9999", "X10000" through "X99999", "X1A100" through "X9Z999", "XAA10A through "XXZ99Z", and "XX10AA" through "XX99ZZ" for commercial motor vehicles;

[20.] 19. SGA 1 through SGZ 999 and 1 SGA through 999 SGZ for State-owned vehicles; CGA 1 through CGZ 999, [and] 1 CGA through 999 CGZ and CG 100A through CG 999Z for county-owned vehicles; MGA 1 through MGZ 999, [and] 1 MGA through 999 MGZ and MG 10AA through MG 999Z for municipal-owned vehicles; TD 1000 through TD

LAW AND PUBLIC SAFETY

9999 and 100 TD through 9999 TD for State-owned vehicles assigned to the Department of Transportation;

[21.] 20. ACE 21 through ACE 99 and 21 ACE through 99 ACE for vehicles owned by the New Jersey Expressway Authority; HAA 1 through HAZ 999 and 1 HAA through 999 HAZ for vehicles owned by the New Jersey Highway Authority; TPA 1 through TPZ 999 and 1 TPA through 999 TPZ for vehicles owned by the New Jersey Turnpike Authority;

21. OXV 100 through OZZ 999 for vehicles utilized as buses for hire;

22. XYA 10A through XZA 99Z and XY10AA through XZ99ZZ for vehicles utilized as farmer trucks;

23. CV 1000 through CV 9999 and 1000 CV through 999 CV for vehicles utilized as commuter vans for hire;

24. TR 1000 through TR 9999, TRA 100 through TRM 999, TSA 100 through TSF 999 and 1000 TA through 9999 TZ for tractors utilized on farms;

25. OL 4000 through OL 9999 and 4000 OL through 9999 OL for vehicles utilized as taxis for hire;

26. SPA 100 through 999 and 100 SPA through 999 SPA. SPB 100 through 999 and 100 SPB through 999 SPB, used for State Police designated vehicles;

27. OL 1000 through OL 3999 and 1000 OL through 3999 OL for vehicles utilized as limousines or taxis for hire with PUC approval;

28. AAA 100 through ZZZ 999, 100 AAA through 999 ZZZ and AAA 10A through ZZZ 99Z for vehicles utilized as pleasure vehicles.

29. 1A1A1 through 9Y9Y9 for motorized bicycles;

30. Any combination of alphabetic and numeric characters that constitutes amateur radio call letters as issued by the Federal Communications Commission.

31. Three letters followed by CMH. Designated for vehicles owned or leased by New Jersey residents who have been awarded the Congressional Medal of Honor.

32. AR 1000 through AR 9999, NR 1000 through NR 9999, CR 1000 through CR 9999, AF 1000 through AF 9999 and MR 1000 through MR 9999 for vehicles owned by persons serving in military reserve units.

[22.] 33. Any combination of alphabetic characters or numbers, or both, that may carry connotations offensive to good taste and decency.

13:20-34.4 Denials, suspension or revocation

(a) "Particular identifying marks" shall not be issued to any person who:

1. Has been convicted of a [misdemeanor in] violation of N.J.S.A. [2A:113-9] 2C:11-5.

2. Has been convicted of a violation of either N.J.S.A. 39:4-50, or N.J.S.A. 39:4-96;

3. Has had a suspension or revocation of driving privileges in effect at any time with the two-year period next preceding the date of application for such marks.

(b) Any cause for which issuance of particular identifying marks may be denied which arises subsequent to the issuance of such plates shall also be cause for the suspension or revocation of particular identifying marks;

(c) A material misstatement of fact on an application therefor shall be cause for suspension or revocation of particular identifying marks.

(d) Any person to whom particular identifying marks have been issued which identify that person as a United States Senator or Congressman, State Senator or Assemblyman, member of the "Press" accredited in New Jersey or New York City, Officer of the New Jersey State Patrolmen's Benevolent Association, Inc., first aid or squad member, fire-

fighter member, or county officer shall surrender said plates to the Division together with the corresponding motor vehicle registration certificate immediately upon the termination of said office or accreditation unless otherwise provided by law. The failure to so surrender said plates shall be cause for the revocation of the particular identifying marks.

13:20-34.5 Fees

(a) Fees for particular identifying marks, which shall be paid with the application therefor, shall be as follows unless otherwise provided by law:

1. "Courtesy Marks": [\$10.00 with application made on or before December 31, 1975,] \$15.00 [with application made thereafter];
2. "Personalized marks": \$50.00;
3. Replacement of lost, stolen or obliterated "particular identifying marks": [\$5.00] **\$10.00.**

13:20-34.6 Transfers to survivor

(a) The surviving spouse, child or children of a deceased registered owner of any motor vehicle in whom title thereto shall vest by virtue of the terms of the will of such deceased owner, or otherwise, shall upon application to the director and upon payment of the transfer fee of [\$3.00] **\$4.50** specified in N.J.S.A. 39:3-30 be entitled to have the particular identifying mark issued for said vehicle transferred to his or her name provided that said survivor meets the qualifications therefor specified by law and these rules.

13:20-34.7 Reissue

In the event a registrant fails to renew the registration for a particular identifying mark for 60 days from the date of expiration or surrenders said mark and corresponding registration certificate to the division, said marks shall be available for reissuance to any applicant therefor.

(a)

DIVISION OF MOTOR VEHICLES

**Licensing Service
General Provisions; Mandatory Disclosure of
Social Security Number on License and
Registration Applications**

**Proposed New Rules: N.J.A.C. 13:21-1.3,
1.4 and 1.5**

Authorized by: Clifford W. Snedeker, Director, Division of Motor Vehicles.

Authority: N.J.S.A. 39:2-3, 39:3-4, 39:3-10 and 42 U.S.C. § 405(c)(2)(C).

Interested persons may submit in writing, data, views, or arguments relevant to the proposed rule on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Clifford W. Snedeker, Director
Division of Motor Vehicles
Department of Law and Public Safety
25 South Montgomery Street
Trenton, New Jersey 08666

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

This proposal is known as PRN 1984-564.

The agency proposal follows:

Summary

The proposed new rule provides for the mandatory disclosure of an applicant's Social Security number on an application for a driver's license or motor vehicle registration. Mandatory disclosure of an individual's Social Security number is permissible under Federal law for purposes of administering a "driver's license, or motor vehicle registration law." See 42 U.S.C. § 405(c)(2)(C). The Division of Motor Vehicles will utilize the Social Security number for limited purposes. First, the Division of Motor Vehicles will use the Social Security number as an internal secondary identifier in the administration and enforcement of the driver's license and motor vehicle registration laws for the purpose of establishing the identification of individuals affected by such laws. Use of a secondary identifier will limit administrative errors caused by drivers' license applicants having identical names and will assist the Division in ferreting out fraudulent applications for driver's licenses and registrations. Second, the Division of Motor Vehicles will use the Social Security number for the purpose of establishing the identification of individuals who are indebted to the Division for unpaid motor vehicle fees and for the purpose of satisfying such indebtedness in accordance with N.J.S.A. 54:9-8.1 et seq. Third, the Division of Motor Vehicles will use the Social Security number to determine whether an individual is indigent for the purpose of authorizing the payment of surcharges for motor vehicle violations on an installment basis in accordance with the "New Jersey Automobile Insurance Reform Act of 1982" (N.J.S.A. 17:29A-33 et seq.). Fourth, the Division of Motor Vehicles will use the Social Security number as a secondary identifier in the administration and enforcement of the "Driver License Compact" (N.J.S.A. 39:5D-1 et seq.) and N.J.S.A. 39:3-10 for the purpose of establishing through the National Driver Registry whether a driver license applicant has had his driver's license suspended in any other state. The Division of Motor Vehicles will not use the Social Security number for any purpose other than those specifically set forth in this rule. Social Security numbers recorded on applications for drivers' licenses and motor vehicle registrations are not public records and are not accessible for public examination pursuant to N.J.S.A. 47:1A et seq. Social Security numbers shall not be disclosed on driver license or motor vehicle registration abstracts issued by the Division of Motor Vehicles.

Social Impact

The proposed new rule will facilitate the administration and enforcement of the Motor Vehicle and Traffic Law; thus promoting highway safety in the State.

Drivers' licenses issued by the Division of Motor Vehicles are the basic identification documents in this State. There is a compelling State interest, therefore, in insuring the accuracy and integrity of this identification system. It is the purpose

and intent of this proposed rule to further secure the accuracy and integrity of the driver license and registration system by requiring applicants for a license or registration to disclose their social security number. The general public will benefit from the enhanced accuracy and integrity of the identification system.

Economic Impact

There is no economic impact on the general public. There is an economic impact on the Division of Motor Vehicles in replacing current application forms with revised forms which specifically inform applicants of the required disclosure of the Social Security number, the statutory basis for such disclosure and the intended use of the Social Security number in administering the Motor Vehicle and Traffic Law.

Full text of the proposed new rules follows.

13:21-1.3 Mandatory disclosure of social security number

(a) An applicant for learner's permit, examination permit, driver's license or registration shall disclose his or her social security number(s) upon the application form furnished by the director.

(b) A learner's permit, examination permit, driver's license or registration shall not be issued unless the applicant therefore discloses his or her social security number(s) upon the application form.

(c) This section shall not apply to persons who are exempt from applying for a social security number.

13:21-1.4 Restricted use of social security numbers

(a) The Division of Motor Vehicles shall, in the administration of the driver's license and motor vehicle registration laws of this State, utilize social security numbers for the purpose of establishing the identification of individuals affected by such laws.

(b) The Division of Motor Vehicles shall utilize social security numbers for the purpose of establishing the identification of individuals who are indebted to the Division for unpaid motor vehicle fees and for the purpose of satisfying such indebtedness in accordance with N.J.S.A. 54A:9-8.1 et seq.

(c) The Division of Motor Vehicles shall utilize social security numbers to determine whether an individual is indigent for the purpose of authorizing the payment of insurance surcharges on an installment basis in accordance with the "New Jersey Automobile Insurance Reform Act of 1982" (N.J.S.A. 17:29A-33 et seq.).

(d) The Division of Motor Vehicles shall utilize social security numbers as a secondary identifier in the administration and enforcement of the "Driver License Compact" (N.J.S.A. 39:5D-1 et seq.) and N.J.S.A. 39:3-10 for the purpose of determining through the National Driver Registry whether a driver license applicant has had his driver's license suspended in any other State.

(e) The Division of Motor Vehicles shall not utilize social security numbers for any purpose other than those specified in this section.

(f) The Division of Motor Vehicles shall inform an individual required to disclose a Social Security Number that disclosure is mandatory under N.J.A.C. 13:21-1.3 and shall inform the individual of the uses that will be made of that number under this section.

13:31-1.5 Public record exception; disclosure prohibited

(a) Social security numbers recorded on applications for drivers' licenses and motor vehicle registrations are not public

records and are not accessible for public examination pursuant to the "Right to Know Law" (N.J.S.A. 47:1A-1 et seq.).

(b) Social security numbers shall not be disclosed by the Division of Motor Vehicles in any manner or any circumstance other than those specified in N.J.A.C. 13:21-1.4. Social security numbers shall not be disclosed on driver license or motor vehicle registration abstracts prepared by the Division.

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Bills and Payments for Service Termination of Service for Non-Payment of Combined Utilities

Proposed Amendments: N.J.A.C. 14:3-7.12 and 7.13

Authorized By: Board of Public Utilities, Barbara A. Curran, President.
Authority: N.J.S.A. 48:2-12.
Docket No. 835-371.

Interested persons may submit in writing data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Jeanne M. Fox
Regulatory Officer
Board of Public Utilities
1100 Raymond Boulevard
Newark, New Jersey 07102

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

This proposal is known as PRN 1984-541.

The agency proposal follows:

Summary

The Board of Public Utilities proposed to amend N.J.A.C. 14:3-7.12, Notice of discontinuance and N.J.A.C. 14:3-7.13, Disputes as to bills. The proposed amendments specify that a utility must inform a customer, who is receiving more than one utility service, of the procedures for discontinuance of service for non-payment of bills.

N.J.A.C. 14:3-7.12(c) requires a utility to inform customers that receive two services that deferred payment agreements are available for each service.

N.J.A.C. 14:3-7.13(c) requires a utility to offer residential customers with two services a deferred payment plan for each service.

N.J.A.C. 14:3-7.13(d) specifies that if a customer entered in two separate deferred payment plans defaults on one such plan, only that service may be discontinued.

The Board finds these amendments to be in the public interest and proposes their adoption.

Social Impact

The proposed amendments serve to allow customers to receive essential utility service without fear of discontinuance. Additionally these proposed amendments establish public confidence in State government's ability to insure that the public's interest concerning public utility companies is adequately protected.

Economic Impact

While these proposed amendments may lead to increased billing costs for utility companies, these increased expenses will not be overwhelmingly large and will be outweighed by the public benefit of the proposed amendments.

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

14:3-7.12 Notice of discontinuance

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

(c) On all notices of discontinuance to residential customers, there shall be included:

1.-2. (No change.)

3. A statement that if a customer is presently unable to pay an outstanding bill, the customer may contact the utility to discuss the possibility of entering into a reasonable deferred payment agreement. **In the case of a customer receiving more than one different service from the same utility, the statement shall state that deferred payment agreements are available separately for each utility service.**

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

14:3-7.13 Disputes as to bills

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

(c) Whenever a residential customer advises the utility prior to the date of a proposed discontinuance for nonpayment that he wishes to discuss a deferred payment agreement because he is presently unable to pay a total outstanding bill, the utility shall make a good faith effort to provide the customer with an opportunity to enter into (a) reasonable deferred payment agreement(s). Such an opportunity shall be extended to a residential electric and/or gas customer either prior to or after the occurrence of discontinuance of service for non-payment. In negotiating such (a) deferred payment agreement(s); a residential electric and/or gas customer may not be required to pay, as a down payment more than 25 percent of the total outstanding bill due at the time the agreement(s) is made or executed. **In the case of residential customer who received more than one utility service from the same utility and the amount which is in arrears is a combination of those services the utility shall offer a separate deferred payment plan for each service based on the outstanding balance for that service prior to any proposed discontinuance for non-payment.**

(d) Such agreements which extend for more than two months shall be in writing and shall provide that a customer who is presently unable to pay an outstanding debt for utility services may make reasonable periodic payments until the debt is liquidated while continuing payment of current bills. A deferred payment agreement need not be entered into more than once a year. If the customer defaults on any of the terms of the agreement, the utility may discontinue service after

providing the customer with a notice of discontinuance. **In the case of a residential customer who receives more than one utility service from the same utility and has subsequently entered into separate plans for each separate service, default on one such plan shall constitute grounds for discontinuance of only that service.**

ENERGY

(a)

THE COMMISSIONER

**Energy Subcode
Thermal Efficiency Standards**

Proposed Amendments: N.J.A.C. 14A:3-4.4

Authorized by: Leonard S. Coleman, Jr., Commissioner, Department of Energy.

Authority: N.J.S.A. 52:27F-27.

Docket No. DOE 015-84-10.

Interested persons may present in writing, statement or arguments relevant to the proposal on or before November 14, 1984. These submissions and any inquiries about submissions should be addressed to:

Linda M. Scuorzo, Esq.
Office of Regulatory Affairs
Department of Energy
101 Commerce Street
Newark, N.J. 07102

The Department may thereafter adopt this proposal without further notice and with changes in not in violation of N.J.A.C. 1:30-3.5. The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1984-552.

The agency proposal follows:

Summary

In the New Jersey Register, Monday, November 16, 1981, the New Jersey Department of Energy (NJDOE) proposed modifications to the BOCA Basic Energy Conservation Code/1981 to incorporate the then current standards specified in ASHRAE 90A-80. This proposal was adopted in its entirety with an effective date of January 18, 1982.

In order to remain current with the energy requirements of the BOCA Basic Mechanical Code and the 1984 levels of ASHRAE 90A-80 as well, the NJDOE proposes to amend the EER and COP levels found in N.J.A.C. 14A:3-4.4 "Standards".

Social Impact

By updating the efficiency standards for heat pumps and air conditioners specified in Article 4 of the Energy Subcode, the

proposed amendments will allow additional energy savings to be realized.

Economic Impact

The proposed amendments make only technical and minor substantive changes in the existing regulations and do not alter the manner in which regulated groups must comply with the regulations.

Compliance with the proposed amendments may place some additional burdens upon manufacturers of HVAC equipment and builders with the increased costs ultimately being borne by the consumer. However, the economic benefits associated with the conservation of energy resources offset the incremental increase in the cost of the equipment regulated by these amendments.

Full text of the current rules may be found at 16 N.J.R. 2296(a).

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

SUBCHAPTER 4. ENERGY SUBCODE

14A:3-4.4 Thermal efficiency standards

(a) (No change.)

(b) The energy subcode is amended as follows:

1.-3. (No change.)

4. The following amendments are made to Article 4 of the energy subcode entitled "Warm Air Heating; Ventilating and Air Conditioning Systems and Equipment":

i. In Table E-402.1.1a change the numbers as follows:

(1) Replace the Air EER values of 6.1 and 6.8 with the values [6.8 and 7.5] **7.8 and 8.2, and add the Evaporative or Water Cooled EER values of 8.8 and 9.2**, respectively.

(2) Replace the Air COP values of 1.8 and 2.0 with the values [2.0 and 2.2] **2.28 and 2.40, and add the Evaporative or Water Cooled COP values of 2.58 and 2.69**, respectively.

ii. (No change.)

iii. In Table E-402.1.2 change the numbers as follows:

(1) Replace the Air EER values of 7.5, 7.2, 8.9 and 7.8 with the values [7.8, 7.5, 9.5 and 8.5] **8.0, 8.4, 9.9 and 9.5**, respectively.

(2) Replace the Air COP values of 2.2, 2.1, 2.6 and 2.3 with the values [2.3, 2.2, 2.8 and 2.5] **2.34, 2.46, 2.9 and 2.78**, respectively.

(3) Replace the Water EER values of 12.9, 10.9, 10.9 and 11.3 with the values [13.6, 11.6, 11.6 and 11.9] **13.8, 12.0, 12.0 and 12.5**, respectively.

(4) Replace the Water COP values of 3.8, 3.2, 3.2 and 3.3 with the values [4.0, 3.4, 3.4 and 3.5] **4.04, 3.51, 3.51 and 3.66**, respectively.

(5) Replace the Evaporative EER value of 11.3 with the value [11.9] **12.5**.

(6) Replace the Evaporative COP value of 3.3 with the value [3.5] **3.66**.

iv. In Table E-402.1.3 replace the Minimum COP values of 2.2, 1.2 and 2.2 with the values [2.5, 1.5 and 2.5] **2.7, 1.8 and 3.0**, respectively.

5.-6. (No change.)

7. The following amendments are made to Appendix A, entitled "Referenced Standards":

i. ASHRAE Standard Reference Number is amended to delete the words "90-75" and add "90A-80".

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Route 45 in Harrison Township

Proposed Amendment: N.J.A.C. 16:28A-1.31

Authorized By: John P. Sheridan Jr., Commissioner, Department of Transportation.

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

Interested persons may submit in writing data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

At the close of the period for comments the Department of Transportation may adopt this proposal with minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Upon adoption of this rule, a notice shall be published in the Register. The adopted rule shall become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1984-543.

The agency proposal follows:

Summary

The proposed amendment will establish "no parking" zones along Route 45 in Harrison Township, Gloucester County for the safe and efficient flow of traffic, the enhancement of safety and the safety and well-being of the populace.

Based upon requests from local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of "no parking" zones was warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.31 in compliance with the request from local officials and the traffic investigation.

Social Impact

The proposed amendment will establish "no parking" zones along Route 45 in Harrison Township, Gloucester County for the safe and efficient flow of traffic, the enhancement of safety and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for its work force for mileage, personnel and

equipment requirements. The Department will bear the costs for the installation of signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:28A-1.31 Route 45

(a) The certain parts of State highway Route 45 described in this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in Harrison Township, Gloucester County:

i. Along the northbound side:

(1) (No change.)

(2) From the easterly curb line of Route U.S. 322 to a point 310 feet easterly therefrom.

ii. Along the southbound side from the northerly curb line of County route 551 Spur to a point 175 feet north of the northerly curb line of county Route 551 Spur.]

iii. Along the southbound side:

(1) From the northerly curb line of County Route 551 Spur to a point 175 feet north of the northerly curb line of County Route 551 Spur.

(2) From the easterly curb line (extended) of Route U.S. 322 to a point 370 feet southerly therefrom.

iii. (No change.)

3.-5. (No change.)

(b) (No change.)

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Route 50 in Egg Harbor City

Proposed New Rule: N.J.A.C. 16:28A-1.100

Authorized By: John P. Sheridan Jr., Commissioner, Department of Transportation.

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

Interested persons may submit in writing data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

At the close of the period for comments the Department of Transportation may adopt this proposal with minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Upon adoption of this rule, a notice shall be published in the Register. The adopted rule shall become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1984-537.

The agency proposal follows:

Summary

The proposed new rule will establish "no parking" zones along Route 50 in Egg Harbor City, Atlantic County for the safe and efficient flow of traffic, the enhancement of traffic safety and for the safety and well-being of the populace.

Based upon a request from the local officials, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of "no parking" zones was warranted.

The Department therefore proposes new rule as N.J.A.C. 16:28A-1.100 in compliance with the request from local officials and the traffic investigation.

Social Impact

The proposed new rule will establish "no parking" zones along Route 50 in Egg Harbor City, Atlantic County, for the safe and efficient flow of traffic, the enhancement of safety and the safety of the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department of local officials will incur direct and indirect costs for its workforce for mileage, personnel and equipment requirements. The Department will bear costs for the installation of signs. Motorists who violate the rules will be assessed the appropriate fine.

Full text of the proposed new rule follows.

16:28A-1.100 Route 50

(a) The certain parts of State Highway Route 50 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in Egg Harbor City, Atlantic County:

i. Along both sides for a distance of 95 feet south of the southerly curb line of Route U.S. 30.

(b)

TRANSPORTATION OPERATIONS

Miscellaneous Traffic Rules

Weight Limits

Route 173 in Greenwich Township

Proposed New Rule: N.J.A.C. 16:30-6.3

Authorized By: John P. Sheridan Jr., Commissioner, Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 27:7-21.

Interested persons may submit in writing data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

At the close of the period for the Department Transportation may adopt this proposal with minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Upon adoption of this rule a notice shall be published in the Register. The adopted rule shall become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1984-538.

The agency proposal follows:

Summary

The proposed new rule will establish weight limitations along Route 173 in Greenwich Township, Warren County in the interest of traffic safety and for the improvement of maintenance and repair of the roadway.

Based upon a request from local officials, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the imposition of weight limitation was warranted.

The Department therefore proposes new rule N.J.A.C. 16:30-6.3 in compliance with the request from local officials and the traffic investigation.

Social Impact

The proposed new rule will establish a weight limitation of 10 tons gross weight for trucks except for the pick-up and delivery of materials along Route 173 in Greenwich Township, Warren County for the improvement of maintenance and repair and in the interest of traffic safety along the roadway. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for its workforce for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of signs. Motorists who violate the rules will be assessed the appropriate fine.

Full text of the proposed new rule follows.

16:30-6.3 Route 173

(a) For the improvement in maintenance and repair of Route N.J. 173 eastbound between U turn facility at the junction of Route U.S. 22—I-78 westbound and Voorhees Road, in the Township of Greenwich, Warren County, there is hereby established a weight limit of 10 tons gross weight for trucks except for the pick-up and delivery of materials.

TREASURY - GENERAL

(a)

DIVISION OF BUILDING AND CONSTRUCTION

Classification of Bidders: Prequalification

Proposed Repeal: N.J.A.C. 17:19-2.1 through 2.7

Proposed New Rules: N.J.A.C. 17:19-2.1 through 2.14

Authorized By: James G. Ton, Director, Division of Building and Construction, Department of the Treasury.

Authority: N.J.S.A. 52:35-1 et seq., specifically 52:35-11.

Interested persons may submit in writing data, views or arguments relevant to the proposed rule on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

James G. Ton, Director
 Division of Building and Construction
 Department of the Treasury
 CN 235
 Trenton, New Jersey 08625

The Division of Building and Construction thereafter may adopt this proposal without further notice (see N.J.A.C. 1:30-3.5). The adopted rules become effective upon publication in the register of a notice of adoption.

This proposal is known as PRN 1984-533.

The agency proposed follows:

Summary

Rules governing the qualification of construction contractors were proposed by the Division of Building and Construction in the February 22, 1983 New Jersey Register at 15 N.J.R. 235(a). Extensive comment and discussion between the agency and affected contractors followed. This led to a complete reformulation of the original proposal and the reproposal of the rules.

For convenience to the reader, this proposal takes the form of a complete repeal of the existing prequalification rules, and the adoption of a new set of rules. The proposal in fact consists of a revision of the existing rules. However, the revision is so extensive, that the bracketing of deletions and the underlining of additions would render the rules unreadable. Therefore, the revision is presented continuously as a new set of rules.

These proposed rules represent a change in the way that contractors will be prequalified and thereby classified for work on public construction projects. Pursuant to N.J.S.A. 52:35-1 et seq., the State must prequalify and classify contractors for public projects. The State's classifications establish the type and size of projects for which contractors are eligible to bid.

In the past, the classification of contractors has been based primarily on a financial evaluation of the contractors. These new rules propose an additional evaluation procedure, based primarily on contractors' past performance, which will supplement the financial analysis of contractors. The new process also provides for a contractor to be granted an "aggregate" as well as a "single" project rating for each of the specified trade classifications within which contractors may bid. The "aggregate" rating is based upon financial data furnished by the contractors, and establishes the maximum dollar value of projects which a contractor may undertake at a given time. Procedures for this analysis are similar to those previously used, with some adjustments to bring these procedures better in line with current realities. In addition, a "single" project rating, primarily based on the contractor's previous experience and performance on public works, will be introduced to the prequalification system, and will establish a contractor's eligibility to bid on any given project.

The new procedures for evaluating a contractor's financial status focus more specifically on the types of assets and liabilities possessed by a contractor, and on other indications of a contractor's financial condition. In particular, the procedures give considerable weight to a contractor's bonding capacity.

The procedures for evaluating a contractor's past performance incorporate evaluations of work done on public projects and references from work done on private sector projects. The formula for computing a contractor's performance rating takes into consideration various projects over the years, and the evaluation of at least two persons closely involved with each project.

Social Impact

This proposed revision of the prequalification rules will affect all persons and firms proposing to submit bids to the Division of Building and Construction on public works projects for the State and its agencies. Performance evaluations will be a factor in determining the dollar value of projects for which each contractor may bid. After the implementation of these proposed new rules, the State and its agencies should be better assured that the contractor chosen for a project will be called upon to perform only within the limitations of that contractor's past experience and financial capacity.

Economic Impact

The revised prequalification system should better encourage the submission of responsible and realistic bids by contractors qualified by financial condition, experience and past performance. Increased emphasis on experience in contractor prequalification should in turn promote efficiency and economy in public construction.

Full text of the proposed new rule follows.

17:19-2.1 Statements required from prospective bidders; contents

(a) Any person proposing to submit bids on public work shall submit to the Director a statement under oath on a form designated as DBC-36R (Contractor's Financial Statement and Experience Questionnaire). The DBC-36R shall fully describe and establish the financial ability, responsibility, plant and equipment, organization, ownership and prior experience of the prospective bidder and shall be used by the Division of

Building and Construction (DBC) in prequalifying prospective bidders pursuant to N.J.S.A. 52:35-1, et seq.

(b) Each DBC-36R shall contain:

1. A statement as to financial status which statement shall show current assets and current liabilities, and which shall include verifications of lines of credit extended by lending institutions and the cash surrender value of relevant life insurance policies;

2. A statement as to plant and equipment, which shall give complete details as to cost, age, condition and book value;

3. A statement as to organization, which shall demonstrate the adequacy of such organization (officers and key management personnel) to undertake a project in the classification desired;

4. A statement as to prior experience, which shall show the number of years the prospective bidder has been engaged in the contracting business and shall further disclose his experience over that period. In such statement, the applicant may demonstrate the experience of officers, managers and key personnel prior to their affiliation with applicant, which information shall be considered by the DBC;

5. A statement as to past performance, which shall give an accurate and complete record of work completed in the past five years, giving the names of the projects, type of work, location, contract price and the name of the owner and of the architect/engineer in charge for the owner. This statement shall also disclose any labor problems experienced, any failure to complete a contract on schedule, any failure to meet contractual Affirmative Action requirements, any penalties imposed by reason of any contract undertaken within the said five year period. The prospective bidder shall explain any problems, failures or penalties encountered during the past five years, and what steps have been taken to avoid the recurrence of such problems, failures or penalties;

6. A statement that the applicant has adopted or will comply with an Affirmative Action Program for Equal Opportunity in accordance with New Jersey and Federal laws and regulations;

7. A statement as to bonding capacity, which shall be from a surety authorized to issue bid, performance and payment bonds in the State of New Jersey to the applicant contractor, and shall indicate single and aggregate bonding limits as well as the trades for which the bonding limits apply;

8. A statement setting forth any other pertinent material and facts that will justify the classification and ratings requested by the contractor.

(c) The DBC-36R shall also contain the following statement:

The statute governing classification of bidders provides: "Any person who makes, or causes to be made, a false, deceptive or fraudulent statement in the questionnaire required to be submitted or in the course of any hearing under this chapter, shall be guilty of a misdemeanor, and upon conviction shall be sentenced to pay a fine of not less than \$100.00 nor more than \$1,000.00 and shall be permanently disqualified from bidding on all public work of the State; or, in case of an individual or the officer or employee charged with the duty of making such questionnaire for a person, firm, co-partnership, association or corporation, to pay such fine or undergo imprisonment, not exceeding six months, or both." (N.J.S.A. 52:35-9)

(d) It shall be the responsibility of the contractor to demonstrate and provide any and all supportive material to justify a classification and rating applied for.

17:19-2.2 Joint Venture statement

(a) Where two or more contractors, each with valid classifications and ratings, purpose to form a Joint Venture for purposes of bidding on one or more projects, the venturers shall jointly submit a statement to the Division which shall:

1. Be received by the Division no less than five days prior to the bid opening date set for the project on which they propose to bid;
2. State the classifications and ratings of the individual venturers;
3. Describe the purpose, structure and resources of the Joint Venture, and be supplemented by any other information requested by the Division;
4. Include a statement from an authorized surety of the bonding capacities of the individual venturers and the bonding capacity of the Joint Venture; and
5. Be signed by each of the venturers.

17:19-2.3 Statements from an authorized surety

(a) Any contractor proposing to submit bids on a public works project which requires a performance bond or a payment bond, or both, shall cause to be submitted with its DBC-36R (see N.J.A.C. 17:19-2.1(b)7.) a statement of the contractor's bonding capacity. The statement shall be contained on a standardized form prepared by the DBC and shall be from a surety authorized to issue bid bonds, performance bonds and payment bonds in the State of New Jersey. This statement shall be used by the DBC in calculating the applicant's single project rating and aggregate rating, pursuant to N.J.A.C. 17:19-2.7 and 17:19-2.8.

(b) A contractor who does not provide a statement of bonding capacity from an authorized surety shall not be eligible to bid on any projects for which a bond is necessary, but may be eligible to bid on any project for which a bond is not required, within the rating limits described in N.J.A.C. 17:19-2.7 and 17:19-2.8.

(c) In the event that a contractor obtains the required bonding statement subsequent to being classified and rated under (b) above, the contractor may apply for a conversion of its classification and ratings. Such a conversion shall be a prerequisite to the receipt by the contractor of any plans, specifications, proposals and associated documents for the preparation of a competitive bid on a project requiring a bid, performance or payment bond.

(d) Where two or more contractors holding valid classifications and ratings propose to form a Joint Venture for the purpose of bidding on a project, the Joint Venture shall submit with its Joint Venture Statement (see N.J.A.C. 17:19-2.2) a statement from an authorized surety of the Joint Venture's bonding capacity.

17:19-2.4 Performance ratings

(a) For any contractor proposing to submit bids on public work, a performance rating shall be determined. The rating shall be based on a scale of one through ten, with ten as the best, and with five as the minimum satisfactory grade.

(b) For any applicant who has no prior public work experience with the State of New Jersey, the performance rating shall be based on an evaluation of the applicant's references and past experience on private sector projects, as identified in the applicant's DBC-36R form (N.J.A.C. 17:19-2.1(b) 5).

(c) For any applicant who has prior public works experience with the State of New Jersey, a performance rating shall be based on the project evaluations done for those State projects, as follows:

1. A project evaluation shall be made for each of the prime contractors on a public works project. The evaluation shall be made by no less than two persons employed by the State and directly involved in the management, supervision or inspection of the project. The evaluators for a given project shall be appointed by the Director or his designee.

2. Project evaluations shall be presented on a standardized form (DBC-67) prepared by the DBC and shall be filed with the DBC within 30 days of final completion of the contractor's work on the project. Where necessary, interim evaluations may also be prepared and filed as required.

3. While the Director may establish special evaluation criteria for special projects, in general a project evaluation shall be based on but not limited to the following factors:

- i. Schedule adherence, including job planning, manning and submissions;
- ii. Workmanship;
- iii. Supervision;
- iv. Subcontractor performance;
- v. Compliance with specified materials and procedures;
- vi. Cooperation with other prime contractors;
- vii. Completion of punch list items and prompt furnishing of closeout documents;
- viii. Timely and cooperative processing of change orders; and
- ix. Affirmative Action compliance.

4. A contractor's performance rating shall be calculated as the average of the various project evaluations.

(d) The performance ratings of contractors shall be updated as State work is completed and as these contractors bid on other projects.

(e) A contractor shall be notified of a project evaluation or performance rating which would adversely affect the contractor's single project rating, aggregate project rating or ultimate classification. The contractor shall be afforded an opportunity to respond to such adverse evaluation or rating.

(f) Where a contractor receives a project evaluation or a performance rating significantly below five, and where the contractor's performance exhibits a disregard for the standards of the DBC, the DBC may institute suspension or debarment proceedings against that contractor, pursuant to N.J.A.C. 17:19-3.1, et seq.

17:19-2.5 Bidders to be classified

(a) Upon receipt of the completed DBC-36R, the Director or his designee shall classify the applicant as to the trade, character, and the dollar value of the public work on which the applicant shall be qualified to submit bids. Classifications will be based on the information contained in and with the DBC-36R and on the contractor's performance rating. Applicants shall be classified as to the trades listed in N.J.A.C. 17:19-2.6; as to the dollar value of individual State projects for which they may bid pursuant to the Single Project Rating Limit in N.J.A.C. 17:19-2.7; and as to the dollar value of total projects on which they may work at any given time pursuant to the Aggregate Rating Limit in N.J.A.C. 17:19-2.8.

(b) Where classification or rating of a contractor is based on a DBC-36R, the classification of rating shall be effective for a period of seven months from the date of the financial data disclosed in the DBC-36R. No later than 30 days prior to the expiration of the classification or rating, a contractor may apply in writing for a single seven month extension of its classification or rating, or both, without filing a new DBC-36R.

1. In applying for an extension, the contractor shall submit a signed affidavit stating that the applicant's financial and

bonding status has not so substantially changed since its last submission of a DBC-36R that a change of classification or rating would be warranted. The Division of Building and Construction may verify this statement and request additional documentation before an extension is granted;

2. The Division shall grant or deny the extension no later than 10 days from receipt of the written extension request;

3. No more than one extension may be granted and, thereafter, a contractor shall submit an updated DBC-36R in order to continue its prequalified classification;

4. The extension of a classification or rating shall be effective for a period of seven months from the notice of extension.

(c) Where a contractor has not been granted an extension or where an extension period is expiring, no later than 20 days prior to the expiration date of the contractor's classification or rating the contractor shall file an updated DBC-36R with the DBC. Based on this DBC-36R, the DBC shall reclassify the contractor, as appropriate.

(d) Where, in the course of a seven month classification period, the financial or bonding status of a contractor changes so substantially as to warrant a change of classification or rating, the contractor shall forthwith notify the Division in writing.

1. With this notice, the contractor may also request a change of classification or rating.

2. The DBC shall review the request for revision and issue a decision no later than 20 days from the date of the request.

3. Any change of classification or rating shall be effective only for the remainder of the original seven month period.

17:19-2.6 Trade classifications

(a) In order to be classified for a given trade, a contractor must have successfully completed at least two projects in that trade within the previous five years. These projects may have been either public projects or private sector projects, or a combination of the two.

(b) The trades for which an applicant may request prequalification are as follows:

C007 General Construction (Single Prime)	C029 Structural Steel & Ornamental Iron
C008 General Construction (Multiple Primes)	C030 Plumbing
C009 General Construction/Alterations & Additions	C031 Oil & Gas Burners
C010 Partitions/Ceilings	C032 Refrigeration
C011 Doors & Hardware	C034 Service Station
C012 Windows	C039 HVAC
C013 Siding & Gutters	C040 Solar Installation Active
C014 Carpeting	C041 Insulation/Mechanical
C015 Flooring/Tile	C042 Incinerators
C016 Millwork	C043 Control Systems
C017 Insulation	C044 Air Balancing & Testing
C018 Acoustical	C047 Electrical
C019 Concrete/Foundation Footings/Masonry Work	C048 Communication Systems
C020 Guniting	C049 Fire Alarm/Signal Systems
C021 Demolition	C050 Security/Intrusion Alarms
C022 Fencing	C054 Site Work
C023 Solar Installation Passive	C055 Sewage & Water Treatment
C024 Historical Renovation	

C056 Sewer Piping & Storm Drains	C083 Bulkhead & Docks
C057 Landscape Constr.	C084 Jetty & Breakwater
C058 Underground Water & Utilities	C085 Dredging
C059 Road Constr. & Paving	C086 Pile Driving
C060 Athletic Fields/Tracks/Courts	C089 Prefab. Bldgs.
C061 Storage Tanks	C090 Prefab Music/Sound/Clean Rooms
C062 Pumping Stations	C091 Relocatable Bldgs.
C063 Waste Disposal	C093 Asbestos Removal/Treatment
C064 Parking Control Systems	C094 Waste Removal Toxic/Hazardous
C068 Roofing-Built Up	C097 Prison Equipment Systems
C069 Roofing-Metal	C098 Energy Management
C070 Roofing-Tile/Slate/Shingles	C099 Elevators
C071 Roofing-Membrane	C100 Test Labs
C072 Roofing-Urethane	C101 Test Borings
C073 Caulking & Waterproofing	C102 Well Drilling
C077 Painting-General	C104 Food Service Equipment
C078 Painting-Tanks/Steel Structures/Elevated Structures	C105 School Library Furniture
C079 Painting-Historical Sites	C106 Lab Furniture/Equipment
C080 Sandblasting	C107 Seating-Auditorium Bleachers

(c) A contractor who is prequalified in trade C008, General Construction, (Multiple Prime), shall also be deemed prequalified for the following trades:

C009	C017	C057	C090
C010	C019	C059	C097
C011	C021	C062	C104
C012	C022	C073	C105
C015	C023	C080	C106
C016	C054	C089	C107

(d) A contractor who is prequalified in trade C008, General Construction (Multiple Prime), shall also be eligible to bid upon contracts including the following speciality trades but shall be required to engage a sub-contractor who is prequalified in the speciality trades listed:

C013	C060	C071
C014	C061	C072
C018	C068	C091
C020	C069	C099
C034	C070	

(e) A contractor who is prequalified in trade C009, General Construction/Alterations & Additions, shall also be deemed prequalified for the following trades:

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C010	C017	C054	C080
C011	C019	C057	C089
C012	C021	C059	
C015	C022	C073	
C016	C023	C077	

(f) A contractor who is prequalified in trade C009, General Construction/Alterations & Additions shall also be eligible to bid upon contracts including the following specialty trades, but shall be required to engage a subcontractor who is prequalified in the specialty trades listed:

C013	C061	C071
C014	C068	C072
C018	C069	C091
C020	C070	C099
C034		

(g) A contractor who is prequalified in trade C030, Plumbing, shall also be deemed prequalified in trade C041.

(h) A contractor who is prequalified in trade C030, Plumbing, shall also be eligible to bid upon contracts including the following specialty trades, but shall be required to engage a subcontractor who is prequalified in the specialty trades listed:

C055	C056	C058	C062
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(i) A contractor who is prequalified in trade C039, HVAC, shall also be deemed prequalified for the following trades:

C031	C033	C041
C032	C040	C042

(j) A contractor who is prequalified in trade C039, HVAC, shall also be eligible to bid upon contracts including the following specialty trades, but shall be required to engage a subcontractor who is prequalified in the specialty trades listed:

C043	C090
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(k) A contractor who is prequalified in trade C047, Electrical, shall be deemed prequalified for the following trades:

C048	C064
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(l) A contractor who is prequalified in trade C047, Electrical, shall also be eligible to bid upon contracts including the following trades, but shall be required to engage a subcontractor who is prequalified in the specialty trades listed:

C043	C049	C050
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(m) For each trade classification, the Director or his designee shall give each applicant a single project rating and an aggregate rating based upon an analysis of the completed DBC-36R. The single project rating shall be the dollar amount of the largest project for that trade or trades for which the contractor qualifies. The aggregate rating shall be the total amount of work which the contractor is permitted to perform at any one time in all trades combined.

17:19-2.7 Single project rating limit

(a) A contractor's single project rating shall limit the size and type of project for which a contractor is eligible. The single project rating shall be based on three factors:

1. The dollar value of the single largest project completed by the applicant within the past five years;

2. The contractor's performance rating as described in N.J.A.C. 17:19-2.4; and,

3. The contractor's bonding capacity, as described in N.J.A.C. 17:19-2.3.

(b) In no event shall a contractor's single project rating for any project requiring a bond exceed the contractor's single project bonding capacity.

(c) Where a contractor's performance grade is at least 5.0, the contractor shall be assigned a single project rating limit of 1.5 times the dollar value of the largest project completed by the contractor within the last five years, but not to exceed the contractor's bonding capacity for any project requiring a bond.

(d) However, where a contractor's performance rating is greater than 5.0, the contractor may be assigned a single project rating up to three times the dollar value of its largest completed project within the past five years, but not to exceed the contractor's bonding capacity for a project requiring a bond. In such a case, the specific increase in a contractor's single project rating shall be based on the magnitude of the contractor's performance rating and on the nature, volume and dollar value of the projects which resulted in that performance rating.

(e) Where a contractor has not provided a formal statement of bonding capacity from an authorized surety pursuant to N.J.A.C. 17:19-2.2, that contractor's single project rating shall be 1.5 times its largest completed project within the past five years, irrespective of whether its performance rating exceeds 5.0. Further, that contractor may only bid on projects for which a bond is not required.

(f) When the contractor's performance rating is less than 5.0, the Director may reject the application or assign a prequalification rating less than that provided for in (c) above, based on all factors relevant to the contractor's ability to perform.

(g) Where two or more contractors, each holding valid classifications and ratings from the DBC, propose to form a Joint Venture for the purpose of bidding on a project, the single project rating of the Joint Venture shall be the sum of the individual single project ratings of the venturers, but not to exceed the bonding capacity of the Joint Venture.

(h) Where a project evaluation report is received by the Division which would significantly and adversely affect a contractor's existing single project rating, the DBC shall recalculate the contractor's rating and issue an amended rating for use during the remainder of the contractor's seven month rating period (see N.J.A.C. 17:19-2.5).

(i) Where a contractor objects to a single project rating limit, or any amended rating, issued by the DBC the contractor shall be afforded an opportunity for a hearing pursuant to N.J.A.C. 17:19-2.10.

17:19-2.8 Aggregate rating limit

(a) A contractor's aggregate rating shall limit the dollar value of State contracts which the contractor may perform at any given time. The aggregate rating limit shall be based on four factors:

1. The contractor's net current assets reported in its DBC-36R;

2. Any lines of credit available to the contractor;

3. The contractor's bonding capacity, as described in N.J.A.C. 17:19-2.3; and,

4. The contractor's performance rating as described in N.J.A.C. 17:19-2.4.

(b) Net current assets shall be determined according to generally accepted accounting principles, but may not include:

1. Any assets not in the name of the contractor;
2. Any past due accounts;
3. Any fixed assets or other assets which either are not liquid or are not readily convertible to cash;
4. Securities which are not readily saleable;
5. Securities which have been pledged;
6. The cash surrender value of a life insurance policy on the contractor unless that value is verified in writing from the insurance company; and,
7. Lines of credit available to the contractor.

(c) In no event may a contractor's aggregate rating exceed the contractor's aggregate bonding capacity, for projects requiring a bond.

(d) Where a contractor's performance rating is at least 5.0, the contractor's aggregate rating shall be calculated as follows:

1. Multiply the contractor's net current assets according to the following table:

Net Current Assets	Multiplier
\$1-10,000	6
\$10,001 - 10,000	8
\$20,001 - 80,000	10
\$80,001 - and over	12

2. To the figure obtained above, add any verified, valid line of credit from a responsible lending institution available to the contractor. The total, up to the contractor's bonding capacity, is the aggregate rating limit for projects requiring a bond.

(e) However, where a contractor's performance grade exceeds 5.0, the contractor may be assigned an aggregating rating for projects requiring bonds, which is up to 140 percent of the total obtained in (d)2, above but not to exceed its bonding capacity.

(f) Where a contractor has not provided a bonding statement as required in N.J.A.C. 17:19-2.3, the contractor's aggregate rating shall be equal to the total obtained in (d)2 above, irrespective of whether the contractor's performance grade exceeds 5.0. Further, the contractor may bid only on projects which do not require any bond.

(g) When the contractor's performance rating is less than 5.0, the Director may reject the application or assign a pre-qualification rating less than that provided for in N.J.A.C. 17:19-2.7(d), based on all factors relevant to contractor's ability to perform.

(h) Where two or more contractors, each holding valid classifications and ratings from the DBC, propose to form a Joint Venture for the purpose of bidding on a project, the aggregate rating of the Joint Venture shall be the sum of the individual aggregate ratings of the venturers, but not to exceed the bonding capacity of the Joint Venture.

(i) Where a project evaluation report is received by the DBC which would significantly and adversely affect the contractor's existing aggregate rating, the DBC shall recalculate the contractor's rating and issue an amended rating for use during the remainder of the contractor's seven month rating period (see N.J.A.C. 17:19-2.4).

(j) Where a contractor objects to an aggregate rating limit, or any amended rating, issued by the DBC, the contractor

shall be afforded an opportunity for a hearing pursuant to N.J.A.C. 17:19-2.10.

(k) Upon adoption of these rules, in the event that the procedures described herein produce an aggregate rating for a contractor which is less than the contractor's existing aggregate rating, the Director shall consider an extension of the existing rating through June 30, 1985 providing that the following conditions are met:

1. The contractor shall have at least three performance evaluations on file for projects completed in the past three years with none less than 5.0 or the equivalent;

2. The contractor shall have maintained a continuous classification for a period not less than three years immediately preceding the adoption of these rules;

3. The contractor shall not have experienced any reductions in ratings for whatever reason, during the three year period immediately preceding the adoption of these rules; and,

4. The contractor shall make written application and affirmation of these facts to the Director no later than 45 days following the effective date of these rules.

17:19-2.9 Rejection of bid upon subsequent development affecting bidder's responsibility

The Director may reject any bid, and deny an award to a contractor at any time prior to the actual award of a contract, where there have been developments subsequent to the latest classification of such bidder which, in the opinion of the Director would substantially affect the rating and qualifications of the bidder. Prior to taking any such action, the Director shall notify the bidder and afford him an opportunity, pursuant to N.J.A.C. 17:19-2.10, to present information which might tend to substantiate the existing rating and qualification of the contractor.

17:19-2.10 Classification notice and hearing

(a) The Director shall notify an applicant to the trade classifications, single project rating and aggregate rating assigned to the contractor no later than eight days, from the receipt by the DBC of the Applicant's DBC-36R, or Joint Venture statement, or any additional information requested by the DBC whichever date is later.

(b) Where a contractor objects to a reclassification or rating, the contractor may request an administrative review before an impartial Prequalification Review Committee, for purposes of clarifying any of the information presented to the DBC, which might warrant a revision of the contractor's classification or rating. A request for review shall:

1. Be made in writing to the Director no later than 15 days of the date of the Classification Notice; and,

2. State the basis for the contractor's objection to the classification or rating, and the reasons which might warrant a revision.

(c) Where a bidder objects to the classification or rating of any other bidder on a contract, the objector may request an administrative review before an impartial Prequalification Review Committee, for purposes of reviewing the information upon which the classification or rating was based. A request for review shall:

1. Be made in writing to the Director, with a copy to the contractor whose classification or rating is being challenged, no later than three working days from the date of the bid opening or three working days prior to the proposed date of the contract award, whichever date is sooner; and,

2. State with specificity the basis for the challenge, and the alleged facts which would warrant a revision of the classification or rating.

(d) Upon receipt of a request for an administrative review, the Director shall appoint a Prequalification Review Committee for purposes of meeting with the contractor whose classification is the subject of review and with any objector to the contractor's classification.

1. The members of the Committee shall include personnel who have not previously participated in the evaluation of the contractor whose classification is the subject of review;

2. The Prequalification Review Committee shall convene a hearing, which may be attended by the contractor and any objector, no later than 10 days from the receipt of the request for review. The Committee shall hear the presentation of the contractor and any objector, review the information, and forthwith report its recommendation in writing to the Director.

3. The Director shall render a written decision to the contractor and any objector no later than 10 days from the date of the Committee's hearing.

4. Wherever possible, the Director shall render his decision no later than 12 days prior to the date fixed for the next bid opening for which the contractor, whose classification is subject to review, might be qualified or disqualified to bid as a result of any revision of its classification.

(e) During the course of any administrative review process, the contractor whose classification is subject to review shall be eligible to bid on State projects, at the ratings in effect prior to the commencement of the review process. If there is a change in rating as a result of the review, the revised rating shall become effective upon the date of the Director's decision.

17:19-2.11 Special prequalification requirements

(a) The Director may establish appropriate and special prequalification requirements for a given project as may be necessary in order to ensure competitive bidding for that project or as may be dictated by the unique or specialized nature of the work to be performed on that project.

(b) The Director may establish appropriate and special prequalification requirements for a given trade classification as may be necessary in order to ensure that bidders are in conformity with the latest technical or safety developments in that trade. Notice of any such special requirements will be duly given to all previously prequalified contractors and will be appropriately published.

17:19-2.12 Effective dates and effect of classifications and ratings

(a) A classification or rating resulting from the filing of a DBC-36R shall be effective for seven months from the date of the financial data contained in the DBC-36R.

(b) The extension of a classification or rating, resulting from the filing of an affidavit pursuant to N.J.A.C. 17:19-2.5(b), shall be effective for seven months from the date of the extension notice.

(c) The revision or amendment of a classification or rating, resulting from an administrative review or an application for revision, shall be effective only for the unexpired remainder of the existing seven month period.

(d) In order to be an eligible bidder for a project, a contractor must have been assigned by the DBC a valid classification and rating which is appropriate to the project and which is effective as of the date of the bid opening for the project. Any classification or rating which, as of the date of the bid opening, either has expired or has not yet been assigned, shall not be valid for that bid.

(e) Where a question arises as to whether a bid for a project is within a bidder's existing classification or rating limits, the bid shall be opened provisionally, and if it appears that the bid is at variance with the contractor's trade classification or dollar value ratings, the bid shall be rejected.

17:19-2.13 Award of contracts exceeding aggregate rating limits

(a) A contractor may not be awarded a contract which, when added to the uncompleted portions of any other currently held contracts from whatever source, would exceed the contractor's aggregate rating limit. For example, for purposes of determining the dollar value of currently held contracts, contracts from the State of New Jersey, from other governmental jurisdictions and from the private sector shall be counted.

(b) Where there is a question of whether a contractor's aggregate rating limit can accommodate a given award, the contractor's bid for that contract shall be opened in the normal course, and the contractor's eligibility shall thereafter be computed.

(c) A contractor shall include with each bid a statement of the current value and status of its outstanding contracts, and whether the award of the given contract would exceed its aggregate rating limit. Whether a contractor is eligible for a given award shall be determined based on the dollar value of the given contract, the contractor's aggregate rating limit as of the bid opening date, and the dollar value of the contractor's uncompleted contract work as of the bid opening date.

1. However, where a contractor provides with its bid clear and convincing evidence that its outstanding balance of contracts will be within its aggregate rating limit by the time the bid project is scheduled to begin, the Director may accept that contractor's bid on that condition. The Director shall base this determination on the complexity of the bid project, the duration of the bid project and the risk that the State will encounter if the bid is accepted.

(d) Where a contractor successfully bids for two or more contracts which, either in combination with each other or in combination with the uncompleted portions of other currently held contracts, would exceed the contractor's aggregate rating limit, the contractor shall be awarded only those contracts which in combination fall within the contractor's aggregate rating limit, as follows:

1. Contracts shall be considered for that contractor in chronological order of the bid opening dates; and,

2. Where a given contract award would exceed the contractor's aggregate limit, the contractor shall not be eligible for that award.

(e) As a contractor completes existing contracts or discrete portions thereof, the contractor's eligibility for new contracts within its existing aggregate rating shall be adjusted accordingly.

17:19-2.14 Removal of bidder from approved list

Where the Director determines that a prospective bidder is unqualified to submit bids on any public work, he shall so notify the prospective bidder of the proposed debarment, suspension or disqualification. In such circumstances, the contested case hearing provisions of N.J.A.C. 17:19-3.1, et seq. shall be followed.

(a)**STATE LOTTERY COMMISSION****Lottery License
Transfer of Ownership****Proposed Amendment: N.J.A.C. 17:20-4.10**

Authorized By: New Jersey Lottery Commission, Hazel Frank Gluck, Executive Director.

Authority: N.J.S.A. 5:9-7(a)(b) and (f).

Interested persons may submit in writing, data, views, or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about the submissions and responses, should be addressed to:

Hazel Frank Gluck
Executive Director
New Jersey State Lottery Commission
CN 041
Trenton, New Jersey 08625

The Division of Lottery thereafter may adopt this proposal with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Upon adoption of these rules, a notice of the adoption shall be published in the Register. The adopted rules become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1984-536.

The agency proposal follows:

Summary

The proposed amendments clarify the rule regarding license transfers to emphasize that any transfer must be approved by the Director of the State Lottery. It would also add a requirement that a licensed lottery ticket sales agent notify the State Lottery when advertising the sale of the licensed business. Automatic termination of non-complying transfers is abandoned in favor of the Lottery's normal license suspension and revocation process. A framework for dealing with the transfer of title to a licensed business is established, and the Director is given authority to establish other procedures to facilitate such transfers.

Social Impact

Most licensed lottery ticket sales agents are owners of small businesses such as candy and stationery stores, liquor stores and delicatessens. Such businesses are bought and sold frequently, and there is an ongoing market for advertisements of purchase opportunities. By increasing its awareness of a pending sale the State Lottery will be able to safeguard the mercantile public by informing them of their rights and responsibilities with regard to the transfer of a lottery license. The general public will receive increased (albeit indirect) benefit by the maintenance of a high-caliber agent network.

Economic Impact

By strengthening its monitoring of agents' license transfers the State Lottery will avoid lost revenues which can flow from

the closing of an agency with outstanding debts to the Lottery. The additional reporting requirements to be placed on licensed agents are deemed to be minimal.

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

17:20-4.10 Transfers of ownership (of license premise)

(a) A lottery license issued pursuant to these regulations is not transferable **without the approval of the Director**.

(b) The Lottery [Commission] must be notified in writing at least 30 days prior to any change in ownership or any corporate stock transfer of **an agent** [any licensed business by both the seller and the purchaser of the business]. **Immediate written notice is also due when an agent advertises the sale of the licensed business.**

(c) If the business to which a license is issued or the ownership thereof, including ownership of shares of stock, substantially changes, the Lottery license [is automatically terminated] **may be suspended immediately and, after notice to the agent, revoked.**

(d) The new owner(s) of such a business may be issued a temporary license for a period not to exceed 90 days during which an application for licensure may be filed and reviewed, **provided that the Division has received timely notice as described above.**

(e) **The Director may set a date on which responsibility passes from the current agent to the prospective agent with respect to obligations to and compensation from the Lottery. Such date may be the closing date submitted to the Division by the parties. The Director may also establish other procedures to facilitate such events.**

(b)**STATE LOTTERY COMMISSION****Lottery Tickets
Distribution****Proposed Amendment: N.J.A.C. 17:20-6.1**

Authorized By: New Jersey Lottery Commission, Hazel Frank Gluck, Executive Director.

Authority: N.J.S.A. 5:9-7(a)(b) and (f).

Interested persons may submit in writing, data, views, or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Hazel Frank Gluck
Executive Director
New Jersey State Lottery Commission
CN 041
Trenton, New Jersey 08625

The Division of Lottery thereafter may adopt this proposal with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Upon adoption of these rules, a notice of the adoption shall be published in the Register. The adopted rules become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1984-535.

The agency proposal follows:

Summary

The proposed amendments would formalize present field practices by allowing licensed lottery ticket sales agents to delegate authority to employees in dealing with the State Lottery. The use of an agency identification card would also be made discretionary with the Director, in further recognition of Division practice since the shift from a banking network to courier pickup and delivery of all Lottery tickets and settlements. The other subjects addressed by the proposed amendment are grammatical and linguistic.

Social Impact

The proposed amendments will permit licensed lottery ticket sales agents to delegate to their employees the authority to conduct transactions with the Lottery, although the lottery agent remains liable for the employee's actions.

Economic Impact

Because the proposed amendments makes no substantive change in present practices, no economic impact is anticipated.

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

17:20-6.1 Distribution of lottery tickets; **conduct of business**

(a) After an [agent's] application has been accepted and approved by the Director, the agent shall be assigned to a [bank] **courier**.

(b) [The State Lottery will issue to each licensed agent a wallet-size agent identification card which must be displayed by him or her or his or her designee when picking up lottery tickets from or returning said lottery tickets to authorized banks.] **An agent may delegate authority to an employee regarding transactions with the Lottery. However, the agent shall remain liable to the Lottery regardless of what the delegee may do or fail to do.**

(c) **The Director may issue an identification card to any agent which, if issued, must be displayed whenever the agent transacts business with the Lottery or the courier.**

[(c)] (d) The agent accepts all tickets [received from the Lottery] in trust **for the Lottery**. Tickets in the hands of an agent are [his or her] **the agent's sole** responsibility and it is [his or her] **the agent's sole** duty as a fiduciary of the Lottery [to] either **to** return the tickets to the [bank] **Lottery** within the specified time or to remit the face value of the tickets to the Lottery, minus any commissions, bonuses [,] and reimbursements for redeemed tickets to which [he or she] **the agent** is entitled.

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Local Property Tax County Boards of Taxation

Proposed Amendments: N.J.A.C.

18:12A-1.9, 1.12, 1.13

Authorized By: John R. Baldwin, Director, Division of Taxation.

Authority: N.J.S.A. 54:3-14.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

John C. Raney
Superintendent
Local Property Branch
Division of Taxation
CN 52
Trenton, NJ 08646

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

This proposal is known as PRN 1984-539.

The agency proposal follows:

Summary

The Division of Taxation proposes to amend certain portions of the county tax board regulations in order to conform with intervening recent legislative revisions and locational changes which have occurred since the adoption of the affected regulations.

Chapter 393, Laws of 1981 eliminated boards of tax assessors; therefore, any references to them would be eliminated by these revisions. Chapter 45, Laws of 1983 reallocated various provisions of Chapter 2, Title 54 to Chapter 54A, Title 54, thus requiring appropriate change to the references in the regulations. Finally, the physical movement of the Tax Court facilities to its new location necessitated correction of reference to the former address.

Social Impact

These regulations are required by legislative mandate and are deemed necessary for the proper administration of the law. Appellant's legal counsel and the several county boards would be in a quandry without uniform rules and guidelines covering appeals to the county boards.

Economic Impact

These revisions involve minimal substantive change and mostly entail technical changes occasioned by new legislation. No adverse economic impact will result.

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

18:12A-1.9 Hearings

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

(f) When a case is set down for hearing, the assessor [or a member of the board of assessors] of the taxing district involved shall attend said hearing together with counsel for the taxing district, unless the board shall in individual cases decide otherwise.

(g)-(l) (No change.)

18:12A-1.12 Determination; judgments

(a) (No change.)

(b) In order to provide for a more orderly appeal procedure, county boards of taxation shall, effective immediately, institute the procedure herein described with respect to the issuance of judgments.

1.-4. (No change.)

5. Size and reproduction.

i. The judgment shall be uniform size 8½ x 11 inches and be such that it is capable of reproduction on a copier machine.

ii. Judgments must contain the following statement:

"The action of the county board of taxation may be reviewed by filing a complaint with the Tax Court within 45 days of the service of the judgment of the county board of taxation." [Address: Tax Court of New Jersey 08618. Mailing Address: P.O. Box 290, Trenton, New Jersey 08625.]

Address:

**Tax Court of New Jersey
Hughes Justice Complex
Trenton, New Jersey 08625
Mailing Address:
CN 972
Trenton, New Jersey 08625**

6. (No change.)

(c) (No change.)

18:12A-1.13 Freeze Act

When an assessment is subject to the "freeze" provisions of N.J.S.A. [54:2-43] **54:51A-8** or 54:3-26 . . .

(no change in remainder of rule)

(b)

DIVISION OF TAXATION

Gross Income Tax Setoff of Individual Liability

Proposed Amendment: N.J.A.C. 18:35-2.12

Authorized By: John R. Baldwin, Director, Division of Taxation.

Authority: N.J.S.A. 54A:9-8.1 through 8.3 (P.L. 1981, c.239) and 54A:9-17(a).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November

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14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Jack Silverstein
Chief Tax Counselor
Division of Taxation
50 Barrack Street
CN 269
Trenton, NJ 08646

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

This proposal is known as PRN 1984-540.

The agency proposal follows:

Summary

Based upon the experience of the Division of Taxation with the setoff program pursuant to P.L. 1981, c.239, the collection assistance fee by the Division of Taxation, which is deducted from the gross proceeds collected, is being reduced from 10 percent to five percent effective on and after January 1, 1985.

Social Impact

The proposed rule will affect State agencies which will be receiving a greater amount of the gross proceeds of collections from their debtors.

Economic Impact

A higher percentage of the amounts collected by the Division of Taxation on behalf of claimant agencies will now be remitted to the agencies due to lower administrative costs of the Division of Taxation, thus benefiting the agencies involved.

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

18:35-2.12 Disposition of proceeds collected, collection assistance fees

(a) (No change.)

(b) From the gross proceeds collected by the Division through setoff, the Division shall retain 10 percent. **On and after January 1, 1985 the Division shall retain five percent of such proceeds. The** [which] amount shall be charged to the respective claimant agency as a collection assistance fee **and may be** subject to adjustment based upon experience.

OTHER AGENCIES

(a)

NEW JERSEY HIGHWAY AUTHORITY GARDEN STATE PARKWAY

Central Purchasing and Sale of Surplus Personal Property

Proposed Amendments: N.J.A.C. 19:8-5 and 19:8-6

Authorized By: New Jersey Highway Authority,
George P. Zilocchi, Executive Director.

Authority: N.J.S.A. 27:12B-5(j) and (s), 27:12B-18,
and 27:12B-24.

Interested persons may submit in writing data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions and any inquiries about submissions and responses should be addressed to:

George P. Zilocchi, Executive Director
New Jersey Highway Authority
Garden State Parkway
Woodbridge, New Jersey 07095

At the close of the period for comments, the Highway Authority may adopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Upon adoption of these rules, a notice of the adoption shall be published in the Register. The adopted rules shall become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1984-545.

The agency proposal follows:

Summary

The proposed amendments increase bidding threshold amounts to \$7,500 for purchase of commodities and services. The amendments bring the Authority's regulations into conformity with Chapter 128, Public Laws of 1984, which increased the bidding threshold amount to \$7,500 for contracts involving the New Jersey Highway Authority and other independent autonomous authorities. The amendments and Chapter 128, Public Laws of 1984, adjust bid threshold amounts to reflect current expenses and provide the flexibility needed to make further adjustments in the bid thresholds as prices of commodities and services increase.

Social Impact

The proposed amendments appear to have little or no social impact since its purpose is simply to bring the Authority's purchasing regulations into conformity with public policy as enunciated by the Legislature in Chapter 128, Public Laws of 1984. The amendments permit the purchase and sale of goods and services by the Authority without advertising when the amount in question is less than \$7,500.00.

Economic Impact

The proposed amendment should not result in any economic cost or waste to the public. As indicated above, its purpose is simply to bring the Authority's purchasing regulations into conformity with public policy as enunciated by the Legislature in Chapter 128, Public Laws of 1984. The economic impact of the amendments affects only the Authority since they modify the Authority's purchasing procedures.

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

SUBCHAPTER 5. CENTRAL PURCHASING

19:8-5.3 Purchases involving [\$2,500] **\$7,500** and over (excluding professional services)

(a) All purchases of personal property or services, where the aggregate cost, contract price or amount involved is [\$2,500] **\$7,500** or over, as anticipated by the Director of Central Purchasing, shall be made only after public advertisement for competitive bids, unless the Authority specifically waives the requirement of public advertising as to a particular transaction.

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

(e) In the event that amendment of any pertinent information supplied prospective bidders becomes necessary, notice of the change(s) shall be given to all prospective bidders at least three days prior to the opening of the bids. If such notice is given orally, it shall be timely confirmed in writing by the **Director of Central Purchasing**.

(f) (No change.)

(g) When the requisitioning unit specifies either the source or the brand name (or names) of personal property or services of a value of [\$2,500] **\$7,500** or more to be acquired, the department or staff division head* of the requisitioning unit shall file with the Division of Central Purchasing a memorandum with a copy to the Comptroller, stating the basis and reasons for the particular selection. Such acquisition shall be made only upon the concurring recommendation of the Director of Central Purchasing and the approval of the Chairman, or his designee. Upon such concurrence and approval the source or brand name designation shall apply to all succeeding purchases until changed by appropriate action, or until a period of two years has elapsed from the memorandum date, whichever first occurs.

*Whenever in these regulations the term "division head" is used, the same shall be understood to mean a division head who reports directly to the [commissioners.] **Executive Director**.

(h) Awards involving acquisitions where the aggregate cost, contract price or amount involved is equal to or exceeds [\$15,000] **\$25,000** shall be made only after written recommendation by the Director of Central Purchasing and approved by the Authority.

(i) Awards involving [\$2,500] **\$7,500** or more, may be made to other than the lowest bidder for valid reason. Action of this nature shall be taken only on receipt by, and acceptable to, the Director of Central Purchasing a written recommendation from the head of the acquiring Department or Division, approved by the Chairman, or his designee, with copies directed to the General Attorney and the Comptroller.

19:8-5.4 Purchase under [\$2,500] **\$7,500** [(excluding professional services)]

(a) In the case of purchases where the aggregate cost, contract price or amount involved is equal to or exceeds [\$1,000], **\$2,500** but is less than [\$2,500] **\$7,500**, written bids shall be solicited by mail from all known interested vendors. Where only one vendor is available, such fact shall be indicated on the related purchase order. Bids shall be solicited on the proper quotation form before the time fixed for the public opening.

(b) Where the acquisition involves less than [\$1,000] **\$2,500**, bids may be solicited by telephone. Whenever feasible, at least three sources of supply shall be so contacted, and a record of all such telephone solicitations shall be maintained. Additionally, to the extent possible, written confirmation of all such bids shall be obtained.

(c) When the requisitioning unit specifies:

1. Initially the source or brand name (or names) of personal property of a value of from [\$1,000] **\$2,500** to [\$2,500]

\$7,500 to be acquired, the department or division head of the requisitioning unit shall file with the Division of Central Purchasing a memorandum, with a copy to the Comptroller, stating the basis and reasons for the particular selection. Such memorandum must bear the concurring recommendation of the Director of Central Purchasing and the approval of the Chairman, or his designee. Upon such concurrence and approval the source or brand name designation shall apply to all succeeding purchases until changed by appropriate action, or until a period of two years has elapsed from the memorandum date, whichever first occurs. The date of such memorandum shall be stated on the related purchase order, excluding vendor's copies. A memorandum shall not be required when attachments, parts, or supplies are requested for a unit of equipment which can be supplied by only one vendor.

2. The preferred source of services of a value of from [\$1,000] **\$2,500** to [\$2,500] **\$7,500** to be acquired, a memorandum as described in this Section, shall be required for the initial and succeeding purchases, if any.

(d) In the event that amendment of any pertinent information supplied prospective bidders becomes necessary, notice of the changes shall be given to all prospective bidders at least three days prior to the opening of the bids. If such notice is given orally, it shall be timely confirmed in writing by the Director of Central Purchasing. [with a copy to the Comptroller.]

(e) Awards involving [\$1,000] **\$2,500** to [\$2,500] **\$7,500** may be made to other than the lowest bidder for valid reason. Action of this nature shall be taken only on receipt by and acceptable to the Director of Central purchasing a written recommendation from the head of the acquiring Department or Division approved by the Chairman, or his designee, with copies directed to the General Attorney and the Comptroller.

19:8-5.5 Repeat purchases

In the case of personal property which is procured repeatedly, awards may be made at various times to the successful bidder (whose bid was secured in accordance with these regulations) at the same prices as those in the original award for a period of six months from the date of the bid opening, or until [\$2,500] **\$7,500** of such personal property shall be acquired from such bidder, whichever event shall first occur. If the prices charged by the successful bidder differ from those in the original award, such acquisitions shall be in accordance with these regulations.

19:8-5.6 Emergency purchases

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

(c) Relative to any emergency purchase involving an expenditure of [\$1,000] **\$2,500** or more, the department or division head of the acquiring unit shall direct to the Division of Central Purchasing a confirming memorandum certifying the existence and cause of the emergency and advancing the reasons the immediate acquisition was necessary, with a copy to the Comptroller. Such memorandum shall bear the approval of the Chairman, or his designee. If the expenditure is [\$2,500] **\$7,500** or over, the purchase shall be submitted by the Director of Central Purchasing to the Commissioners for ratification at the next regularly scheduled Authority meeting.

(d) When an emergency purchase involves less than [\$1,000], an appropriate notation of the necessity for the immediate acquisition and of the existence and cause of the emergency shall be made on the purchase request by the party initiating same.] **\$2,500, but more than \$1,000, the department or division head of the acquiring unit shall direct to the**

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Division of Central Purchasing a confirming memorandum certifying the existence and cause of the emergency and advancing the reasons the immediate acquisition was necessary, with a copy to the Comptroller.

(e) (No change.)

19:8-5.7 Purchases on limited purchase orders

Purchases of materials, supplies or services of a value not exceeding [\$35,00] **\$75.00** may be made on limited purchase orders directly by employees so authorized in writing by the Chairman, or his designee, under procedures promulgated by the Comptroller. The limited purchase order is to be used to expedite the procurement of required minor items, and shall not be used to evade or avoid other Sections of these regulations, or to procure equipment. Also, except in extraordinary circumstances, materials and supplies stocked at central stores shall not be procured on limited purchase orders. To assure that such minor items are obtained advantageously, the Director of Central Purchasing shall furnish such guidance with respect to sources of supply and possible quantity purchases of repeat items as is necessary.

19:8-5.8 Purchases pursuant to price agreements

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

(c) Price agreements involving estimated expenditures of [\$15,000] **\$25,000** or over shall be approved by and executed in the manner specified by the Authority. In the absence of any specific direction by the Authority, the Chairman, or his designee, will execute all price agreements involving estimated expenditures of less than [\$15,000] **\$25,000**, except that the Director of Central Purchasing may execute all price agreements involving estimated expenditures of less than [\$2,500] **\$7,500**.

19:8-5.9 Receipt and opening of bids

(a) All bids solicited by advertising or by mail must be submitted in sealed envelopes on the appropriately signed quotation forms before the time fixed for the public opening. [Any bids received after the bidding has been closed shall be returned unopened.]

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

(i) Simultaneously with the public reading of the bids, a member of the Division of Central Purchasing shall prepare a summary of all bids timely submitted on a bid summary form. The original bid summary form shall be signed by the preparer, and the bid opener. A photocopy of the original bid summary shall be given to the **Internal** Audit Division at the conclusion of the bid opening. The required [typed] **final** copies of the bid summary form shall be signed and certified to by the Director of Central Purchasing.

(j) (No change.)

(k) **Any bids received after the bidding has been closed shall be rejected and processed by a member of the Division of Central Purchasing as follows:**

- 1. Time and date stamp the late bid envelope and note the time and date of receipt on the original bid summary form;**
- 2. Open and photocopy the contents of the late received bid and retain the photocopies in the pertinent bid file;**
- 3. Return the late bid to the concerned bidder.**

[(k)](l) A copy of the bid summary shall be forwarded to the requisitioning unit before award is made where the acquisition involves [\$2,500] **\$7,500** or more, and a copy shall accompany the related purchase documents when forwarded for processing.

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19:8-5.10 Tie bids

(a) In the event that bid prices submitted by two or more low responsible bidders are identical, the Director of Central Purchasing may award the contract at issue on a relative comparison of one or more of the following factors:

- 1. Delivery advantage, considering time; distance; convenience and facilities of the bidders;**
- 2. If practical, provide for contract award by splitting the award, with the concurrence of the tie bidders;**
- 3. If several items have already been awarded by actual low bids, the tie-bid items may be awarded in a manner that will grant equitable balance to the overall bid award;**
- 4. The fact that one of the low responsible tie bidders is a New Jersey based vendor, where the others are not;**
- 5. When none of the above distinguishable characteristics are available, or pertinent, the tie low bids shall be broken by either the toss of a coin or a drawing held in the presence of a member of the Internal Audit Division. If practical, the interested bidders may be invited to the Office of Central Purchasing to participate in the coin tossing or drawing. Such tie-breaking shall be noted on the bid summary.**

19:8-5.[10] 11 Rejection of bids

(a) When in the best interests of the Authority, any or all bids relative to an acquisition may be rejected in the following manner:

- Where the expenditure involved is [\$15,000] **\$25,000** or more, the Authority on the written recommendation of the Director of Central Purchasing may reject bids.
- Where the expenditure involved is [\$2,500] **\$7,500** but less than [\$15,000] **\$25,000**, the Chairman may reject bids. In such case a memorandum acceptable to the Director of Central purchasing, shall be filed, authorizing the rejection and signed by the Chairman, or his designee.
- Where the expenditure involved is less than [\$2,500] **\$7,500**, the Chairman, or his designee, may reject bids. In such case a memorandum acceptable to the Director of Central Purchasing shall be filed, authorizing the rejection and signed by the Chairman, or his designee.

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

19:8-5.[11] 12 Bid guarantees

(a) All bids submitted relative to acquisitions involving expenditures of [\$2,500] **\$7,500** or more [shall] **may** be [accompanied by] **required to provide** security amounting to not less than either ten per cent of the total bid price or any fixed amount which may be established **by the Director of Central Purchasing**. At the discretion of the Director of Central Purchasing, [deposits] **guarantees** may be required for bids amounting to less than [\$2,500] **\$7,500**. The guarantee shall be submitted in the form of a certified check payable to the Authority, but cashier's checks, money orders, surety corporation bid bonds or other good and valuable security may also be accepted. Failure to submit a bid [deposit] **guarantee** when required shall result in rejection of the bid.

(b) In the event any bidder fails to accept an award in accordance with his bid, the [security] **guarantee** submitted shall be immediately forfeited.

(c) (No change.)

19:8-5.[12] 13 Terms and conditions applicable to submission of bids

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

(e) With respect to bids submitted, the Authority retains the right to reject any or all of them, to waive informalities

and minor irregularities and to make awards at any time within [30] **45** calendar days of the public opening. If an award is not made within [30] **45** calendar days of a public opening, written extensions of time should be obtained from bidders whose bids remain under consideration.

(f)-(g) (No change.)

19:8-5.14 Bid errors

(a) **If an error is discovered after bid opening but before the purchase of personal property or services is awarded, the vendor may request that his bid be withdrawn. The decision to permit withdrawal of bid shall be based on the following essential conditions:**

1. Evidence of vendor good faith;
2. **The mistake is of so great a consequence that to enforce the purchase of personal property or services as actually made would be unconscionable;**
3. **That the matter as to which the mistake was made relates to a material feature of the purchase of personal property or services;**
4. **That the mistake occurred notwithstanding the exercise of reasonable care by the party making the mistake;**
5. **The vendor can get relief by way of cancellation without serious prejudice to the Authority.**

(b) **If during the evaluation of bids received, an obvious error made by a potential low bidder has been found, the Director of Central Purchasing shall notify the vendor, in writing, of that fact. Copies of that letter will be sent to all other vendors. The vendor will have five days after receipt of that letter to request withdrawal of his bid, but in no instance shall there be a bid modification. If the vendor fails to request withdrawal of his bid within the time frames noted above, he will waive his right to have the bid withdrawn.**

19:8-5.[13] 15 Purchase orders and contracts

(a) (No change.)

(b) In addition to the signatures required in subsection (a) above, all purchase orders involving expenditures of [\$1,000] **\$2,500** or more must bear the approval signature of the Chairman, or his designee.

(c) Except as otherwise authorized by the Authority, all contracts are to be executed by at least [five] **four** of the seven Commissioners for contracts involving [\$15,000] **\$25,000** or more, while those involving less than [\$15,000] **\$25,000** will be executed by the Chairman, or his designee.

(d) Purchase orders may be revised, reduced, increased, cancelled or otherwise amended by purchase order supplements prepared by the Director of Central Purchasing. Purchase order supplements may be issued to reduce a purchase order to any extent, but may not increase a related purchase order more than [\$50,00] **\$100.00**.

19:8-5.[14] 16 Late deliveries and late performance of services

(No change.)

19:8-5.[15] 17 Purchases under New Jersey State contracts

When it is deemed advisable and in the best interest of the Authority, the Director of Central Purchasing may recommend that equipment, goods, materials and supplies be purchased directly, without advertising, from vendors who hold contracts with the State of New Jersey for the furnishing of such items to the State. In such event, the Director of Central Purchasing will submit a memorandum to the Chairman, or his designee, which shall set forth the details of the proposed

acquisition and shall set forth the details of the proposed acquisition and shall state the reasons for proceeding under such State contract. No such acquisition shall be accomplished without the prior written approval of the Chairman, or his designee.

19:8-5.18 Public advertising threshold requirement

As provided in NJSA 27:12B-5.2, the public advertising requirement sum of \$7,500 may be adjusted by the Governor. Upon such notification, the Director of Central Purchasing shall timely confirm such authorized change to the Authority. All sections of these regulations, effected by subsequent adjustments, shall be appropriately administered as though amended accordingly.

SUBCHAPTER 6. SALE OF SURPLUS PERSONAL PROPERTY

19:8-6.1 Purpose and objective

(a) The purpose of these regulations is to establish and prescribe uniform general rules and procedures for the sale of surplus personal property after it has formally been declared surplus and a determination has been made by the Director of Central Purchasing for its sale [in accordance with resolution 1960-46]. No such sale shall be made unless accomplished in accordance with the regulations contained therein.

(b) (No change.)

19:8-6.2 Bids

(a) All sales of surplus personal property, where the aggregate anticipated proceeds are [\$2,500] **\$7,500** or over, as determined by the Director of Central Purchasing, shall be made only after public advertisement for competitive bids, unless the Authority specifically provides by resolution that the requirement of public advertising be waived as to a particular transaction. Any such public advertisement for competitive bids shall be approved in advance by the Chairman, or his designee. The concurrence of the General Attorney shall also be required in writing. Where the anticipated aggregate proceeds are between [\$200.00] **\$2,500** and [\$2,500] **\$7,500**, public advertising is not required and the Director of Central Purchasing may solicit sealed bids from known interested parties. Where the anticipated aggregate proceeds are less than [\$200.00] **\$2,500**, bids may be solicited by telephone in which event the successful bidder shall confirm same in writing. The Director of Central Purchasing's determination as to the anticipated proceeds from any sale of surplus personal property shall be given to the Chairman, or his designee, by memorandum with copies thereof to the General Attorney and the Comptroller.

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

(d) Employees may bid on surplus personal property being sold. Notices containing listings of adequately described items offered for sale shall be distributed to all department and division heads who shall circulate such notices to the employees under their supervision. Notices shall also be posted on all Authority bulletin boards. [Employees or the immediate family of the Division of Central Purchasing are excluded from submitting bids. Employees or the immediate family of the motor pool section are excluded from bidding on any vehicle(s) when offered for sale.]

(e) (No change.)

19:8-6.3 Invitation to bid and receipt and opening of bids

(a)-(h) (No change.)

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(i) Simultaneously with the public reading of the bids, a member of the Division of Central Purchasing shall prepare a summary of all bids timely submitted on a bid summary form. A member of the **Internal** Audit Division [of the Finance Department] shall also be present to witness the preparation. The original bid summary form shall be signed by the preparer, the bid opener and the witness who has verified the accuracy of the recorded read information. A photocopy of the original bid summary shall be given to the **Internal** Audit Division witness at the conclusion of the bid opening. The required [typed] **final** copies of the bid summary form shall be signed and certified to by the Director of Central Purchasing.

(j) (No change.)

(k) The sale of surplus personal property to the highest acceptable bidder shall not be confirmed without the prior written approval of the Chairman, or his designee. A photocopy of this approval shall be given to the [Audit Division] **General Audit Section of the Finance Department**.

19:8-6.6 Bid deposits

(a) Gross bids amounting to [\$1,000] **\$2,500** or more shall be accompanied by a bid deposit amounting to not less than ten per cent of the total bid price. However, at the discretion of the Director of Central Purchasing, deposits may be required for gross bids amounting to less than [\$1,000] **\$2,500**. When required, such deposit shall be submitted in the form of a certified check payable to the Authority; however, cashier's checks, money orders or cash may also be accepted. Failure to comply with this provision shall result in rejection of the bid unless specifically waived in writing by the Chairman, or his designee.

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

19:8-6.7 General terms and conditions

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

(e) Tie high bids shall be broken either by agreement of all tie bidders or by lot [at the bid opening]. Such tie-breaking shall be noted on the bid summary.

(f)-(g) (No change.)

(a)

ELECTION LAW ENFORCEMENT COMMISSION

Public Financing of Campaigns Primary and General Elections for the Office of Governor

Proposed Amendments: N.J.A.C. 19:25-15 and 19:25-16

Authorized By: Election Law Enforcement Commission, Frederick M. Herrmann, Executive Director.
Authority: N.J.S.A. 19:44A-38.

A **public hearing** concerning this proposal will be held on November 20, 1984 at 10:00 A.M. at:

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Offices of Election Law Enforcement Commission
28 West State Street, Suite 1215
Trenton, New Jersey

Interested persons may submit in writing, data, views or arguments relevant to the proposed rule on or before November 14, 1984, and may request an appearance at the public hearing by making a written request containing the name, address and phone number of the person wishing to testify and the approximate amount of time desired. These submissions, and any inquiries about submissions and responses, should be addressed to:

Gregory E. Nagy, Esq.
Election Law Enforcement Commission
28 West State Street, Suite 1215
Trenton, New Jersey 08608

The Election Law Enforcement Commission may thereafter adopt this proposal without further notice (see N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the New Jersey Register of the Notice of Adoption.

This proposal is known as PRN 1984-542.

The agency proposal follows:

Summary

The proposed amendments affect those regulations which govern the public financing of both the primary and general gubernatorial elections. The Election Law Enforcement Commission (hereafter, the Commission) is responsible for the administration of the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. (hereafter, the Act), which includes public financing of gubernatorial elections. The amendments contain changes to reflect the Commission's experience in administering the public financing program in the 1981 primary and general gubernatorial elections. The changes are as follows:

The current requirement that a candidate appoint a campaign treasurer and designate a depository bank account prior to receiving any contribution has been changed to provide that the notice of the campaign depository and campaign treasurer be made within ten days of receipt of a contribution or incurring an expenditure. This change reflects statutory amendments to the Act made by chapter 579 of the Laws of 1983. The affected sections are N.J.A.C. 19:25-15.4 and 19:25-16.5.

The requirement of Commission approval for establishing a matching fund account has been deleted from N.J.A.C. 19:25-15.7 and from the definition of "matching fund account" in N.J.A.C. 19:25-15.3 and 19:25-16.3. The Commission believes it no longer serves any useful purpose to require prior approval before the establishment of such accounts.

The requirement that a resident's address be given if different from a mailing address has been deleted and language setting forth the specific requirements of mailing addresses has been added to N.J.A.C. 19:25-15.8; 15.14; 15.17; 16.11 and 16.18.

The standards for attributing contributions from children have been expanded to set forth under what circumstances the contributions will be regarded as from the child rather than from a parent or guardian. N.J.A.C. 19:25-15.15 and 19:25-16.6.

The candidate will be required to file an original and one photocopy (rather than only an original) of a list of contributors eligible for matching funds, will be required to organize that list by deposit (rather than alphabetically) and will be

required to submit two (rather than one) photocopies of checks and other supporting documents. N.J.A.C. 19:25-15.17 and 19:25-16.18.

The statement of contributors required of qualified candidates will be sorted in the order listed pursuant to N.J.A.C. 19:25-15.17(d) (rather than alphabetically).

The period for maintaining records has been increased from three to four years. N.J.A.C. 19:25-15.41 and 19:25-16.31. This change conforms to the record retention requirements of N.J.A.C. 19:25-8.2.

A county or municipal committee will be required to submit quarterly reports, and to provide written notice to the candidate pursuant to N.J.A.C. 19:25-10.4 (Expenditures on behalf of candidates). N.J.A.C. 19:25-15.39.

A candidate will be entitled to have a statement in both English and Spanish mailed with the sample ballot to each registered voter in the county. The statement must be submitted to the commission 80 days rather than 60 days prior to the day of the general election. N.J.A.C. 19:25-15.43.

With reference to inaugural funds, a treasurer and a bank account must be designated, and this information filed with the commission, not later than ten days after a contribution is received or money is expended. A report must be filed with the commission within 45 days following the event and the treasurer shall certify the correctness of the report every 60 days until all obligations are liquidated and the account closed. N.J.A.C. 19:25-15.47.

Disclosures by the commission of contributions in an amount of \$100.00 or less will not be made unless the candidate so authorizes in writing. N.J.A.C. 19:25-15.42 and 19:25-16.24.

Editorial changes have been made to make the text gender neutral and to consistently lower case the words "commission" and "act".

Social Impact

The proposed amendments reflect statutory changes made by Chapter 579 of the Laws of 1983 and changes the Commission believes would clarify the public financing regulations or improve the Commission's ability to administer public financing in the 1985 primary and general gubernatorial elections. The proposed amendments will affect the procedures for qualified candidates who apply for public funds in that they will be required to furnish additional copies of supporting documents and list contributors by date of deposit rather than alphabetically.

Economic Impact

The proposed amendments will result in some modest cost increases to reporting candidates. Candidates must submit additional copies of lists of contributors eligible for match, and an additional copy of supporting documents. While this will result in a modest increase in cost to candidates making submissions for public funds, the Commission believes that these additional copies are necessary for the efficient administration of the matching process. The period of time that records must be maintained has been increased from three to four years, which may result in some modest increase in cost. This change is undertaken to conform with the four-year record retention period required of other candidates by N.J.A.C. 19:25-8.2.

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

SUBCHAPTER 15. PUBLIC FINANCING; GENERAL ELECTIONS FOR THE OFFICE OF GOVERNOR

19:25-15.1 Scope of subchapter
(No change.)

19:25-15.2 Definitions; generally
(No change.)

19:25-15.3 Definitions for this subchapter

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

"Candidate" means anyone who has filed a nominating petition, or has filed a form D-1 with the commission, or has solicited contributions or made or incurred expenditures on behalf of his **or her** candidacy, or has allowed others to solicit contributions or make or incur expenditures on behalf of his **or her** candidacy for election to the office of Governor of New Jersey in any general election for which the Legislature makes an appropriation for public funding.

"Contribution eligible for match" means contributions from one contributor to be matched from public funds on a two-for-one basis. No contribution which must be or is intended by the contributor or the recipient to be refunded or repaid at any time, no loan obtained pursuant to N.J.A.C. 19:44A-44, no amount of the candidate's own funds in the aggregate in excess of \$800.00, no in-kind contribution and no other moneys received by the candidate, his **or her** campaign treasurer, or deputy campaign treasurer, except those contributions described in N.J.S.A. 19:44A-29(a) shall be deemed contributions eligible for match. Funds received by an individual who is "testing the waters" may be matched when the individual becomes a candidate if such contributions meet all the requirements of the regulations.

"Matching fund account" means the campaign bank account opened pursuant to N.J.S.A. 19:44A-32 by a campaign treasurer of a candidate, or deputy campaign treasurer, [with the permission of the Commission,] in which only contributions eligible for match may be deposited.

"Own funds" means funds to which the candidate is legally and beneficially entitled, but shall not include funds as to which [he] **the candidate** is a trustee or funds given or otherwise transferred to the candidate by any person other than the spouse of the candidate for use in aid of his **or her** candidacy.

"Principal campaign committee" means the political committee designated by the candidate to receive contributions and make expenditures on behalf of his **or her** candidacy.

19:25-15.4 Appointment of treasurers and depositories

(a) Each candidate in a general election, whether or not publicly declared and whether or not intending to participate in public funding, must appoint a campaign treasurer and designate a depository bank account [before any contribution is received by such candidate or in his or her behalf, or before any money is expended by him or her in his or her behalf in furtherance or aid of his or her candidacy and such candidate

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must comply with the requirements of subchapter 5 (Appointment of treasurers and depositories) of this chapter (N.J.A.C. 19:25-5.1 et seq). The candidate shall promptly file with the Commission the name and mailing address of the appointed campaign treasurer and the bank name, mailing address and number of the designated depository bank account.] **and must notify the commission pursuant to N.J.A.C. 19:25-5.2 (Appointment by candidates) of such appointment and designation no later than the tenth day after receipt of any contribution or incurring or making any expenditure, whichever comes first.**

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

19:25-15.5 Designation of principal campaign committee; contribution limit

(a) On or before the first Monday following the date of the primary election for nomination for the office of Governor, each gubernatorial general election candidate, whether or not intending to participate in public funding, shall designate to the commission the name and mailing address of his **or her** principal campaign committee for the general election. A candidate may designate as his **or her** principal campaign committee a committee which has engaged in campaign activity prior to the designation date specified in this subsection.

(b) (No change.)

19:25-15.6 Contribution limits; applicability
(No change.)

19:25-15.7 Separately maintained primary and general bank accounts

(a) Any candidate may establish and designate to the commission a depository bank account, and/or [with commission approval] a matching fund account pursuant to N.J.A.C. 19:25-15.17(b), for a gubernatorial general election and may deposit contributions in such respective accounts at any time after designation. Such general election bank accounts may be established prior to the date of the primary election for nomination for the office of Governor, and prior to the conclusion of any such candidate's primary election campaign. However, if a candidate establishes general election bank accounts prior to or on the date of the primary election for the office of Governor, and such candidate is also a candidate in such primary election, no moneys deposited in such candidate's general election accounts may be transferred or expended until the day following such primary election and may not be expended at any time for primary election expenses.

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

19:25-15.8 Return of contributions; certification
(a) (No change.)

(b) Any candidate who receives contributions as described in (a) above shall certify to the commission in a report to be filed within 30 days after the primary election for nomination to the office of Governor a typed or printed [alphabetical] list of contributors showing each contributor's full name and full mailing address ([and residence address if different from mailing address] **number, street, city, state, zip code**), the date of receipt of each contribution, the dollar amount of each contribution and the date and amount of each contribution returned by the candidate. In the event a candidate is unable to return any contribution, or part thereof, for any reason, such candidate shall certify in such report the reasons for inability to return such contribution. In no event shall any such unreturned contribution be withdrawn by the candidate from his

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or her general election depository bank account until the commission has approved of disposition of such unreturned contributions.

19:25-15.9 Candidates deemed non-participating; effect

(a) Any candidate who does not [make application] **apply** for public funding in a general election pursuant to N.J.A.C. 19:25-15.17 shall be deemed non-participating in public funding of that general election.

(b) Any candidate deemed non-participating pursuant to this section shall not receive public funds on behalf of his **or her** campaign for any contribution received during the period of time [he] **the candidate** was deemed non-participating unless [he] **the candidate** was in compliance with this subchapter including all of the limitations contained in N.J.A.C. 19:25-15.11 during the time [he] **the candidate** was deemed non-participating and thereafter.

19:25-15.10 Non-participating candidates; generally

(a) (No change.)

(b) A non-participating candidate is subject to the \$800.00 limit on guarantors of bank loans, except if the guarantor is the non-participating candidate himself **or herself**.

(c) (No change.)

19:25-15.11 Limitations on participating candidates

(a) Each candidate intending to participate in public funding, in addition to any other requirement imposed by the [Act] **act** (N.J.S.A. 19:44A-1 et seq.) or these regulations, is subject to the following limitations:

1. (No change.)

2. No candidate, or his or her campaign treasurer or deputy campaign treasurer, shall borrow an amount that at any one time exceeds \$50,000 in the aggregate, and such loan must be repaid in full not later than 20 days prior to the general election for which the loan was made from moneys accepted or allocated pursuant to N.J.S.A. 19:44A-29. Certification of such repayment shall be made by the borrower to the [Commission] **commission** in accordance with N.J.A.C. 19:25-15.29.

3.-4. (No change.)

19:25-15.12 Who may or may not contribute; generally

(a) No person or political committee, other than a candidate contributing his **or her** own funds to his **or her** campaign, shall make any contribution to any candidate, [his] **the candidate's** campaign treasurer or deputy campaign treasurer, or to any other person or committee, in aid of the candidacy of or in behalf of a candidate, whether or not participating in public funding, for election to the office of Governor in a general election, in the aggregate in excess of \$800.00. Any such contribution in excess of \$800.00 must be promptly returned to the contributor, and evidence of repayment shall be submitted to the commission.

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

19:25-15.13 Corporate or labor organization communications

(No change.)

19:25-15.14 Contributions eligible for match; generally

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

(c) Every contribution eligible for match must be accompanied by a written statement which shall identify the individual

making the contribution by full name and full mailing address ([and residence address if different from mailing address] **number, street, city, state, zip code**), the name of the candidate, the amount and date of the contribution, and shall bear the signature of the contributor. The requirement of such written statement will be deemed to be satisfied in the case where a contribution is made by means of a check, money order or other negotiable instrument payable on demand and to the order of, or specially endorsed without qualification to, the candidate or to his campaign committee, if such check, money order or instrument contains all of the foregoing information.

19:25-15.15 Contributions eligible for match; checks and instruments, contributions by children

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

(d) Contributions by children under the age of 18 shall be attributed to the parent who is responsible for the contribution[, unless the decision to contribute is solely that of the child, the funds are legally and beneficially controlled by the child and are not the proceeds of a gift for the purpose of the contribution.] **and not to the child unless:**

1. The child is 14 years of age or older and a signed statement from the child and the child's parent or guardian is submitted to the commission that the decision to contribute was solely that of the child and the funds used to make the contribution were legally and beneficially controlled by the child and are not the proceeds of a gift made for the purpose of the contribution; or

2. The child is 11 years old or older and, in addition to the signed statements set forth in paragraph 1 above, evidence is submitted satisfactory to the commission that the child acted independently and with full knowledge of the contribution.

19:25-15.16 Limitation on contributions eligible for match (No change.)

19:25-15.17 Matching of funds

(a) (No change.)

(b) [On receipt of written notice in accordance with (a) above, the commission shall permit the] **The** campaign treasurer or deputy campaign treasurer of the candidate [to] **shall** open a matching fund account in a national or a State bank pursuant to N.J.S.A. 19:44A-32 in which only contributions eligible for match may be deposited. The campaign treasurer or deputy campaign treasurer of such candidate shall deposit in such matching fund account, funds to be matched in aid of the candidacy of or in behalf of such candidate. Such deposit shall be made [promptly] **within 10 days of receipt** and shall include only moneys received in accordance with this subchapter and N.J.S.A. 19:44A-29 and N.J.S.A. 19:44A-11 and 12.

(c) A candidate seeking to become eligible to receive matching funds shall certify to the commission in a written statement signed by the candidate that he **or she** is a candidate for Governor in a general election and that he **or she** has received and deposited into his **or her** matching fund account contributions eligible for match of at least \$50,000 from persons or political committees each of whose contributions in the aggregate do not exceed \$800.00, and that at least \$50,000 of such contributions have been expended. "Expended" for this purpose shall mean disbursed or irrevocably committed by a legally binding commitment for expenditure in the campaign and ultimately disbursed.

(d) The statement referred to in (c) above shall include **an original and one photocopy** of a typed or printed [alphabetical] list of contributors showing each contributor's full name and full mailing address ([and residence address if different from mailing address] **number, street, city, state, zip code**), the date of receipt of each contribution by the candidate and of the deposit into the matching fund account, the dollar amount of each contribution submitted for match, and the total amount of all contributions submitted for match. **The list of contributors shall be segregated by deposit.** The statement shall also include a typed or printed [alphabetical] list of contributors of contributions not eligible or submitted for match **and any other receipt** (for example, in-kind contributions [or], contributions intended to be repaid, **or interest on invested funds**), showing each contributor's full name and full mailing address ([and residence address if different from mailing address] **number, street, city, state, zip code**), the date of receipt of each such contribution by the candidate and the dollar amount of each such contribution. The statement shall also include **an original and one photocopy** of a list of repayment by the candidate of any contribution, including any loan described under N.J.A.C. 19:25-15.29.

(e) The statement shall include a certification by the candidate and his **or her** campaign treasurer that:

1.-2. (No change.)

(f) The certification shall include [a photocopy] **two photocopies** of the face of each check or other written instrument as described in N.J.A.C. 19:25-15.14 for each contribution which the candidate submits to receive matching funds. Where a check is endorsed by some person other than the principal campaign committee, the face and back must be photocopied. The photocopies shall be segregated [alphabetically] by deposit, **sorted in the order in which the contributors are listed pursuant to (d) above** and [shall be] accompanied by copies of the relevant **receipted** deposit slips.

(g) The initial certification shall include **two** photocopies of checks, receipted bills, contracts or the like, as proof of the expenditure of at least \$50,000.

(h) (No change.)

19:25-15.18 Dates of submission

(a) Statements and certifications may be submitted to the [Commission] **commission** by candidates on or before 12:00 noon of the first Monday following the date of the primary election in the year of a general election for the office of Governor of New Jersey, and every other Monday thereafter through August 31, and every Monday thereafter up to and including the Monday immediately preceding the general election being funded.

(b) Statements and certifications may be submitted to the [Commission] **commission** by candidates on or before 12:00 noon of the first Monday following the general election and every other Monday thereafter up to the first Monday following the fifth month after the general election. No statements and certifications for the general election shall be considered by the commission thereafter.

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

19:25-15.19 Matching of State committee contributions; submission dates

(a) (No change.)

(b) No submission or application for public funds pursuant to N.J.A.C. 19:25-15.18 will be considered by the [Commis-

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sion] **commission** unless accompanied by written certification in compliance with (a) above.

19:25-15.10 Special account for public funds

The [Commission] **commission** shall maintain [in Trenton] for each qualified candidate a separate segregated public fund account for deposit of public funds. All public funds received by the [Commission] **commission** from the General Treasury of the State on behalf of a candidate shall be promptly deposited by the [Commission] **commission** into such public fund account. No funds other than such public funds shall be deposited in such segregated public fund account, and all expenditures from such account shall be separately identified in reports filed with the [Commission] **commission**.

19:25-15.21 Receipt of public funds; generally (No change.)

19:25-15.22 Receipt of public funds limitation

(a) No public funds shall be deposited by the [Commission] **commission** in the public fund account of any qualified candidate on or before the date of the primary election for nomination for the office of Governor of New Jersey immediately preceding the general election for the same office.

(b) (No change.)

19:25-15.23 Receipt of public funds; procedure

The [Commission] **commission** shall certify to the Treasurer of New Jersey the amount to be disbursed to the [Commission] **commission** for the public fund account of each candidate. The Treasurer shall then deliver such amount to the [Commission] **commission**.

19:25-15.24 Use of public funds

(a) Public funds received on behalf of a qualified candidate from the fund for general election campaign expenses shall be deposited by the [Commission] **commission** in the candidate's public fund account and the candidate's use of such funds shall be strictly limited to the following purposes:

1.-5. (No change.)

6. Payment of the cost of legal and accounting expenses incurred in complying with the public financing regulations of the [Commission] **commission** and with the public financing provisions of the [Act] **act**.

7. Payment of the cost of telephone deposits, and installation charges and monthly billings in excess of deposits. Within six months after the general election, a candidate shall return to the [Commission] **commission** the amount of any public funds used to pay such telephone deposits which are later returned.

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

19:25-15.25 Use of transferred funds (No change.)

19:25-15.26 Expenses not subject to expenditure limits

(a) The following expenditures by a qualified candidate shall not be subject to the expenditure limit described in N.J.A.C. 19:25-15.11(a)3;

1. (No change.)

2. Travel expenses of the candidate, as that term is defined in N.J.A.C. 19:25-15.27(a), or of any person other than the candidate if such traveling expenses are voluntarily paid by such person without any understanding or agreement with such candidate that they shall be, directly or indirectly, repaid

to him **or her** by the candidate, shall not be deemed expenditures within the meaning of N.J.S.A. 19:44A-7.

3. (No change.)

19:25-15.27 Travel expenses

(a) (No change.)

(b) All of the expenditures, including those excluded from the expenditure limitation contained in N.J.S.A. 19:44A-7, must be disclosed in the pre-election and post-election reports on behalf of the candidate.

1. Example 1: Candidate X, a candidate for the office of Governor in the general election who will receive public funding, travels to a city with five members of [his] **the candidate's** staff in two automobiles for campaign purposes. [His] **The candidate's** staff arranges for rooms at a hotel in that city. In the course of the stay, the candidate and [his] staff hold numerous meetings and provide food and beverages for visitors in the course of the various meetings. Only the reasonable and necessary expenses of the use of automobiles and other means of transportation and the reasonable and necessary cost of meals and sleeping accommodations for the candidate and [his] staff during the trip, are excludable for purposes of the expenditure limitation contained in N.J.S.A. 19:44A-7.

19:25-15.28 Independent expenditures

(a) Independent expenditures shall not be deemed to be expenditures within the meaning of N.J.S.A. 19:44A-7, but all such expenditures shall be subject to all of the reporting and disclosure requirements of the act. Each person or political committee making independent expenditures who is required to file election reports pursuant to N.J.A.C. 19:25-12.5 shall include in the reports required under the act a sworn statement on a form provided by the [Commission] **commission** that such independent expenditure was not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, the candidate or any person or committee acting on behalf of the candidate.

(b) (No change.)

19:25-15.29 Borrowing of funds; repayment

Any candidate, [his] **the candidate's** campaign treasurer or deputy campaign treasurer may borrow funds from any national or State bank, provided that no person or political committee other than the candidate [himself] or the State committee may in any way endorse or guarantee such loan in the aggregate in excess of the \$800.00 contribution limit. Except for a non-participating candidate guaranteeing a loan to his **or her** campaign, the amount so borrowed shall not at any one time in the aggregate exceed \$50,000 and must be repaid in full by such candidate or his **or her** campaign treasurer or deputy campaign treasurer from moneys accepted or allocated pursuant to N.J.S.A. 19:44A-29 not later than 20 days prior to the general election. Certification of such repayment shall be made by the borrower to the [Commission] **commission** not later than 15 days prior to the date of the general election. In the event of the failure of the borrower to repay timely the full amount of the loan or to certify properly such repayment to the [Commission] **commission**, all payment of public funds to such candidate shall promptly cease and the [Commission] **commission** shall take action as directed by the act to prohibit the expenditure by the candidate of moneys received from the fund and any other moneys received by him **or her** in aid of his **or her** candidacy in such general election.

19:25-15.30 Computation of value of goods and services

(a) Goods and services shall, for purposes of the reports required to be filed under the act and for purposes of the expenditure limitation contained in section 7 of the act (N.J.S.A. 19:44A-7) where applicable, be valued by the reasonable commercial value of such goods and services to the candidate, whether or not the cost or value of such goods or services to the contributor or other provider of those services is higher or lower than such reasonable commercial value.

1. Example 1: Candidate Y, a candidate for the office of Governor who has chosen to accept public funding, obtains the use of a helicopter for travel of the candidate for campaign purposes. By agreement with the owner of the helicopter, the campaign committee for the candidate will pay \$500.00 per day, which represents the cost to the owner of the maintenance and operation of the helicopter. The reasonable commercial value of the use of the helicopter is \$900.00 per day. In this example, the amount of \$500.00 paid by the campaign committee of the candidate to the owner for use of the helicopter is not includable as an expenditure for purposes of the expenditure limitations contained in section 7 of the act (N.J.S.A. 19:44A-7). The difference between the \$500.00 actually paid for use of the helicopter and the reasonable commercial value normally charged by the owner for the use of the helicopter, represents a contribution from the owner of the helicopter to the candidate in the amount of \$400.00. The candidate could obtain the use of the helicopter under this arrangement from a lawful contributor for campaign purposes for not more than two days. If [he] **the candidate** obtained the use of the helicopter for three days under this arrangement, the owner of the helicopter would have made an unlawful contribution to the candidacy of the candidate, since the aggregate of the contributions (\$1,200) from that contributor in this instance would have exceeded \$800.00.

2.-3. (No change.)

19:25-15.31 Establishment of State committee account; contribution limit

(No change.)

19:25-15.32 State committee expenditures; ineligible for match; expenditure limit

(No change.)

19:25-15.33 State committee treasurer

(No change.)

19:25-15.34 Notice by State committee to contributor

(No change.)

19:25-15.35 State committee statements

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

(c) The statement of contributors described in (a) above shall include a photocopy of the face of each check or other written instrument as described in N.J.A.C. 19:25-15.14 for each contribution reported on the statement of contributors. Where a check is endorsed by some person other than the campaign treasurer or deputy campaign treasurer of the State committee, the face and back must be photocopied. The photocopies shall be segregated [alphabetically] by deposit, **sorted in the order in which the contributors are listed pursuant to N.J.A.C. 19:25-15.17(d)** and [shall be] accompanied by copies of the relevant **receipted** deposit slips.

19:25-15.36 Certification and delivery of statements

(a) The campaign treasurer or deputy campaign treasurer of a State committee that has established a State committee account in behalf of a candidate shall certify to the campaign treasurer or deputy campaign treasurer of such candidate, and to the [Commission] **commission**, the correctness of the statements and photocopies prepared pursuant to N.J.A.C. 19:25-15.35.

(b) The statements and photocopies certified pursuant to (a) above shall be delivered by the campaign treasurer or deputy campaign treasurer of such State committee to the campaign treasurer or deputy campaign treasurer of the candidate on whose behalf the statements and photocopies have been prepared and to the [Commission] **commission** no later than the Thursday preceding the dates of submission for matching fund applications of candidates set forth in N.J.A.C. 19:25-15.18.

(c) (No change.)

19:25-15.37 Transfer of deposits; certification

(a) (No change.)

(b) At the time of making a transfer pursuant to (a) above, the campaign treasurer or deputy campaign treasurer of the State committee shall certify in writing to the campaign treasurer or deputy campaign treasurer of the candidate in whose matching fund account a transfer is to be made, and certify to the [Commission] **commission**, that the deposit includes only contributions eligible for match and does not include any contribution which must be or is intended by the contributor or recipient to be refunded or repaid at any time and that no contribution by any county or municipal committee is included.

19:25-15.38 County and municipal committee expenditures; reports

(a) (No change.)

(b) A candidate or his campaign treasurer or deputy campaign treasurer shall determine the exact amount that individual county committees or municipal committees may contribute in aid of the candidacy of or in behalf of such candidate, and shall file a report of such determination with the [Commission] **commission** no later than the seventh day prior to the general election being funded.

19:25-15.39 County and municipal committee reports

Any county or municipal committee making any expenditure on behalf of any candidate for the office of Governor in a general election shall file [campaign] **quarterly** reports pursuant to N.J.S.A. 19:44A-8 [and 19:4A-16.] **and shall provide written notice to the candidate pursuant to N.J.A.C. 19:25-10.4 (Expenditures on behalf of candidates).**

19:25-15.40 County and municipal committees; prohibition on transfers

(No change.)

19:25-15.41 Maintenance of records; audit

(a) The campaign treasurer or deputy treasurer of each candidate and each State committee shall retain all written instruments, checks, bank statements and all other records of contributions and expenditures, including originals or photocopies of all documents and instruments submitted to the [Commission] **commission** relating to the general election for

a period of not less than [three] **four** years after [such general election.] **submission of the final report for the general election.**

(b) Each candidate, campaign treasurer or deputy campaign treasurer, or State committee campaign treasurer or deputy campaign treasurer, shall furnish to the [Commission] **commission** any books and records, including bank records for all accounts and supporting documentation for matching fund submissions as may be requested by the [Commission] **commission** for purposes of an audit or other [Commission] **commission** examination.

19:25-15.42 Disclosure of information

The statements and certifications submitted by a candidate in accordance with N.J.A.C. 19:25-15.17 shall not be public records and shall not be available for public inspection; provided, however the [Commission] **commission** shall from time to time publish a listing which shall contain the information included in the statements and certifications for each contribution approved for match, except that it shall not include the name, address or amount of contribution of any contributor whose contributions in the aggregate are \$100.00 or less[.] **unless the candidate authorizes such disclosure in writing.**

19:25-15.43 Prepared statement on behalf of candidate

(a) Each candidate shall be entitled to have a statement in **English and in Spanish** submitted by [him] **the candidate** to the [Commission] **commission**, printed and mailed by each county clerk with the sample ballot to each registered voter in the county, together with a short explanation from the [Commission] **commission** that such statements are provided pursuant to the [Act] **act** and these regulations to assist the voters in making a determination among the candidates for the office of Governor.

(b) Each candidate who wishes such a statement mailed on his **or her** behalf shall submit to the [Commission] **commission**, on forms to be provided by the [Commission] **commission**, his **or her** proposed statement in **English and in Spanish** which shall not exceed 500 words in length. The statement shall be submitted to the commission on or before the [60th] **80th** day prior to the date on which the general election is to be held.

(c) On or before the 45th day prior to the date on which the general election is to be held, the [Commission] **commission** shall supply each county clerk with the text of the statement received from each candidate for election to the office of Governor.

19:25-15.44 Post-election contribution; post-election payment of expenses

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

(c) Every payment of expenditures for general election obligations made by the candidate or State committee, or campaign treasurer or deputy campaign treasurer of a candidate or State committee after the date of the general election (except as otherwise specifically provided by the [Act] **act** or this subchapter, for example compliance costs) shall be deemed to be expenditures for such general election within the meaning of N.J.S.A. 19:44A-7.

(d) (No change.)

19:25-15.45 Funds or materials remaining from general election campaign

(No change.)

19:25-15.46 Repayment of public or other funds

All public moneys received by a qualified candidate remaining after the liquidation of all lawful obligations with [Commission] **commission** (for return to the Treasurer of the State of New Jersey) not later than six months after the date of such general election. All moneys other than public moneys, [used by the candidate to obtain matching funds and] remaining available to any qualified candidate after the liquidation of all obligations, shall also be repaid to the [Commission] **commission** (for return to the Treasurer of the State of New Jersey) not later than six months after the date of such general election; provided, however, that nothing herein contained shall require any candidate to pay to the State Treasurer, a total amount of moneys in excess of the total amount of public moneys received by such qualified candidate from the public fund.

19:25-15.47 Inaugural event contribution limit; reporting

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

(c) Any person or committee sponsoring a gubernatorial inaugural fund raising event shall appoint a treasurer and designate a bank account [before] **no later than the 10th day after** receiving any contribution or expending any money for the gubernatorial inaugural fund raising event, and shall [promptly] file with the [Commission] **commission** the name and mailing address of the appointed treasurer and the bank name, mailing address and number of the designated bank account **no later than the tenth day after receiving any contribution or expending any money for the gubernatorial inaugural fund raising event.**

(d) Any person or committee sponsoring a gubernatorial inaugural fund raising event shall make a full report to the [Commission] **commission** of all contributions and expenditures with respect to the event within 45 days following the event in accordance with the provisions of the act, and the designated treasurer shall certify the correctness of such report **and shall file reports and certify their correctness every 60 days thereafter until all obligations are liquidated and the account closed.**

SUBCHAPTER 16. PUBLIC FINANCING OF PRIMARY ELECTION FOR GOVERNOR

19:25-16.1 Scope of subchapter (No change.)

19:25-16.2 Definitions; generally (No change.)

19:25-16.3 Definitions for this subchapter

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

“Candidate” means anyone who has filed a nominating petition, or has filed a form D-1 with the commission, or has solicited contributions or made or incurred expenditures on behalf of his **or her** candidacy, or has allowed others to solicit contributions or make or incur expenditures on behalf of his **or her** candidacy for nomination for election to the office of Governor of New Jersey in any primary election for which the Legislature makes an appropriation for public funding.

“Contribution eligible for match” means contributions from one contributor to be matched from public funds on a

two-for-one basis. No contribution which must be or is intended by the contributor or the recipient to be refunded or repaid at any time, no loan obtained pursuant to section 15 of P.L. 1980, c.74 (N.J.S.A. 19:44A-44), no amount of the candidate's own funds in the aggregate in excess of \$800.00, no in-kind contribution and no other moneys received by the candidate, his **or her** campaign treasurer, or deputy campaign treasurer, except those contributions described in subsection (a) of section 5 of P.L. 1980, c.74 (N.J.S.A. 19:44A-29(a)), shall be deemed contributions eligible for match. Funds received by an individual who is testing the waters may be matched when the individual becomes a candidate, if such contributions meet all the requirements of the regulation.

...
 "Matching fund account" means the campaign bank account opened pursuant to N.J.S.A. 19:44A-32 by a campaign treasurer of a candidate, or deputy campaign treasurer, [with the permission of the Commission,] in which only contributions eligible for match may be deposited.

...
 "Own funds" means funds to which the candidate is legally and beneficially entitled, but shall not include funds as to which he **or she** is a trustee or funds given or otherwise transferred to the candidate by any person other than the spouse of the candidate for use in aid of his **or her** candidacy.

...
 19:25-16.4 Designation of principal campaign committee

Upon becoming a candidate, each candidate, whether publicly declared or not, shall designate to the [Commission] **commission** the name and address of his or her principal campaign committee for the primary election, the name and address of his or her campaign treasurer and the name, address and number of his depository bank account. As to certification of compliance with contribution limitations, see N.J.A.C. 19:25-16.12.

19:25-16.5 Appointment of treasurers and depositories

(a) Each candidate in a primary election, whether or not **publicly declared and whether or not** intending to participate in public funding, must appoint a campaign treasurer and designate a depository bank account [before any contributions is received by him or her in his or her behalf or any money is expended by him or her in his or her behalf in furtherance or aid of his or her candidacy, and must comply with the requirements of N.J.S.A. 19:25-5 (Appointment of Treasurer and Depositories).] **and must notify the commission pursuant to N.J.A.C. 19:25-5.2 (Appointment by candidates) of such appointment and designation no later than the tenth day after receipt of any contribution or incurring or making any expenditure, whichever comes first.**

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

19:25-16.6 Contribution limits; applicability

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

(c) Contributions by children under the age of 18 shall be attributed to the parent who is responsible for the contribution[, unless the decision to contribute is solely that of the child, the funds are legally and beneficially controlled by the child and are not the proceeds of a gift made for the purpose of the contribution.] **and not to the child unless:**

1. The child is 14 years of age or older and a signed statement from the child and the child's parent or guardian is submitted to the commission that the decision to contribute was solely that of the child and the funds used to make the contribution were legally and beneficially controlled by the

child and are not the proceeds of a gift made for the purpose of contribution; or

2. The child is 11 years old or older and, in addition to the signed statement set forth in paragraph 1 above, evidence is submitted satisfactory to the commission that the child acted independently and with full knowledge of the contribution.

19:25-16.7 Candidates deemed non-participating; effect

(a) (No change.)

(b) Any candidate deemed non-participating pursuant to this section shall not receive public funds on behalf of his **or her** campaign for any contribution received during the period of time he **or she** was deemed non-participating unless [he] **the candidate** was in compliance with these regulations including all of the limitations contained in N.J.A.C. 19:25-16.9 (Limitations on participating candidates) during the time [he] **the candidate** was deemed non-participating and thereafter.

19:25-16.8 Non-participating candidates; generally

(a) (No change.)

(b) A non-participating candidate is subject to the \$800.00 limit on guarantors of bank loans, except if the guarantor is the non-participating candidate himself **or herself**.

(c) (No change.)

19:25-16.9 Limitations on participating candidates

(a) Each candidate intending to participate in public funding, in addition to any other requirement imposed by the [Act] **act** (N.J.S.A. 19:44A-1 et seq.) or these regulations, is subject to the following limitations:

1. (No change.)

2. No candidate, or his or her campaign treasurer or deputy campaign treasurer, shall borrow an amount that at any one time exceeds \$50,000 in the aggregate, and such loan must be repaid in full not later than 20 days prior to the primary election for which the loan was made from moneys accepted or allocated pursuant to section 5 of P.L. 1980, c.74 (N.J.S.A. 19:44A-29). Certification of such repayment shall be made by the borrower to the [Commission] **commission** in accordance with N.J.A.C. 19:25-16:30 (Borrowing of funds, repayment).

3.-4. (No change.)

19:25-16.10 Who may or may not contribute; generally

(a) No person or political committee, other than a candidate contributing his **or her** own funds to his **or her** campaign, shall make any contribution to any candidate, [his] **the candidate's** campaign treasurer or deputy campaign treasurer, or to any other person or committee, in aid of the candidacy of or in behalf of a candidate, whether or not participating in public funding, for nomination for election to the office of Governor in a primary election, in the aggregate in excess of \$800.00. Any such contribution in excess of \$800.00 must be promptly returned to the contributor, and evidence of the repayment shall be submitted to the commission.

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

19:25-16.11 Contributions eligible for match; generally

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

(c) Every contribution eligible for match must be accompanied by a written statement which shall identify the individual making the contribution by full name and **full** mailing address ([and residence address if different from mailing address] **number, street, city, state, zip code**), the name of the candidate, and amount and date of the contribution, and shall bear

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the signature of the contributor. The requirement of such written statement will be deemed to be satisfied in the case where a contribution is made by means of a check, money order or other negotiable instrument payable on demand and to the order of, or specially endorsed without qualification to, the candidate or to his campaign committee, if such check, money order or instrument contains all of the foregoing information.

19:25-16.12 Contributions and loans prior to candidacy

(a) Each candidate, whether or not intending to participate in public funding, shall certify to the [Commission] **commission** in writing within 10 days after the date of commencement of his or her candidacy that:

1. (No change.)

2. The candidate did have a "testing the waters" account. In that event, the candidate shall notify the [Commission] **commission** whether the "testing the waters" account is to be designated as the matching fund account and whether contributions from the "testing the waters" account are to be deposited into the matching fund account.

3. No contribution in excess of \$800.00 in the aggregate from a person or political committee had theretofore been received for pre-candidacy "testing the waters" activity; or contributions in excess of \$800.00 in the aggregate have been received for that purpose, and the amount of each contribution in excess of \$800.00 in the aggregate has been returned to the contributor. The certification shall include:

i. A list of all [contributions] **contributors** who contributed more than \$800.00 and the dates and amounts of all such contributions; and

ii. (No change.)

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

(e) Any candidate who contributed or expended for pre-candidacy "testing of waters" activity an amount in excess of \$25,000 from his or her own funds shall reimburse his campaign account within 10 days after the date of commencement of the candidacy, such amount in excess of \$25,000 so contributed and expended, and shall certify to the [Commission] **commission** that such reimbursement has been made.

(f) Any candidate who borrowed an amount in the aggregate in excess of \$50,000 shall repay within 10 days after the date of commencement of the candidacy such amount in excess of \$50,000 so borrowed, and shall certify to the [Commission] **commission** that such excess amount has been repaid.

19:25-16.13 Contributions eligible for match; checks and instruments

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

(c) In the case of a check drawn on a partnership account or on the account of an unincorporated association or business, the check will be deemed to be the contribution of the individual whose signature appears on the check unless specific identification as to the contribution by other partners or members is contained on the check or other accompanying written instrument and the check **or other accompanying written instrument** is signed by each partner or member who is a contributor.

19:25-16.14 Limitation on contributions eligible for match (No change.)

19:25-16.15 Contributions; primary and general elections (No change.)

19:25-16.16 Political party committee contributions prohibited

(No change.)

19:25-16.17 Funds or materials remaining from primary campaign

(a) (No change.)

(b) Materials such as campaign literature, buttons and office supplies **and equipment** remaining from the primary campaign of a candidate may not be transferred to the general election campaign of such candidate if nominated **or to any other election campaign of such candidate or of any other candidate or political committee** but may be purchased by the general election campaign for cost or other reasonable value.

19:25-16.18 Matching of funds

(a) Each candidate seeking to qualify for public funding shall so notify the commission in writing on or before January 1 immediately preceding the primary election being funded, except that a person who becomes a candidate after January 1 shall notify the commission on or before the 15th day after becoming a candidate. [A candidate who willfully and knowingly accepts a contribution for the primary election in excess of \$800.00 from any contributor after July 23, 1980, the effective date of P.L. 1980, c.74, shall be deemed to have elected not to seek to qualify for public funding. A candidate who has accepted a contribution in excess of \$800.00 from any contributor prior to that date, and who has not returned the amount of such contribution in excess of \$800.00 to the contributor promptly and so notified the commission by October 15, 1980, shall be deemed to have elected not to seek to qualify for public funding.]

(b) [On receipt of written notice in accordance with (a) above, the commission shall permit the] **The** campaign treasurer or deputy campaign treasurer of the candidate [to] **shall** open a matching fund account in a national or a State bank pursuant to N.J.S.A. 19:44A-32 in which only contributions eligible for match may be deposited. The campaign treasurer or deputy campaign treasurer of such candidate shall deposit in such matching fund account, funds to be matched in aid of the candidacy of or in behalf of such candidate. Such deposit shall be made [promptly] **within 10 days of receipt** and shall include only moneys received in accordance with this subchapter and section 5 of P.L. 1980, c.74 (N.J.S.A. 19:44A-29) and sections 11 and 12 of the [Act] **act** (N.J.S.A. 19:44A-11; 19:44A-12).

(c) A candidate seeking to become eligible to receive matching funds shall certify to the commission in a written statement signed by the candidate that he **or she** is a candidate for Governor in a primary election and that he **or she** has received and deposited into his **or her** matching fund account contributions eligible for match of at least \$50,000 from persons or political committees each of whose contributions in the aggregate do not exceed \$800.00, and at least \$50,000 such contributions have been expended. "Expended" for this purpose shall mean disbursed or irrevocably committed by a legally binding commitment for expenditure in the campaign and ultimately disbursed.

(d) The statement referred to in (c) above shall include **an original and one photocopy** of a typed or printed [alphabetical] list of contributors showing each contributor's full name and **full** mailing address ([and residence address if different from mailing address] **number, street, city, state, zip code**), the date of receipt of each contribution by the candidate and of the deposit into the matching fund account, the dollar

amount of each contribution submitted for match, and the total amount of all contributions submitted for match. **The list of contributors shall be segregated by deposit.** The statement shall also include a typed or printed [alphabetical] list of contributors of contributions not eligible or submitted for match **and any other receipt** (for example, in-kind contributions [or], contributions intended to be repaid, **or interest on invested funds**), showing each contributor's full name and full mailing address ([and residence address if different from mailing address] **number, street, state, zip code**), the date of receipt of each such contribution by the candidate and the dollar amount of each such contribution. The statement shall also include **an original and one photocopy** of a list of repayment by the candidate of any contribution, including any loan described under N.J.A.C. 19:25-16.29 (Borrowing of funds; repayment).

(e) The statement shall include a certification by the candidate and his **or her** campaign treasurer that:

1. (No change.)
2. The receipt by the candidate from the fund for primary election campaign expenses of an amount equal to twice the amount of lawful contributions deposited to be matched will not result in the candidate's exceeding the expenditure limitations of section 7 of the [Act] **act** (N.J.S.A. 19:44A-7).

(f) The certification shall include [a photocopy] **two photocopies** of the face of each check or other written instrument as described in N.J.A.C. 19:25-16.11 (Contributions eligible for match; generally) for each contribution which the candidate submits to receive matching funds. Where a check is endorsed by some person other than the principal campaign committee, the face and back must be photocopied. The photocopies shall be segregated [alphabetically] by deposit, **sorted in the order in which the contributors are listed pursuant to d above** and [shall be] accompanied by copies of the relevant **received** deposit slips.

(g) The initial certification shall include **two** photocopies of checks, receipted bills, contracts or the like, as proof of the expenditure of at least \$50,000.

(h) (No change.)

19:25-16.19 Dates of submission

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

(d) Nothing herein contained shall relieve any candidate or committee from the preelection or post-election reporting requirements contained in sections 8 or 16 of the [Act] **act** (N.J.S.A. 19:44A-8 or 19:44A-16).

19:25-16.20 Special account for public funds

The commission shall maintain [in Trenton] for each qualified candidate a separate segregated public fund account for deposit of public funds. All public funds received by the commission from the General Treasury of the State shall be promptly deposited by the commission into such separate segregated public fund account. No funds other than such public funds shall be deposited in such separate segregated public fund account, and all expenditures from such account shall be separately identified in reports filed with the commission.

19:25-16.21 Receipt of public funds; generally (No change.)

19:25-16.22 Receipt of public funds; limitation (No change.)

19:25-16.23 Receipt of public funds; procedure (No change.)

19:25-16.24 Disclosure of information

The statements and certifications submitted by a candidate in accordance with N.J.A.C. 19:25-16.18 (Matching of funds) shall not be public records and shall not be available for public inspection; provided, however, the commission shall from time to time publish a listing which shall contain the information included in the statements and certifications for each contribution approved for match, except that it shall not include the name, address or amount of contribution of any contributor whose contributions in the aggregate are \$100.00 or less **unless the candidate authorizes such disclosure in writing.**

19:25-16.25 Use of public funds

(a) Public funds received on behalf of a qualified candidate from the fund for primary election campaign expenses shall be deposited by the [Commission] **commission** in the candidate's public fund account and the candidate's use of such funds shall be strictly limited to the following purposes:

1.-5. (No change.)

6. Payment of the cost of legal and accounting expenses incurred in complying with the public financing regulations of the [Commission] **commission** and with the public financing provisions of the [Act] **act**;

7. Payment of the cost of telephone deposits, and installation charges and monthly billings in excess of deposits. Within six months after the primary election, a candidate shall return to the [Commission] **commission** the amount of any public funds used to pay telephone deposits where are later returned.

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

19:25-16.26 Use of transferred funds

Notwithstanding the provisions of N.J.A.C. 19:25-7.3, any transfer of funds from the primary campaign of the gubernatorial candidate to any other candidate, political committee, political party committee or political club will be considered to be an expenditure on behalf of the gubernatorial candidate under section 7 of the [Act] **act** (N.J.S.A. 19:44A-7). No such transferee shall make any contribution to or on behalf of the gubernatorial candidate prior to or subsequent to such transfer.

19:25-16.27 Expenses not subject to expenditure limits

(a) The following expenditures by a qualified candidate shall not be subject to the expenditure limit described in N.J.A.C. 19:25-16.9(a)(3) (Limitations on participating candidates):

1. (No change.)

2. Travel expenses of the candidate, as that term is defined in N.J.A.C. 19:25-16.28(a) (Travel expenses), or of any person other than the candidate if such traveling expenses are voluntarily paid by such person without any understanding or agreement with such candidate that they shall be, directly or indirectly, repaid to him **or her** by the candidate, shall not be deemed expenditures within the meaning of N.J.S.A. 19:44A-7.

3. (No change.)

19:25-16.28 Travel expenses (a) (No change.)

(b) All of the expenditures, including those excluded from the expenditure limitation contained in section 7 of the [Act] act (N.J.S.A. 19:44A-7), must be disclosed in the preelection and post-election reports on behalf of the candidate.

1. Example 1: Candidate X, a candidate for the office of Governor in the primary election who will receive public funding, travels to a city with five members of [his] **the candidate's** staff in two automobiles for campaign purposes. [His] **The candidate's** staff arranges for rooms at a hotel in that city. In the course of the stay, the candidate and [his] staff hold numerous meetings and provide food and beverages for visitors in the course of the various meetings. Only the reasonable and necessary expenses of the use of automobiles and other means of transportation and the reasonable and necessary cost of meals and sleeping accommodations for the candidate and [his] staff during the trip, are excludable for purposes of the expenditure limitation contained in section 7 of the [Act] act (N.J.S.A. 19:44A-7).

19:25-16.29 Independent expenditures

(a) Independent expenditures shall not be deemed to be expenditures within the meaning of section 7 of the [Act] act (N.J.S.A. 19:44A-7), but all such expenditures shall be subject to all of the reporting and disclosure requirements of the [Act] act. Each person or political committee making independent expenditures who is required to file election reports pursuant to N.J.A.C. 19:25-12.5 shall include in the reports required under the [Act] act a sworn statement on a form provided by the commission that such independent expenditure was not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, the candidate or any person or committee acting on behalf of the candidate.

(b) (No change.)

19:25-16.30 Borrowing of funds; repayment

Any candidate, his **or her** campaign treasurer or deputy campaign treasurer may borrow funds from any national or State bank, provided that no person or political committee other than the candidate [himself] may in any way endorse or guarantee such loan in the aggregate in excess of the \$800.00 contribution limit. Except for a non-participating candidate guaranteeing a loan to his **or her** campaign, the amount so borrowed shall not at any one time in the aggregate exceed \$50,000 and must be repaid in full by such candidate or his **or her** campaign treasurer or deputy campaign treasurer from moneys accepted or allocated pursuant to section 5 of P.L. 1980, c.74 (N.J.S.A. 19:44A-29) not later than 20 days prior to the primary election. Certification of such repayment shall be made by the borrower to the commission not later than 15 days prior to the date of primary election. In the event of the failure of the borrower to repay timely the full amount of the loan or to certify properly such repayment to the commission, all payment of public funds to such candidate shall promptly cease and the commission shall take action as directed by the act to prohibit the expenditure by the candidate of moneys received from the fund and any other moneys received by him **or her** in aid of his **or her** candidacy in such primary election.

19:25-16.31 Maintenance of records; audit

(a) The campaign treasurer or deputy campaign treasurer of each candidate shall retain all written instruments, checks, bank statements and all other records of contributions and expenditures, including originals or photocopies of all documents and instruments submitted to the commission relating

to the primary for a period not less than [three] **four** years after [such primary.] **submission of the final report for the primary election.**

(b) (No change.)

19:25-16.32 Post-election contributions; post-election payment of expenses

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

(c) Every payment of expenditures for primary election obligations made by the candidate, campaign treasurer or deputy campaign treasurer, after the date of the primary election (except as otherwise specifically provided by the [Act] act or these regulations, for example, compliance costs) shall be deemed to be expenditures for such primary election within the meaning of section 7 of the [Act] act (N.J.S.A. 19:44A-7).

(d) (No change.)

19:25-16.33 Repayment of public or other funds

All moneys received by a qualified candidate from the public fund for primary election campaign expenses remaining after the liquidation of all lawful obligations with the respect to that election shall be repaid to the commission (for return to the Treasurer of the State of New Jersey) not later than six months after the date of such primary election. All moneys, other than moneys received from the public fund, [used by the candidate to obtain matching funds and] remaining available to any qualified candidate after the liquidation of all obligations, shall also be repaid to the commission (for return to the Treasurer of the State of New Jersey) not later than six months after the date of such primary election provided however, that nothing herein contained shall require any candidate to pay into the public fund a total amount of moneys in excess of the total amount of moneys received by such qualified candidate from the public fund.

19:25-16.34 Computation of value of goods and services

(a) Goods and services shall, for purposes of the reports required to be filed under the [Act] act and for purposes of the expenditure limitation contained in section 7 of the [Act] act (N.J.S.A. 19:44A-7) where applicable, be valued by the reasonable commercial value of such goods and services to the candidate, whether or not the cost or value of such goods or services to the contributor or other provider of those services is higher or lower than such reasonable commercial value.

1. Example 1: Candidate Y, a candidate for the office of Governor who has chosen to accept public funding, obtains the use of a helicopter for travel of the candidate for campaign purposes. By agreement with the owner of the helicopter, the campaign committee for the candidate will pay \$500.00 per day, which represents the cost to the owner of the maintenance and operation of the helicopter. The reasonable commercial value of the use of the helicopter is \$900.00 per day. In this example, the amount of \$500.00 paid by the campaign committee of the candidate to the owner for use of the helicopter is not includable as an expenditure for purposes of the expenditure limitations contained in section 7 of the [Act] act (N.J.S.A. 19:44A-7). The difference between the \$500.00 actually paid for use of the helicopter and the reasonable commercial value normally charged by the owner for the use of the helicopter, represents a contribution from the owner of the helicopter to the candidate in the amount of \$400.00. The candidate could obtain the use of the helicopter under this arrangement from a lawful contributor for campaign purposes for not more than two days. If [he] **the candidate** obtained the use of the helicopter for three days under

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this arrangement, the owner of the helicopter would have made an unlawful contribution to the candidacy of the candidate, since the aggregate of the contributions (\$1,200) from that contributor in this instance would have exceeded \$800.00

2. Example 2. Candidate Y in example 1, wishes to obtain the use of the helicopter from the owner for three days, and the campaign committee for the candidate pays to the owner the reasonable commercial value of \$900.00 for each day, or a total of \$2,700. The amount paid to the owner is not an expenditure within the expenditure limitation contained in section 7 of the [Act] act (N.J.S.A. 19:44A-7). On these facts the owner has made no contribution to the candidate.

3. In example 1 and example 2, the total amounts of expenditures, including expenditures not subject to the expenditure limitation of section 7 of the [Act] act (N.J.S.A. 19:44A-

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7), must be reported in the preelection and post-election report filed on behalf of the candidate.

19:25-16.35 Corporate or labor organization communications

Communications on any subject by a corporation to its stockholders and their families, or by a labor organization to its members and their families, and non-partisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and their families, or by a labor organization aimed at its members and their families, shall not be construed to be in aid of the candidacy of or in behalf of a candidate for election to the office of Governor in any primary election.

RULE ADOPTIONS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules of Practice

Non-Lawyer Representation in Contested Cases

Adopted Amendments: N.J.A.C. 1:1-3.7, 1:2-2.10 and 1:6A-4.2

Adopted New Rules: N.J.A.C. 1:1-3.12 and 3.13

Proposed: June 18, 1984 at 16 N.J.R. 1408(a).

Adopted: October 2, 1984 by Ronald I. Parker, Acting Director, Office of Administrative Law.

Filed: September 28, 1984 as R.1984 d.476, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

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

Effective Date: October 15, 1984.

Operative Date: November 14, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): June 19, 1985 for 1:1-3.7, 3.12 and 3.13; March 21, 1985 for 1:2-2.10; January 1, 1985 for 1:6A-4.2.

Summary of Public Comments and Agency Responses and Reasons for Making Changes:

The OAL published notice of proposed rules and amendments governing non-lawyer representation in contested cases in the March 19, 1984 issue to the New Jersey Register at 16 N.J.R. 472(a). During the comment period a number of written comments were received resulting in substantial changes and a reproposal of these rules.

The repropoed rules appeared in the June 18, 1984 issue of the New Jersey Register at 16 N.J.R. 1408(a). During the comment period, the OAL received written comments from the Ocean County Board of Social Services, the Sussex County Welfare Board, the Hunterdon County Board of Social Services, and the Department of Civil Service. Each comment was responded to individually. Additionally, oral comments were received from the Department of Public Welfare.

The Department of Civil Service objected to the requirement that union representatives produce a signed request for representation from the employee since such a request is not required from any other non-lawyer representative. The OAL has eliminated this requirement from the adoption but will monitor this aspect of labor union representation to determine if it becomes advisable to require a signed request.

The Department of Civil Service also noted that the relationship between N.J.A.C. 1:1-3.12(e) and (g) was unclear. The Department felt that since both sections deal with sanctions, proposed subparagraph (e) was superfluous and should be deleted from the rule.

OAL agrees that part of the relationship between N.J.A.C. 1:1-3.12(e) and (g) was unclear. The first sentence of subsection (e) was intended to authorize a judge to revoke the right to represent when there is an incorrect material statement in a Notice of Appearance, or written or oral application. The second sentence of subparagraph (e) dealt with the right of a judge to institute disciplinary or other appropriate action if the incorrect statement was an intentional misstatement. OAL concurs that this sentence more appropriately belongs with sanctions in subparagraph (g).

Finally, the Department questioned whether staff attorneys could appear at OAL hearings pursuant to the proposed new rule. N.J.A.C. 1:1-3.12 is intended to deal only with representation by non-lawyers. Pursuant to N.J.A.C. 1:1-3.7 a party may be represented by an attorney-at-law authorized to practice in this state. Whether staff attorneys can appear at OAL hearings is a matter for discussion between the agency and the Office of the Attorney General.

The Division of Public Welfare as well as each of the responding county welfare agencies voiced concern over the requirement in N.J.A.C. 1:1-3.12(a)1.ii that the non-lawyer applicant seeking to represent a county or municipal welfare agency affirm that the county or municipal counsel has declined representation in the particular matter. The agencies expressed concern that the rule required attorney review of each hearing request which would impose a considerable administrative and financial burden upon the agencies.

The OAL agrees that requiring a county/municipal attorney to review each welfare hearing request might be unnecessarily burdensome and costly. It was not the intent of OAL to mandate such review. In order to clarify the requirement, the rule has been amended to require the county welfare agency employee to state that the county counsel "is not providing representation", rather than "has declined representation" in the case.

Additionally, the rules will not be operative until 30 days after promulgation to provide adequate time to develop a procedure between the county welfare agencies and county counsel for determining when, if ever, county counsel will provide representation at administrative hearings.

These commenters were also concerned about the requirement that welfare agency representatives have special expertise or experience in the matter which could disqualify the caseworker who in the past has usually been the representative of the welfare agency.

New Jersey Supreme Court Rule R.1:21-1(e)(3) requires that a representative of a county welfare agency have special expertise or experience in the matter in controversy. The OAL is simply attempting to effectuate this rule. However, a non-lawyer can qualify for representation under this rule if he or she has special expertise in welfare cases generally or has experience or knowledge about the matter in controversy. The agency worker who is the most knowledgeable about the case cannot be disqualified under this rule.

The Division of Public Welfare objected to the requirement that representatives in these cases "affirm and reasonably

evidence" compliance with the requirements of the rules. The Division also expressed concern that representatives of applicants or recipients would be prohibited from appearing because a judge determined that they lacked experience or expertise in the area.

OAL concurs with the Division that requiring representatives to affirm and reasonably evidence that they satisfy the representation requirements is unnecessarily formal; therefore, this requirement has been deleted throughout the rule.

In addition, the only requirements imposed upon a non-lawyer representative of an applicant or recipient for services are that he or she may not be a disbarred attorney and may not receive a fee for the appearance. The federal law permits an applicant/recipient to be assisted at the hearing by anyone. N.J.A.C. 1:1-3.12(b)1. has been amended to make this clearer.

After meeting with representatives from the Department of Human Services and the Division of Medical Assistance and Health Services, the Office of Administrative Law amended the proposal to clarify that a non-lawyer seeking to represent the Division of Medical Assistance and Health Services does not fall under the oral application procedures but must submit a written application pursuant to N.J.A.C. 1:1-3.12(b)2.

The proposal was further amended to clarify that a non-lawyer who is otherwise eligible, may represent a party not specifically mentioned in N.J.A.C. 1:1-3.12(b)1 if he or she complies with procedures at N.J.A.C. 1:1-3.12(b)2 or 3.

Finally, the following changes were made after the OAL further considered the implementation problems presented by the rule:

1. The rule was clarified to ensure that the applications of agency employees, union representatives and legal service paralegals each contain a supervisor's business address and telephone number.

2. Requiring a judge to make an initial evaluation of each written application was felt unnecessarily burdensome. Accordingly, the Clerk of the OAL will review each written Notice of Appearance and Application. The Clerk may seek additional information and may reject applicants who do not meet the representation requirements. Applicants who appear in their applications to meet the rule's requirements will be initially approved by the Clerk. In the event that the written Notice of Appearance or application presents a significant legal issue relating to the applicant's right to represent a party pursuant to R 1:21-1(e), the Clerk will refer the matter to the presiding judge for determination at or before the hearing. The judge upon being assigned to the case or thereafter during the proceeding may determine that a particular case is unsuitable for non-lawyer representation.

3. For those persons who have permanent applications on file with the OAL, it was unnecessary to require any oral representations at the hearing. Since non-lawyers must give notice of their appearance in the case, he or she may make the required statements in this notice. A form has been prepared by the OAL to facilitate this process.

Together with this adoption, the OAL has decided to concurrently propose in this Register at 16 N.J.R. the deletion of those provisions which permit applications for non-lawyer representation of persons who cannot afford an attorney and are unable to obtain legal services representation.

Until the OAL has the opportunity to work out the numerous difficulties expected to be encountered by the promulgation of this rule, the OAL feels it is preferable to begin by limiting the applicability of this rule to those categories of

cases where experience has already been gained with non-lawyer representation under the prior practice of the OAL.

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

1:1-3.7 Appearances and representation

A party may represent him or herself, be represented by an attorney authorized to practice law in this State, or, subject to N.J.A.C. 1:1-3.12 and N.J.A.C. 1:1-3.13, be represented or assisted by a non-lawyer permitted to make an appearance in a contested case by R. 1:21-1(e).

(b) (No change.)

1:1-3.12 Representation and assistance by non-lawyers; authorized situations, applications, notice of appearance, approval procedures, limitations, practice requirements

(a) ***[Pursuant to]* **In conformity with** R. 1:21-1(e) of the Rules Governing the Courts of the State of New Jersey, ***[a]* **the following** non-lawyer*s*** may apply for permission to represent or assist a party at a contested case hearing ***[in the following situations by complying with the following procedures]***:**

- *1. Persons whose appearance is required by Federal law;**
 - 2. State agency employees;**
 - 3. County or municipal welfare agency employees;**
 - 4. Legal service paralegals or assistants;**
 - 5. Close corporation principals;**
 - 6. Union representatives in Civil Service cases; and**
 - 7. Persons seeking to assist a party who is unable to afford an attorney and unable to obtain legal service representation.***
- *(b) The non-lawyer applicants mentioned in (a) above may apply for permission to appear by supplying the following information and by complying with the following procedures:***

1. Oral applications at the hearing may be made in cases transmitted to the OAL by the Division of Public Welfare, Division of Medical Assistance and Division of Youth and Family Services.

i. At the hearing, the non-lawyer applicant shall state that he or she is not a suspended or disbarred attorney and that he or she is not receiving a fee for the appearance.

[i.]* **ii. At the hearing, the non-lawyer applicant seeking to represent a recipient or applicant for services shall ***[affirm and reasonably evidence]* **state** ***[that he or she satisfies the State requirements for non-lawyer representation in R. 1:21-1(e) and this section.]* **why the Federal law requires that his or her appearance be permitted.*********

[ii.]* **iii. At the hearing, the non-lawyer applicant seeking to represent a county or municipal welfare agency shall ***[affirm and reasonably evidence]* **state** ***[that he or she is an employee of the welfare agency, has been assigned to represent the agency in the case,], has special expertise or experience in the matter]* **and that the county or municipal counsel ***[has declined representation in the particular matter.]* **is not providing representation in the particular matter.******* The non-lawyer applicant shall also state his or her position at the agency and the name*,* **[and]* title *, **business address and telephone number** of his or her supervisor ***and shall explain his or her special expertise or experience in the matter.***********

***iv. At the hearing, a non-lawyer applicant seeking to represent the Division of Public Welfare or the Division of Youth**

and Family Services shall state how he or she satisfies the requirements for representation set forth in (b)2i, below.

*v. A non-lawyer applicant seeking to represent the Division of Medical Assistance and Health Services shall comply with the requirements of (b)2. below and may not make an oral application for permission to represent the Agency.

vi. A non-lawyer, otherwise qualified under R.1:21-1(e) and N.J.A.C. 1:1-3.12, seeking to represent a party not specifically mentioned above shall comply with the applicable procedures specified in (b) 2 or 3 below.

2. A Notice of Appearance on forms supplied by the OAL shall be required in cases where a non-lawyer employee seeks to represent a State agency and where a non-lawyer from a legal services program seeks to represent an indigent.

i. To represent a State agency, the Notice shall be signed by the non-lawyer applicant, filed with the Clerk of the OAL no later than 10 calendar days prior to the scheduled hearing date and served on all parties. The Notice shall include a statement that the non-lawyer is an employee of the State agency he or she seeks to represent; his or her position at the agency; his or her supervisor at the agency; ***his or her supervisor's position, business address and telephone number,*** and an explanation of his or her ***special*** expertise or experience in the matter in controversy. The Notice shall also contain a statement, signed by a Deputy Attorney General for the State agency that the Attorney General will not provide representation for the agency in the case.

ii. For non-lawyers from legal services programs, the Notice of Appearance shall be ***signed by the non-lawyer applicant,*** filed with the Clerk no later than five calendar days from receipt of the hearing notice. ***and served on all parties*.** The Notice ***[of Appearance]*** shall include a statement that he or she is a paralegal or legal assistant; the name and address of the Legal Services Program of which he or she is a part; the name, ***business address,*** telephone number and signed authorization of a Legal Services attorney who supervises the applicant; and a statement that the represented party is indigent.

3. Written applications shall be made in the following cases. Such applications may be in letter form, and shall be signed by the non-lawyer applicant, filed with the Clerk of OAL no later than 10 calendar days prior to the scheduled hearing date and served on all parties.

i. In special education hearings the non-lawyer applicant shall include in his or her written application ***[reasonable evidence that]* ***an explanation of how*** he or she satisfies the Federal and State requirements for non-lawyer representation.**

ii. In cases where a principal seeks to represent a close corporation, the non-lawyer applicant shall include in his or her written application ***[an affirmation]* ***a statement*** that he or she is a principal, his or her position in the corporation; and a copy of the incorporation papers or other papers documenting the close nature of the corporation, describing the corporation's activities and listing the non-lawyer as a principal.**

iii. In Civil Service cases, where a union representative seeks to represent a state, county or local government employee, the non-lawyer applicant shall include in his or her written application, a statement that he or she is an authorized representative of a labor organization; that the labor organization is the duly authorized representative of the employee's collective bargaining unit*[*];* ***and*** the name*,* ***[and]* title, business address and telephone number*** of his

or her supervisor*[*]; and, a signed request from the employee for representation by the union representative]*.

iv. In cases where an individual cannot afford to retain an attorney and cannot obtain free legal representation, the non-lawyer applicant shall include in his or her written application an explanation of how the individual would benefit from the assistance of the non-lawyer; an explanation of the non-lawyer's capabilities for rendering such assistance; and a statement by the individual needing assistance that he or she lacks the means to retain an attorney and that representation is not available through a Legal Services program.

4. All non-lawyer applicants whether filing a Notice of Appearance under (b)2 above or applying ***[orally or]*** in writing for permission to represent a party in a contested case shall ***[affirm]* ***state*** in the Notice or in the written ***or oral]*** application that he or she is not a disbarred or suspended attorney and is not receiving a fee for the appearance.**

[(b)]* ***c) Upon receiving a timely ***Notice of Appearance or*** written application by a non-lawyer seeking permission to represent a party in a contested case, ***[a Judge]* ***the Clerk*** shall review the ***[papers]* ***Notice or application*.** ***The Clerk may require the applicant to supply additional information or explanation of the items specified in (b) 2 or 3 above as applicable, or may require the applicant to supply evidence of the statements contained in the application.*** If the ***[Judge]* ***Clerk*** does not otherwise notify the applicant within five days of the application's receipt, the non-lawyer's application to appear at the hearing shall be deemed approved. ***When the Clerk believes that an application presents a significant legal issue relating to representation rights, the Clerk will notify the parties that the presiding judge will determine the matter at or before the hearing.***********

(c) The judge in determining whether a specific case is appropriate for representation by a non-lawyer representative may consider either the lack of appropriate experience or expertise of the particular non-lawyer representative, or the complexity of the legal issues or other factors which make the particular case inappropriate for a non-lawyer representative. The judge shall implement a determination to preclude non-lawyer representation by informing the parties of the decision and the reasons therefore. With respect to a county, local or State agency or a close corporation, the judge may require the party to obtain legal representation. With respect to an individual, the judge may require the individual to obtain a new non-lawyer, to represent himself or to obtain legal representation.

(d) In order to simplify and expedite the application process, a State agency, a legal services program or labor organization may submit to the Clerk permanent written applications upon forms supplied by the OAL for those non-lawyers who qualify under N.J.A.C. 1:1-3.12 and who will regularly appear at hearings. Thereafter, upon being assigned to represent a party in a particular case, the non-lawyer representative shall promptly notify the other party ***and the Clerk of the OAL*** of his or her appearance and ***include in the notification* ***[comply with]*** the following:**

i. Non-lawyer representatives of State agencies shall be required to state ***[orally at the hearing]*** that the Attorney General's office has declined representation in the case.

ii. Non-lawyer union representatives shall be required ***[at the hearing to present a signed request from the employee for representation by the union representative and]*** to state ***[orally]*** that the labor organization is the duly authorized representative of the ***represented*** employee's collective bargaining unit.

iii. Non-lawyers from legal services programs shall be required [at the hearing] to state [orally] that the represented party qualifies for legal services.

[(c)] (e) The presiding judge, unless precluded by Federal law, may determine after being assigned to the case and at any time during the proceeding [in determining whether] that a specific case is not appropriate for representation by a non-lawyer representative. [may consider either] The judge's determination may be based either on the lack of appropriate experience or expertise of the particular non-lawyer representative, or the complexity of the legal issues or other factors which make the particular case inappropriate for a non-lawyer representative. The judge shall implement a determination to preclude non-lawyer representation by informing the parties of the decision and the reasons therefore. With respect to a county, local or state agency or a close corporation, the judge may require the party to obtain legal representation. With respect to an individual, the judge may require the individual to obtain a new non-lawyer to represent himself or to obtain legal representation.

[(e)] (f) The presiding judge may revoke any non-lawyer's right to appear in a case if and when the judge determines that a material statement is incorrect in any Notice of Appearance or in any written or oral application by a non-lawyer or party concerning representation or assistance by the non-lawyer. [The judge may also institute any disciplinary or other appropriate action if the judge determines that the incorrect statement was an intentional misstatement.]

1. In the interest[s] of a full, fair, orderly and speedy hearing, the judge may at any time condition, limit or delineate the type or extent of representation or assistance which may be rendered by a non-lawyer. Conditions or limits may include:

- i. Requiring any examination and cross examination by the non-lawyer to be conducted through the judge;
- ii. Requiring questions from the non-lawyer to be presented to the judge prior to asking;
- iii. Requiring the party to speak for him or herself; or
- iv. Revoking the right of the non-lawyer to appear if the judge finds that the proceedings are being unreasonably disrupted or unduly delayed because of the non-lawyer's participation.

(g) Non-lawyer representatives and assistants shall be subject to the Rules of Practice of the Office of Administrative Law and to the sanctions provided in N.J.A.C. 1:1-3.5*, which may include: *If the judge determines that an incorrect statement in an oral or written application or Notice of Appearance was an intentional misstatement, or that the non-lawyer representative has unreasonably failed to comply with any order of a judge or with any requirement of this chapter, the judge may impose the sanctions provided under N.J.A.C. 1:1-3.5, which may include:*

1. In the case of a State, county or local agency employee, reporting any inappropriate behavior to the agency for possible disciplinary action;

2. A determination by the presiding judge that the non-lawyer representative shall be excluded from a particular hearing; and,

3. A recommendation by the presiding judge to the Director of the Office of Administrative Law that a particular non-lawyer representative be permanently excluded from administrative hearings.

[(f)] (h) In general, a non-lawyer representative or assistant shall be permitted at the hearing to submit evidence, speak for the party, make oral arguments, and conduct direct examinations and cross examinations of witnesses.

1:1-3.13 Appearance without representation: State agencies *or county or municipal welfare agencies*

(a) In those cases where a State agency *or a county or municipal welfare agency* does not send a representative who has been approved under N.J.A.C. 1:1-3.12 to a hearing, but merely rests its case on papers and/or on witnesses presented to the judge:

1. The State agency shall include in the transmittal form a statement which verifies the agency's intention to proceed without a representative qualified under N.J.A.C. 1:1-3.12 and lists the papers and/or witnesses upon which the agency intends to rely.

2. The judge shall, where appropriate, accept into the hearing record the agency's papers and/or the witnesses' testimony. In the interests of developing a full hearing record of the dispute, the judge may, where appropriate, permit a witness who does not qualify as an agency representative, under N.J.A.C. 1:1-3.12, to ask questions through the judge, make statements in response to other witnesses' testimony, or to offer documents in his or her own name. However, the judge need not permit a witness who does not qualify as an agency representative under these rules to conduct the examination or cross examination of witnesses.

1:6A-4.2 Representation

(a) At a hearing, any party may be accompanied and advised by legal counsel or by individuals with special knowledge or training with respect to handicapped pupils and their educational needs, or both.

(b) A non-lawyer seeking to represent a party shall comply with the application process contained in N.J.A.C. 1:1-3.12 and shall be bound by the approval procedures, limitations and practice requirements contained therein.

1:2-2.10 Representation and assistance

(a) A non-lawyer seeking to represent a party shall comply with the application process contained in N.J.A.C. 1:1-3.12 and shall be bound by the approval procedures, limitations and practice requirements contained therein.

(a)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules of Practice "Hearings on the Papers" and Motor Vehicle Cases

Adopted Amendment: N.J.A.C. 1:2-3.4

Proposed: August 20, 1984 at 16 N.J.R. 2186(a).
Adopted: September 27, 1984 by Ronald I. Parker, Acting Director, Office of Administrative Law.
Filed: September 28, 1984 as R.1984 d.462, without change.

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

Effective Date: October 15, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): January 2, 1985.

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

Full text of the adoption follows.

1:2-3.4 Notice of filing and of hearing; response to notice of in-person hearing

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

(c) In cases dealing with surcharges, the notice for a hearing on the papers or an in-person hearing will be mailed to the licensee by OAL after receiving the case from the Division of Motor Vehicles. The notice for hearing shall constitute both the notice of filing and notice of hearing.

(d) In surcharge cases, the notice scheduling an in-person hearing shall permit the licensee to submit a certification or other written documents prior to the hearing in lieu of making a personal appearance at the hearing. If the licensee does not appear at the in-person hearing and fails to forward the certification form and any accompanying documents within the time specified in the notice, the judge shall decide the case based upon the licensee's original hearing request plus any documents the OAL has received.

AGRICULTURE

(a)

DIVISION OF RURAL RESOURCES

**State Soil Conservation Committee
Soil and Water Conservation Project Cost
Sharing: Eligible Projects**

Adopted New Rule: N.J.A.C. 2:90-2

Proposed: June 18, 1984 at 16 N.J.R. 1416(a).
Adopted: September 14, 1984 by State Soil Conservation Committee, Arthur R. Brown, Jr., Chairman.
Filed: September 24, 1984 as R.1984 d.452, **with technical and substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 4:24-3 and 4:1C-24.

Effective Date: October 15, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): September 14, 1989.

Summary of Public Comments and Agency Responses:

The State Soil Conservation Committee has received several written and oral comments regarding the proposal. The comments and agency responses were reviewed by the State Soil Conservation Committee. The comments and responses are as follows:

2:90-2.2 Definitions

Comment: It was suggested that additional key words and terms be defined to further clarify the provisions of N.J.A.C. 2:90-2.

Response: It was agreed to clarify through more precise definitions the following: "Farmland Preservation Program", "New Jersey Bureau of Forest Management", and the "State Soil Conservation Committee." These definitions have been incorporated in the adopted rule.

2:90-2.3 Standards and Specifications

Comment: Clarification is needed regarding responsibility for technical standards and specifications associated with the forestry practices.

Response: It was determined that the New Jersey Bureau of Forest Management Standards will be utilized for forestry practices in accordance with adopted revisions.

Comment: Additional language should be added to indicate that the State Soil Conservation Committee may promulgate additional standards for installation of practices.

Response: Additional language was adopted indicating that the State Soil Conservation Committee will develop and adopt additional standards where determined necessary.

2:90-2.5 Terrace Systems

Comment: It was suggested to include a provision to allow cost-sharing for "removing portions of stonewalls or hedges" where such work is a necessary part of the practice.

Response: Additional language to provide cost-sharing for this practice is included in the Adopted Rule.

2:90-2.6 Diversions

Comment: It was suggested to include provisions to cost-share maintenance of certain soil and water conservation projects.

Response: It was determined that the applicant is responsible for maintaining the project and that no cost-sharing will be provided.

2:90-2.9 Sod waterways

Comments: It was suggested to incorporate the word "mulching" in the description under waterways.

Response: The SCS Technical Guide, Section 4, which is adopted by reference as specified in 2:90-2.3 Standards and Specifications already provides for mulching as part of the practice for establishing sod waterways.

2:90-2.10 Windbreak restoration or establishment

Comment: Will cost-sharing be allowed for removing old or diseased windbreaks?

Response: It was interpreted that cost-sharing is included for removal of old or diseased windbreaks.

Comment: It was suggested that cost-sharing for "site preparation" be authorized where such work is necessary to install practices.

Response: Additional language to provide cost-sharing for this practice is included in the adopted rule.

2:90-2.11 Stream Protection

Comment: The types or practices published in the proposed rule for cost-sharing were not relevant to stream protection. N.J.A.C. 2:90-2.11(b), 1 through 4 was technically incorrect and duplicative of 2:90-2.16(b), 1 through 4 under the practice Sediment Retention, Erosion, or Water Control Structures.

Response: A technical error was acknowledged in which the types of practices as published were not appropriate nor intended for the practice. Extensive notification of this error and the proposed correction was made through contacts with Soil Conservation Districts and other potential program personnel. The corrected terminology is incorporated in the

adopted rule. The corrected language is commonly known and virtually the same as the Federal Agricultural Conservation Program which has been in effect for several years. It was determined that the substitution of this revised language is for correction of a technical error only and that because of its similarity to language currently used for the same practice in the Federal cost share program it is not sufficiently substantive to require formal republication for comment.

2:90-2.12 Permanent vegetative cover on critical areas

Comment: It was suggested that cost-sharing for measures installed on "public roadsides" might cause a potential conflict if the "public roadside" was not owned by a participant or included in a farmland preservation program.

Response: It was determined necessary to provide cost-sharing on public roadsides where it is an essential part of the practice.

2:90-2.13 Land shaping or grading

Comment: A question was raised concerning what practices are included in landshaping or grading and whether or not cost-sharing could be applied to depressions and for cutting a continuous grade for drainage.

Response: New language has been added under land-shaping or grading to specify that "no cost-sharing is authorized for any shaping or grading performed through normal farming operations required to prepare the land."

Comment: It was suggested not to cost-share for fencing.

Response: It was recommended that cost-sharing be allowed for fencing where it is pertinent to the practice to effectively control soil erosion.

2:90-2.15 Irrigation Systems

Comment: Several suggestions were received to modify the title and incorporate other language that is more applicable to the goals of the Agriculture Retention and Development Act.

Response: The title has been revised to "Irrigation Systems" and new language has been incorporated to clarify what measures are approved for cost-sharing.

The proposed language was more limiting and would allow cost-sharing only where an extensive cropping history exists. It was determined that the adopted language is necessary to achieve the goals of the Agriculture Retention and Development Act and in particular the definition of soil and water conservation projects.

2:90-2.16 Sediment retention, erosion, or water control structures

Comment: It was suggested not to cost-share for measures performed on "public roadsides".

Response: It was determined that it was necessary to allow cost-sharing on public roadsides where it is needed to effectively control soil erosion.

2:90-2.17 Permanent open drainage systems

Comment: It was suggested to delete the cropping history criteria as an eligibility requirement.

Response: It was determined to eliminate all reference to cropping history as an eligibility requirement.

Comment: It was suggested to provide cost-sharing for pipes and other structures associated with ditches.

Response: Additional language was incorporated in the adopted rule to identify the types of structures eligible for cost-sharing.

Comment: It was suggested to provide cost-sharing for reconstruction of ditches which have deteriorated and are no longer functional.

Response: Additional language was incorporated in the adopted rule to provide cost-sharing for this practice when the design life span has been exceeded.

Additional comments

Comment: It was suggested to include dike and tidegate structures.

Response: It was determined to incorporate the necessary wording to allow cost-sharing for these practices in 2:90-2.16 Sediment retention, erosion, or water control structures.

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

SUBCHAPTER 2. SOIL AND WATER CONSERVATION PROJECT COST SHARING: ELIGIBLE PROJECTS

2:90-2.1 Applicability

The projects contained in this subchapter are applicable to participants in ***[a light year program entered into]* **a farmland preservation program***** pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C - 11 et seq., ***P.L. 1983, C.32*** all rules and regulations promulgated thereunder.

2:90-2.2 Definitions

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

"District" or "soil conservation district" (SCD) means a governmental subdivision of this State, organized in accordance with the provisions of N.J.S.A. 4:24 et seq.

"Farmland Preservation Program" means any voluntary Farmland Preservation Program" or "municipally approved farmland preservation program", the duration of which is at least eight years, authorized by law enacted subsequent to the effective date of the "Farmland Preservation Bond Act of 1981," P.L. 1981, c.276, which has as its principal purpose the long term preservation of significant masses of reasonably contiguous agricultural land within agricultural development areas adopted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32 and the maintenance and support of increased agricultural production as the first priority use of the land.

"New Jersey Bureau of Forest Management" means the Bureau of Forest Management, Division of Parks and Forestry of the New Jersey Department of Environmental Protection.

"Soil and Water Conservation Project" means any project designed for the control and prevention of soil erosion and sediment damages, the control of pollution on agricultural lands, the impoundment, storage and management of water for agricultural purposes, or the improved management of land and soils to achieve maximum agricultural productivity. Definitions of individual projects are contained in United States Department of Agriculture, Soil Conservation Service Standards and Specifications, Technical Guide Section 4, and are incorporated herein by reference.

"Soil Conservation Service" (SCS) means Soil Conservation Service of the United States Department of Agriculture.

"State Soil Conservation Committee" (SSCC) means an agency of the State established pursuant to Chapter 24 of Title 4 of the Revised statutes.

2:90-2.3 Standards and specifications

All soil and water conservation projects contained within this subchapter shall be in conformance with United States Department of Agriculture Soil Conservation Service Standards and Specifications, Technical Guide Section 4, which is hereby adopted by reference. ***All forest management type practices shall be in accordance with standards and specifications adopted by New Jersey Bureau of Forest Management. Where determined necessary, the State Soil Conservation Committee may develop and adopt additional standards and specifications for installation of practices.***

2:90-2.4 Eligible projects

The soil and water conservation projects contained in this subchapter are approved for cost-sharing in *[a light year municipally approved or]* ***a*** farmland preservation program.

2:90-2.5 Terrace systems

(a) Terrace systems which reduce pollution of water, land, or air from agricultural non-point sources may be applied to cropland subject to erosion from water runoff.

(b) The following types of practices are approved for terrace systems:

1. Terraces and the necessary leveling and filling to permit installation of an effective system.

2. Materials and installation of underground pipe outlets and other mechanical outlets.

3. Necessary vegetative protective outlets or *[water ways.]* ***waterways***.

4. Converting the present system to a new systems ONLY if the present system is not serving its intended conservation purpose.

5. Removing portions of stone walls or hedgerows if necessary to permit establishment of the practice.

(c) A protective outlet or waterway which is installed solely as an outlet for the terrace system and serves no other conservation purpose should be cost-shared as a component of this practice. A protective outlet or waterway which by itself solves a conservation problem, but also serves as an outlet for a terrace system, should be cost-shared under Sod Waterways or Sediment Retention, Erosion, or Water Control Structures.

(d) The system shall be maintained for a minimum of eight years following calendar year of installment.

2:90-2.6 Diversions

(a) Diversions which conserve water, prevent erosion, and prevent or reduce pollution of water, land, or air from agricultural non-point sources may be applied to farmland subject to erosion from excess surface or subsurface water runoff where the problem can be corrected by such diversion facilities.

(b) The following types of practices are approved for diversion systems:

1. Diversions, ditches, dikes, or subsurface drains where necessary for proper functioning of diversion.

2. Installation of structures such as pipes, chutes, underground outlets, or other outlets, if needed for proper functioning of a ditch or dike for more even flow, or to protect outlets from erosion.

3. Necessary leveling and filling to permit installation of an effective system.

4. Removing portions of stone walls or hedgerows if necessary to permit establishment of the practice.

(c) The following special conditions are applicable to diversion systems:

1. Cost-sharing is not authorized for ditches or dikes designed to impound water for later use, or which will be a part of a regular irrigation system. (Refer to other practices that permit such measures.)

2. A protective outlet or waterway which is installed solely as an outlet for diversion systems and serves no other purpose should be cost-shared as a component of this practice. A protective outlet or waterway which by itself solves a conservation problem, but also serves as an outlet for a diversion system, should be cost-shared under Sod Waterways or Sediment Retention, Erosion, or Water Control Structures.

(d) The system shall be maintained for a minimum of eight years following calendar year of installation.

2:90-2.7 Contour farming

(a) A contour farming system which will protect soil from wind or water erosion and abate pollution of water, land, or air from agricultural non-point sources may be applied to non-terraced cropland subject to wind or water erosion which constitutes a pollution hazard.

(b) The following types of practices are approved for contour farming:

1. Cost-sharing is limited to the establishment of a contour farming system and the necessary removal of obstacles such as fences, stone walls, or hedgerows where applicable.

2. Cost-sharing is authorized for subsurface drains needed to eliminate spot seepage on five percent or greater slopes where the seepage makes cross-slope tillage impractical. Subsurface drains may be the sole component if spot seepage develops and makes cross-slope tillage impractical in existing contour farming.

(c) The following special conditions are applicable to contour farming:

1. All agricultural operations must be performed as nearly as practicable on the contour.

2. On acreage devoted to row crops, one of the following must apply:

i. The crop stubble or crop residue must be left standing over the winter;

ii. A winter cover crop must be established;

iii. Adequate protective tillage operations must be performed.

3. This practice is not applicable on any acreage that is approved under stripcropping.

4. Cost-sharing is not authorized for repeating any approved measure under this practice with the same person on the same acreage.

(d) The acreage approved in the established system or an approximate equal acreage shall be maintained for a minimum of eight years after year of establishment.

2:90-2.8 Stripcropping system*s*

(a) Contour stripcropping systems which protect soil from wind or water erosion and reduce pollution of water, land, or air from agricultural non-point sources may be applied to cropland subject to erosion or soil movement.

(b) The following types of practices are approved for stripcropping systems.

1. Cost-sharing is limited to the establishment of the systems and, if necessary, the removal of such obstacles as fences, stone walls, or hedgerows where applicable.

2. Cost-sharing is authorized for subsurface drains needed to eliminate spot seepage on five percent or greater slopes where the seepage makes cross-slope tillage impractical. Subsurface drains may be the sole component if spot seepage

develops and makes cross-slope tillage impractical in existing stripcropping systems.

(c) The following special conditions are applicable to stripcropping systems:

1. On acreage devoted to row crops, one of the following must apply:
 - i. The crop stubble or residue must be left on the land during the winter;
 - ii. A winter cover crop must be established;
 - iii. Adequate protective tillage operations must be performed.

2. For contour stripcropping systems, cultural operations must be performed as nearly as practicable on the contour.

3. Cost-sharing is not authorized for repeating any approved measure under this practice with the same person on the same acreage.

(d) The system shall be maintained for a minimum of eight years following calendar year of installation.

2:90-2.9 Sod waterways

(a) Sod waterways which reduce erosion of land and the pollution of water from agricultural non-point sources may be applied to farmland needing permanent sod waterways to safely convey excess surface runoff water.

(b) The following types of practices are approved for sod waterways*:*

1. Cost-sharing is authorized for site preparation, grading, shaping, filling, and establishing permanent vegetative cover.
2. Cost-sharing is *[necessary]* ***authorized*** for subsurface drains and stone lining that are necessary for proper functioning of the waterway.

(c) The following special conditions are applicable to sod waterways:

1. The cover may consist of sod-forming grasses, legumes, mixtures of grasses and legumes, or other types of vegetative cover that will provide the needed protection from erosion.
2. Close-sown small grains or annuals may be used for temporary protection followed by eligible permanent vegetative cover established by seeding.

(d) The system shall be maintained for a minimum of eight years following calendar year of installation.

2:90-2.10 Windbreak restoration or establishment

(a) Windbreak restoration or establishment systems which restore or establish windbreaks for protecting eligible farmland from soil erosion and for reducing the pollution of water, air, or land may be applied to farmland needing protection against serious wind erosion.

(b) The following types of practices are approved for windbreak restoration or establishment:

1. Planting trees or shrubs as needed for restoring or establishing field or farmstead windbreaks ***including cost of site preparation.***
2. Permanent fences needed to protect the planted area from grazing, excluding boundary and road fences.

(c) The following special conditions are applicable to windbreak restoration or establishment:

1. Cost-sharing is not authorized for planting orchard trees or plantings for ornamental purposes.
2. Planting must be protected from destructive fire and destructive grazing.
3. Chemicals used in performing this practice must be registered Federally, with the State, and must be applied strictly in accordance with authorized uses, directions on the label, and other Federal or State policies and requirements.
4. Wildlife and environmental considerations must be given when designing this practice.

(d) The system shall be maintained for a minimum of eight years following calendar year of installation.

2:90-2.11 Stream protection

(a) Stream protection which reduces erosion *[and]* ***or*** the pollution of water from agricultural *[non-point sources]* ***activity*** may be applied to specific problem areas on small streams or lakes located on or adjacent to farmland where the bank is subject to damage from livestock or where sediment or runoff containing *[pesticides or fertilizer]* ***pollutants*** constitutes a significant *[pollution]* ***hazard to water quality***.

(b) The following types of practices are approved for stream protection:

1. Sediment detention or retention structures, such as erosion control dams (excluding water storage type dams), desilting reservoirs, sediment basins, debris basins, or similar structures.
2. Channel linings, chutes, drop spillways, and pipe drops that dispose of excess water.
3. Fencing and vegetative cover (including mulching needed to protect the structure) and for leveling and filling to permit the installation of the structure.
4. Installing sediment retention structures on public roadsides only where such structures are essential to solve a farm-based pollution or conservation problem.

(c) The following special conditions are applicable to stream protection:

1. Cost-sharing is authorized only if the measures will contribute significantly to maintaining or improving soil or water quality.
2. Consideration must be given to the needs of wildlife when establishing the protective measures.]*

***1. Permanent fencing to protect banks from damage by domestic livestock. Cost-sharing may be authorized for fencing as a single eligible component where it is the most practical solution to the problem, or for repair of fencing where damaged by flooding or other natural disaster.**

2. Planting trees, shrubs, or perennial grass cover as filter strips or buffer zones along banks.

3. To provide controlled access to water for livestock.

4. To install livestock crossings that will retard sedimentation and pollution. The installation of livestock crossings is limited to small streams. Where required, permits must be obtained by the applicant from appropriate authorities before the practice will be approved.

5. Impact on wildlife, trout production and maintenance, shellfish growing waters, and other environmental factors will be considered when designing the practice.*

[(d)] *** (c) *** The *[system]* ***practice*** shall be maintained for a minimum of eight years following calendar year of installation.

2:90-2.12 Permanent vegetative cover on critical areas

(a) Permanent vegetative cover on critical areas which reduces erosion and the pollution of land, water, or air from sedimentation of agricultural or silicultural origin may be applied to critical areas (such as gullies, banks, roadsides, trails and roads, and field borders and similar problem areas), on farms which are susceptible to erosion and where runoff carrying substantial amounts of sediment constitutes a significant pollution hazard, or where both exist.

(b) The following types of *[practicers]* ***practices*** are approved for permanent vegetative cover on critical areas:

1. Practices needed to stabilize a source of sediment such as grading, shaping, and filling, and the establishment *[or grasses,]* ***of vegetation***, (including the use of *[minerals]* *****

lime and fertilizer), trees or shrubs and similar practices which the SCD determines are practical for the solution of the problem.

(c) The following special conditions are applicable to permanent vegetative cover on critical areas:

1. Cost-sharing is authorized only if the measures will significantly reduce erosion and maintain, or improve, the quality of water in a stream, lake, pond, or other water source.
2. Cost-sharing is authorized for measures performed on public roadsides only where such measures are essential to solve a farm-based pollution or conservation problem.
3. Consideration should be given to wildlife and enhancing the appearance of the area when establishing the protective measures.

(d) The system shall be maintained for a minimum of eight years following calendar year of installation.

2:90-2.13 Landshaping or grading

(a) Landshaping or grading which permits effective surface drainage may be applied to cropland*.*

[used during at least two of the last five years of produce cultivated crops or crops normally seeded for hay or pasture in the area.]

(b) No cost-sharing is authorized for any shaping or grading performed through ***normal*** farming operations ***required*** to prepare the land for planting or cultivating crops.

(c) The practice shall be maintained for a minimum of eight years following calendar year of installation or establishment.

2:90-2.14 Water **[impounding]* *impoundment** reservoirs

(a) Water impoundment **[reservoirs]* *reservoirs** which provide water for agricultural uses and other benefits when possible may be applied to farmland on which the construction or sealing of water impoundment structures, including dugouts, is needed for the above purposes.

(b) The following types of practices are approved for water impoundment reservoirs:

1. Cost-sharing is authorized only for structures that provide water for agricultural uses, including livestock water impoundments, and irrigation.
2. Cost-sharing is authorized for fencing and vegetative cover (including mulching) needed to protect the structure.

(c) The following special conditions are applicable to water impoundment reservoirs*.*

1. Cost-sharing is not authorized for any reservoir which would be used primarily for recreation or household water.
2. Cost-sharing is not authorized for pipelines or troughs to furnish water to farm buildings.
3. Consideration shall be given to the needs of wildlife and to enhancing the appearance of the area when designing or installing any reservoirs under this practice.

(d) The structure shall be maintained for a minimum of eight years following calendar year of installation.

2:90-2.15 Irrigation **[water conservation]* *systems**

**[(a) Irrigation water conservation systems which conserve irrigation water, improve water quality, control erosion, and reduce the pollution of water on land from agricultural non-point sources may be applied to reorganizing systems on land currently under irrigation four out of the last five years for which an adequate supply of water is available, on which irrigation will be continued, and on which a significant soil or water conservation problem exists.*

(b) The following types of practices are approved for irrigation water conservation:

1. Permanent installed system;
2. Lining irrigation ditches;
3. Land leveling. (This may be authorized as a single component for performance during a program year if it is part of a reorganizing plan which includes other components. The other required components must be carried out in other years with or without cost-sharing.)
4. Tailwater recovery systems or other installations for the conservation of soil or water where needed as an integral part of the irrigation system being recognized.

(c) The following special conditions are applicable to irrigation water conservation.

1. Cost-sharing is authorized only for the measures in (b) above if included in a plan or a portion of a plan approved by the SCD for reorganizing an irrigation system. (Where water management is included as a part of the reorganization plan, the applicant is to be encouraged to follow the plan.)

2. Cost-sharing is not authorized for:

- i. Reorganizing a system if the primary purpose is to bring additional land under irrigation;
- ii. Portable pipe, cleaning a ditch, or installations primarily for the farm operator's convenience;
- iii. Installations to convert an existing sprinkler or overhead system to a gravity system;
- iv. Restoring a system which has deteriorated due to lack of maintenance during period of non-use.

3. Consideration must be given to the needs of wildlife, preserving or enhancing the appearance of the area, and potential pollution hazards, when reorganizing the system.

4. Cost-sharing is authorized for land leveling as the sole component if it is a needed part of the plan for the reorganization of the system.

5. The land under irrigation must have been irrigated four of the last five years.*

****(a) Irrigation water systems which conserve irrigation water, improve water quality and management, control erosion, and reduce the pollution of water on land from agricultural non-point sources may be applied on land for which an adequate supply of water is available and on which irrigation will be continued for agricultural and horticultural purposes.***

(b) The following types of practices are approved for irrigation systems:

1. Permanently installed systems, mainlines, and wells.
2. Land leveling. (This may be authorized as a single component for performance during a program year if it is part of a reorganizing plan which includes other components. The other required components must be carried out in other years with or without cost-sharing.)
3. Tailwater recovery systems or other installations for the conservation of soil or water where needed as an integral part of the irrigation system.

(c) The following special conditions are applicable to irrigation systems:

1. Cost-sharing is not authorized for:
 - i. Portable pipe or any other normally portable equipment.
 2. Consideration must be given to the needs of wildlife, preserving or enhancing the appearance of the area, and potential pollution hazards.
3. Cost-sharing is authorized for land leveling as the sole component if it is a needed part of the plan for the reorganization of the system.*

(d) The system shall be maintained for a minimum of eight years following calendar year of installation.

2:90-2.16 Sediment retention, erosion, or water control structures

(a) Sediment retention, erosion, or water control structures which reduce erosion and the pollution of land or water from agricultural or silvicultural non-point sources ***or salt water intrusion*** may be applied to specific problem areas on farms where runoff of substantial amounts of sediment or runoff containing pesticides or ***[fertilizers]* *nutrients** constitute a significant pollution hazard.

(b) The following types of practices are approved for sediment retention, erosion or water control structures:

1. Sediment detention or retention structures, such as erosion control dams (excluding water storage type dams), desilting reservoirs, sediment basins, ***dikes, sluice gates*** or similar structures^{*}; ***including maintenance and repair where normal life span is exceeded or structures are damaged by natural causes or wildlife.***

2. Channel linings, ***[chutest]* *chutes,*** drop spillways, and pipe drops that dispose of excess water.

3. Fencing and vegetative cover (including mulching needed to protect the structure) and for leveling and filling to permit the installation of the structure.

4. Installing sediment retention structures on public roadsides only where such structures are essential to solve a farm-based pollution or conservation problem.

(c) The following special conditions are applicable to sediment retention, erosion or water control structures:

1. Cost-sharing is authorized only if the measures will contribute significantly to maintaining or improving soil or water quality.

2. Consideration must be given to the needs of wildlife when establishing the protective measures.

(d) The system shall be maintained for a minimum of eight years following calendar year of installation.

2:90-2.17 Permanent open drainage systems

(a) Permanent open drainage systems which dispose of excess water on farmlands may be applied to cropland^{*}. ***[used during at least two of the last five years to produce cultivated crops or crops normally seeded for hay or pasture in the areas.]***

(b) The following special conditions are applicable to permanent open drainage systems:

1. Due consideration must be given to maintaining wildlife habitat when installing the system.

2. ***[Cost may be shared]* *Cost-sharing is authorized*** to clear the necessary minimum right-of-way ***construction of ditches, pipes and other necessary structures,*** and for spreading spoil banks if needed to effectively use the system.

3. Cost-sharing is not authorized for installing structures which are primarily for the farm operator's convenience.

4. Cost-sharing is authorized for reconstruction of existing ditches if design life span has been exceeded.

(c) The practice shall be maintained for a minimum of eight years following calendar year of installation.

2:90-2.18 Underground drainage systems

(a) Underground drainage systems which dispose of excess water may be applied to cropland^{*}. ***[used during at least two of the last five years to produce cultivated crops or normally seeded for hay or pasture in the area.]***

(b) The following special conditions are applicable to underground drainage systems:

1. Due consideration must be given to maintaining wildlife habitat when installing the system.

2. Cost-sharing is not authorized for installing tile in open drain ditches that are meeting the drainage problem.

(c) The practice shall be maintained for a minimum of eight years following calendar year of installation.

2:90-2.19 Developing facilities for livestock water

(a) Facilities for livestock water which protect vegetative cover or make practicable the use of the land for vegetative cover so as to prevent soil erosion and to prevent or reduce the pollution of water, air, or land may be applied to installations that provide water at locations which will bring about better distribution of grazing, proper rotation of grazing, or better grassland management.

(b) The following types of practices are approved for developing facilities for livestock water:

1. Construct or deepen wells.

2. Develop springs or seeps, including fencing of the area, if needed, to protect the development from pollution by livestock.

3. Install pipelines, storage facilities, cisterns, and artificial watersheds.

4. Installations to permit the continuance, expansion, or initiation of a livestock grazing operation.

(c) The following special conditions are applicable to developing facilities for livestock water:

1. Wells must be provided with pumping equipment (except for artesian wells) and adequate storage facilities; no cost-sharing is authorized for pipe installed in the well (other than casing), pumps, pumping equipment, or for dry wells.

2. No cost-sharing is authorized under this practice for any installation which:

i. Is primarily for recreation, wildlife, dry lot feeding, corrals, or barns;

ii. Makes it possible to graze crop residues, field borders, or temporary or supplemental pasture crops;

iii. Is for land on which the cover will be used for hay or silage or will be field chopped and hauled to headquarters for feeding;

iv. Primarily provides water for headquarters. (Incidental use of water at headquarters is permitted if it does not lessen the effectiveness of the installation in serving its conservation purpose.) Costs may be shared to install a structure at or near headquarters only if that is the most practical location and the structure will effectively accomplish its conservation purpose at such location.

3. Consideration should be given to the needs of wildlife and enhancing the appearance of the area, when installing watering facilities.

(d) The practice shall be maintained for a minimum of eight years following calendar year of installation or establishment.

2:90-2.20 Forest tree stand improvement

(a) Forest tree stand improvement practices which enhance the environment by improving or protecting a stand of desirable trees intended for timber production, pulpwood, posts, etc., and to provide soil protection may be applied to stands of forest trees where quality can be improved through timber stand improvement.

(b) The following types of practices are approved for forest tree stand improvement^{*[s]*}:

1. Thinning;

2. Pruning crop trees;

3. Releasing desirable seedlings and young trees.

(c) The following special conditions are applicable to forest tree stand improvement:

1. Cost-sharing is not authorized for:

i. Correcting existing erosion problems with forestry practices. (The correction of erosion problems created by past land use activities may be authorized under other appropriate State practices);

ii. Fencing, fire breaks, fuel breaks, firelanes, or roads;

iii. Timber stand improvement in stands where the undesirable stems can be removed by commercial sales, such as fuelwood, poles, etc.

2. Chemicals used in performing this practice must be Federally and State registered and must be applied strictly according to authorized uses, directions on label, and other Federal or State policies and requirements.

3. The area must be protected from destructive fire and, if seedlings are present, from destructive grazing.

4. Improvement measures should be carried out in a way that preserves or improves the quality of the environment, especially wildlife habitat and the appearance of the area.

(d) The practice shall be maintained for a minimum of eight years following calendar year of installation or establishment.

2:90-2.21 Forest tree plantations

(a) Forest tree plantations that establish a stand of trees for soil protection, forestry purposes, and preserves and improves the environment may be applied to farmland suitable for growing tree species that will provide multi-purpose forest benefits. Where shrubs are used, preference should be given to varieties beneficial to wildlife.

(b) The following types of practices are approved for forest tree plantations:

1. The establishment of a plantation that will provide both forest products and improved protection from wind or water erosion.

2. Clearing land occupied largely by scrubby brush of no economic value, only where essential to permit planting desirable tree species. Technical assistance must be utilized to determine suitability of the land for clearing and the measures necessary to prevent erosion.

(c) The following special conditions are applicable to forest tree plantations:

1. Cost-sharing is not authorized for fencing, fire breaks, fuel breaks, firelanes, roads, or for parcels of woodland less than one acre.

2. Cost-sharing is not authorized for planting orchard trees, for plantings for ornamental purposes, or for Christmas tree production.

3. Planting must be protected from destructive fire and grazing.

4. Chemicals used in performing this practice must be Federally and State registered and must be strictly applied in accordance with authorized uses, directions on label, and other Federal or State policies and requirements.

5. Consideration must be given to preserving and improving the environment.

(d) This practice shall be maintained for a minimum of eight years following calendar year of installation or establishment.

2:90-2.22 Site preparation for natural regeneration

(a) Site preparation for natural regeneration which establishes a stand of trees for soil protection, forestry purposes, and to preserve and improve the environment may be applied to farmland suitable for growing tree species that will provide multi-purpose forest benefits.

(b) Cost-sharing is authorized for site preparation for natural reseeded (including prescribed burning ***with plow lines***), if all of the special conditions in (c) below apply.

(c) The following special conditions are applicable to site preparation for natural regeneration:

1. The following conditions must be met:

i. Sufficient desirable seed trees are present to permit natural reseeded.

ii. Brush, dense litter, or other material must be broken up and removed to expose the forest soil to permit reseeded.

iii. Seed trees must be left until the area is restocked.

2. Cost-sharing is not authorized for:

i. Site preparation for the natural regeneration ***[or]* *of*** ornamental or Christmas trees;

ii. Correcting existing erosion problems with forestry practices. The correction of erosion problems caused by past land use activities may be authorized under other appropriate State practices;

iii. Fencing, ***[,fire breaks, fuel breaks,]*** or roads.

3. Planting area must be protected from destructive fire and destructive grazing.

4. Chemicals used in performing this practice must be Federally and State registered and must be applied strictly according to authorized uses, directions on label, and other Federal or State policies and requirements.

5. Consideration must be given to preserving and improving the environment.

(d) This practice shall be maintained for a minimum of eight years following calendar year of installation or establishment.

2:90-2.23 Animal waste control facilities

(a) Animal waste control facilities which reduce the existing pollution of water, land, or air by animal wastes may be applied to areas on farmland where animal wastes from the farm constitute a significant pollution hazard. This practice is designed to provide facilities for storage and handling of livestock and poultry waste and the control of surface runoff water to permit the recycling of animal waste onto the land in such a manner as to abate pollution which would otherwise result from livestock or poultry operations.

(b) The following types of practices are approved for animal waste control facilities:

1. ***For*** animal waste storage facilities such as aerobic or anaerobic lagoons, liquid manure tanks, holding ponds, collection basins, settling basins, ***composting facilities*** and similar facilities as well as diversions, channels, waterways, outlet structures, piping, land shaping, and similar measures needed as part of a system on the farm to manage animal waste.

2. Permanently installed equipment needed as an integral part of the system; for fencing and vegetative cover (including mulching needed to protect the facility); and for leveling and filling to permit the installation of an effective system.

(c) The following special conditions are applicable to animal waste control facilities:

1. Cost-sharing is limited to solving the pollution problems where the livestock or poultry operation is part of a total farming operation, and shall be limited to the most cost-effective facilities.

2. Cost-sharing is authorized only if the storage and diversion facilities will contribute significantly to maintaining or improving the soil or water quality.

3. Cost-sharing is not authorized for the following:

i. Measures primarily for the prevention or abatement of air pollution unless the measures also have soil and water conserving benefits;

ii. Portable pumps, pumping equipment or other portable equipment, buildings or modifications of buildings or for spreading animal wastes on the land;

iii. For that portion of animal waste structures installed under or attached to buildings which serve as part of the building***[s]*** or its foundation;

iv. For animal waste facilities that do not meet local or State regulations.

(d) The system shall be maintained for a minimum of eight years following calendar year of installation.

EDUCATION

(a)

STATE BOARD OF EDUCATION

Teacher Preparation and Certification

Adopted Amendments: N.J.A.C. 6:11-1 through 6:11-8

Proposed: July 2, 1984, at 16 N.J.R. 1646(a).

Adopted: September 5, 1984, by State Board of Education, Saul Cooperman, Secretary.

Filed: September 28, 1984, as R.1984 d.469, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 18A:1-1, 18A:4-15, 18A:6-7, 18A:6-34, 18A:6-38, and 18A:26-10.

Effective Date: October 15, 1984.

Operative Date: October 15, 1984, for N.J.A.C. 6:11-5.1(a).

Operative Date: September 1, 1985, for N.J.A.C. 6:11-1 through 6:11-8, with the exception of N.J.A.C. 6:11-5.1(a) as noted above.

OFFICE OF ADMINISTRATIVE LAW NOTE:

The amended rules contained in N.J.A.C. 6:11-1 through 6:11-8 become operative September 1, 1985, with the exception that the requirement of a subject matter competency test for graduates of New Jersey college teacher education programs, provided for in N.J.A.C. 6:11-5.1(a), shall become operative October 15, 1984.

Until the amended rules become operative on the dates mentioned above, the rules of the State Board of Education in effect before the promulgation of these amended rules in the New Jersey Register (October 15, 1984) shall continue in effect. These latter rules are not reproduced herein, but may be obtained from the Director of Teacher Preparation and Certification, Department of Education, 225 West State Street, Trenton, New Jersey 08625.

Expiration Dates pursuant to Executive Order No. 66(1978):

6:11-1, 2, 5, 6 and 8: October 1, 1989

6:11-3: January 1, 1986

6:11-4: October 1, 1988

6:11-7: July 1, 1987

Summary of Public Comments and Agency Responses and Reasons for Making Changes:

Four letters were received in response to the publication of the rules in the New Jersey Register, and they raised the following:

1. It was requested that the requirement of a 20-day orientation period for provisional teachers be increased to six weeks (30 days). This change was not made because the present code specifies at least 20 days and, therefore, allows for expansion if needed.

2. It was requested that a representative of the Department of Corrections be placed on the State Board of Examiners. This change could not be made because the membership of the Board is specified in statute.

3. It was contended that the addition of the phrase "approximately 30 credits" to N.J.A.C. 6:11-7(b)10 constituted a substantive change requiring republication. However, a formal opinion of the Attorney General has indicated that the change was not substantive and the request for republication has been withdrawn.

Ninety-two persons presented testimony on the proposed certification rules held on June 28 and July 11, 1984. The hearings on each date were held in two locations. Of the 80 who submitted written testimony, 55 were in support of the alternative certification plan while 13 were opposed. Of the 55 supporters, 10 suggested changes in the proposed rules. Of the 13 opponents, all were representatives of teacher education colleges; however, it should be noted that several collegiate representatives supported the plan while recommending changes. Twelve of those who submitted written testimony neither supported nor opposed the alternative certification plan, but rather spoke about other aspects of the proposed code: six opposed changes in the college reading requirements, three urged the retention of the intern certificate for the master of arts in teaching program at Fairleigh Dickinson, and three supported the exemption of bilingual certification from any changes.

The points raised follow with changes and clarifications made in response to publication of the proposed code and are included in the final version:

1. Restore the 6-credit reading requirement for college teacher education programs.

The State Board of Education and Department of Education members do not agree with testimony and comment which indicated that the new rules do not require study in the teaching of reading. For elementary education programs, the NASDTEC standards requires ". . . study of teaching methods and the use of materials to promote effective pupil language art skills of reading, writing, speaking and listening." For secondary programs, the NASDTEC standards require ". . . study of methods of teaching reading in the teacher's area of specialization." By State rule (N.J.A.C. 6:11-7) all college programs must comply with these standards and each is evaluated periodically to determine compliance. In addition, new requirements in N.J.A.C. 6:11-8.2(a) state that all prospective teachers must receive instruction in "language development" of students.

The specific numbers of credits and titles of courses should not be mandated in State rules. This level of specificity discourages and inhibits the normal curriculum process of colleges, and most colleges oppose them for the same reasons that local school districts would oppose the imposition of "State-mandated courses in their curricula.

Although the rules do mandate the study of the teaching of reading, this was not clear to many. Therefore, explicit language was added to N.J.A.C. 6:11-8.2(a) which outlines study areas required of all prospective teachers.

2. Specify in regulation that 200 hours of formal instruction must be provided to all provisional teachers in alternative programs.

This suggestion was accepted. In implementing the program, the intent was to structure approximately 200 contact hours of instruction for provisional teachers. This number does represent the average (not the minimum) amount of instruction which college teacher education students would receive.

It is likely that some provisional teachers will have already taken one or two education courses prior to the time they are hired, and will need less formal instruction than others. The State panel did not recommend a minimum amount of instruction precisely in order that such differences among individual teachers could be accommodated in the program. Therefore, language was included to N.J.A.C. 6:11-5.5 indicating that approximately 200 hours of formal instruction shall be provided in all three phases of the program combined.

3. Clarify the requirement for professional preparation in the regulations governing college programs.

Some collegiate representatives and other individuals requested greater specificity with respect to the requirement for the professional training component of college undergraduate programs. This requirement specifies that at least 96 credits must be outside the area of professional education. At the time of publication the State Board explained this requirement as intended to allow approximately, but no more than, 30 credits of professional education. Those who commented on this rule asked that this requirement be made more explicit by adding the phrase "approximately 30 credits" to N.J.A.C. 6:11-7(b)10, and this change was made.

4. Clarify that nursery teachers are to be included in the elementary category as being required to pass a test of general knowledge for certification.

All citations to the test of general knowledge were amended to indicate that this test is required of elementary/nursery candidates.

5. Clarify that fees charged to provisional teachers may be above and beyond tuition paid to colleges.

Language was included in N.J.A.C. 6:11-3.3(c) to comply with this suggestion to insure that fees to be paid to collegial teachers are not filtered through colleges.

6. Clarify that the high school diploma, in addition to the baccalaureate degree, is still required for certification.

The concern here is that, since the college degree may be waived in certain vocational fields, it must be clear that the high school diploma is still required of these teachers. This is a valid concern and the change was included in N.J.A.C. 6:11-3.11.

7. Persons who are appealing a rejected application for certification should have the right to be accompanied by a representative.

This suggestion formalizes what has always been done in practice, and the addition was included in N.J.A.C. 6:11-3.16(a).

8. A limit should be placed on the number of times a provisional teacher judged "insufficient" can re-enter an alternative training program.

Language was added to N.J.A.C. 6:11-5.7(c)2.

When N.J.A.C. 6:11-4.3 was adopted by the state Board of Education on September 5, 1984 the Board voted to republish the amended section to delete the emergency certificate in the area of administration. This change will be republished in the Register in the near future.

The following suggestions received in response to publication of the rules were not incorporated into the final version of the code. Also indicated is the number of persons, of the 92 who testified, who advanced each suggestion.

1. Mandate College Involvement in the Alternative Route
(12 collegiate representatives)

Every effort will be made administratively to insure that all interested colleges will have the opportunity to be involved in alternative training programs. However, their involvement cannot be mandated.

2. Mandate the Master's Degree and/or some form two-tiered certification.

(2 persons)

This issue is complicated and deserves further study and research.

3. Establish regional training centers for provisional teachers.

(1 person)

The rules permit this already and need not be changed.

4. Continue the emergency certificate in some limited way for late hires.

(2 persons)

This would encourage districts to delay hiring and thereby avoid training responsibilities.

5. Continue the intern certificate for Fairleigh Dickinson University's Master of Arts and Teaching Program.

(3 persons)

The intern certificate has been eliminated. Provisional certificates can be issued to Fairleigh Dickinson University's interns so long as they can meet the new requirements. The University has agreed this is desirable and acceptable in a written letter.

6. Allow the preservice aspect of the alternative training programs to exceed 20 days by specifying 20-30 days.

(2 persons)

The rules specify ". . . no less than 20 days." This allows districts to expand the preservice component as much as they wish, and it is to their advantage to do so when possible. Indicating 20-30 days adds nothing to this and, in fact, establishes a "cap" of 30 days.

7. Increase the amount of required supervision during the first 10 weeks on the job.

(1 person)

The State panel recommended a reasonable amount of minimum supervision which can be exceeded if the needs of the provisional teacher so dictate.

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8. Remove college faculty from the provisional teacher support team; they do not possess supervisory certification or expertise.

(1 person)

The rules permit districts to use persons with comparable expertise when college faculty members are not available. Therefore, no district will be prevented from operating an approved program by a legitimate inability to find a college representative for its support team.

9. Exempt physical education from the alternate route because the safety of students would be at risk.

(7 persons)

There are now physical education teachers who are employed on substandard certification training. The improvement in the alternate route is that the provisional teacher will have to pass a test of knowledge of physical education and possess 30 credits of study in the field of physical education. The "safety" argument is not valid and is based on a misunderstanding of the requirements.

10. Require all provisional teachers to possess a college grade average of 2.5.

(2 persons)

This idea has been discussed considerably. Among the reasons it was rejected by the State panel are:

- a. Many provisional teachers will have been out of college for some time and will have worked in the field. Their college grades would not be valid as the measure of their past achievement;
- b. College grade averages are not standardized and therefore cannot be used by an external agency in comparing students from different colleges;
- c. Colleges with the weakest academic ratings tend to have more students in the upper range of grade averages; and
- d. The creation of standardized certification test makes unnecessary the use of fluid Grade Point Averages.

11. Add study topics to those recommended by the National panel.

(9 persons, of which 6 addressed only the topics of reading)

Different individuals have recommended that over 20 different study areas be required of new teachers in addition to the topics listed by the National panel. The Department relies on the expertise of the nationally recognized persons convened to advise on this matter. The only alternative is to substitute personal opinion and, as testimony has revealed, personal opinions are widely diverse and conflicting.

12. Increase the powers of the State Board of Examiners.

A recommendation was made to increase the powers of the State Board of Examiners in the setting of standards and overall governance of certification. This is a major issue having statutory implications and it warrants comprehensive study apart from the issue of alternative certification. It will be studied in the future.

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

CHAPTER 11.

TEACHER PREPARATION AND CERTIFICATION

SUBCHAPTER 1. BUREAU OF TEACHER PREPARATION AND CERTIFICATION

6:11-1.1 Function

(a) The Bureau of Teacher Preparation and Certification is the focus of the Department of Education's activities in establishing standards for well-prepared teachers, administrators and other personnel for the public schools in New Jersey.

(b) The Bureau works closely with colleges and universities which prepare teachers and other school personnel.

(c) The Bureau assists the colleges to establish and expand teacher education programs in relationship to the needs of the schools in New Jersey and reviews and approves these programs in terms of standards adopted by the State Board of Education.

(d) The Bureau works directly with local school districts and consortia of institutions which offer State-approved training programs leading to the certification of teachers, and reviews these programs in accordance with standards adopted by the State Board of Education.

SUBCHAPTER 2. STATE BOARD OF EXAMINERS

6:11-2.1 Membership

There shall be a State Board of Examiners, consisting of the Commissioner of Education, ex officio, and one assistant commissioner of education, two presidents of State colleges, one county superintendent, one superintendent of schools of a Type I district, one superintendent of a Type II district, one high school principal, one elementary school principal, one librarian employed by the State or by one of its political subdivisions and four teaching staff members other than a superintendent, principal or librarian, all of whom shall be appointed by the commissioner with the approval of the State Board.

6:11-2.2 Duties

The Board shall grant appropriate certificates to teach or to administer, direct, or supervise, the teaching, instruction or educational guidance of pupils in public schools operated by boards of education, and such other certificates as it shall be authorized to issue by law, based upon certified scholastic records or upon examinations, and may revoke the same under rules prescribed by the State Board of Education.

SUBCHAPTER 3. BASIC CERTIFICATION REQUIREMENTS

6:11-3.1 Teacher's certificate required

(a) No teacher shall be entitled to any salary unless such teacher shall be the holder of an appropriate teacher's certificate (N.J.S.A. 18A:26-2).

(b) The standard employment contract supplied by the Commissioner of Education states that the teacher "... before entering on the duties of such position will exhibit the certificate to the County Superintendent of Schools and to the

Chief School Administrator of the district in which such school is situated, or to the Secretary in the district where there is no Chief School Administrator.”

(c) The certificates should always be kept in the possession of the teacher.

6:11-3.2 Employment without certificate prohibited

Any contract or engagement between a board of education and a teacher shall cease and be of no effect whenever said board shall ascertain by notice in writing that said teacher is not in possession of a proper teacher's certificate. This rule shall apply even though the term of the contract may not have expired. (N.J.S.A. 18A:27-2).

6:11-3.3 State Board of Education responsible for rules; fees required

(a) The State Board of Education may make and enforce rules and regulations for the granting of appropriate certificates or licenses to teach or to administer, direct, or supervise, the teaching, instruction or educational guidance of pupils in public schools operated by district boards of education. For each certificate, a fee of not less than \$20.00 shall be charged; said fee shall be subject to change from time to time by formal resolution of the State Board. The resolution cannot be adopted less than 30 days after it is introduced.

(b) Rules for certification fees include the following:

1. A request for evaluation of credentials for the purpose of determining eligibility to take a particular State licensing examination or for obtaining information concerning qualification for issuance of any particular certificate shall be accompanied by a fee of not less than \$10.00 for each certificate or test to be considered; said fee shall be subject to change from time to time by formal resolution of the State Board. The resolution cannot be adopted less than 30 days after it is introduced.

2. A formal application for certification shall be accompanied by a fee of not less than \$20.00 for each certificate requested; said fee shall be subject to change from time to time by formal resolution of the State Board. The resolution cannot be adopted less than 30 days after it is introduced.

3. In the case of persons who file a formal application for certification and who are found not to meet certification requirements, a fee of not less than \$10.00 shall be deducted from each separate refund to that person; said fee shall be subject to change from time to time by formal resolution of the State Board. The resolution cannot be adopted less than 30 days after it is introduced.

(c) The State Board may establish a fee schedule for services related to the issuance of certificates, including but not limited to fees charged by local districts to provisional teachers to pay for their training, fees for a duplicate certificate and for renewal of a substandard certificate; said fee schedule shall be ***in addition to any tuition and fees charged by institutions of higher education for courses and credits offered in connection with State-approved training programs and shall be*** subject to change from time to time by formal resolution of the State Board. The resolution cannot be adopted less than 30 days after it is introduced.

6:11-3.4 Teaching staff member defined

“Teaching staff member” means a member of the professional staff of any district or regional board of education, or any board of education of a county vocational school, holding office, position or employment of such character that the qualifications, for such office, position or employment, require him to hold a valid and effective standard or provisional

or emergency certificate, appropriate to his office, position or employment, issued by the State Board of Examiners and includes a school nurse.

6:11-3.5 Enforcement

(a) The local Chief School Administrator shall ascertain if professional staff members are properly certificated and shall report to the appropriate district board of education those who are not properly certificated.

(b) The county superintendent shall take measures necessary for the enforcement of the State law requiring district boards of education to employ only those professional staff members who are properly certificated for the positions held.

(c) The county superintendent shall notify the appropriate district board of education and the Commissioner of Education immediately when he or she learns of a professional staff member holding a position in violation of the State certification laws and rules.

6:11-3.6 Assignment of titles

(a) School districts shall assign position titles to teaching staff members which are recognized in these rules.

(b) If a district board of education determines that the use of an unrecognized position title is desirable, or if a previously established unrecognized title exists, such board shall submit a written request for permission to use the proposed title to the county superintendent of schools, prior to making such appointment. Such request shall include a detailed job description. The county superintendent shall exercise his or her discretion regarding approval of such request, and make a determination of the appropriate certification and title for the position. The county superintendent of schools shall review annually all previously approved unrecognized position titles, and determine whether such titles shall be continued for the next school year.

6:11-3.7 Revocation of certificate

(a) Any certificate that has been issued, or that may hereafter be issued under the rules of the State Board of Education, may be revoked by the State Board of Examiners for inefficiency, incapacity, conduct unbecoming a teacher, or other just cause, provided that no certificate shall be revoked unless the holder thereof shall have been given opportunity to be heard.

(b) Certification revocation procedures are as follows:

1. The State Board of Examiners is empowered by N.J.S.A. 18A:6-38 to revoke any certificate issued by that board. Cases which merit revocation consideration may be brought before the State Board of Examiners for review from any of the following sources:

i. Upon the decision of the Commissioner of Education, cases contested before the Commissioner of Education, resulting in loss of tenure or dismissal of a teacher or teaching staff member for inefficiency, incapacity, conduct unbecoming a teacher, or other just cause, shall be forwarded to the State Board of Examiners for determination of possible revocation. The State Board of Examiners, after review of the record, shall determine by public vote whether or not the offense as proven is of such a nature as to warrant revocation consideration, or dismissal of the case. In such cases where the decision of the State Board of Examiners is to move for revocation of certification, the Secretary of the State Board of Examiners shall issue an order to show cause and shall issue a statement of charges upon which revocation will be considered, which shall not preclude the subsequent inclusion of new findings, and shall notify the certificate holder that an answer

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must be filed with the State Board of Examiners no later than 20 days from the receipt of that notice. After an answer has been filed on behalf of the certificate holder, the board shall refer the case to the Office of Administrative Law for a hearing in accordance with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.).

ii. Upon knowledge of any criminal conviction, the county superintendent of schools or the Chief school administrator shall notify the Commissioner of Education directly of such a criminal conviction involving a certificate holder, as described in N.J.S.A. 2C:51-2.a. The Secretary of the State Board of Examiners, upon being notified in writing by the Commissioner of Education of such a criminal conviction or guilty plea involving a certificate holder, whether such knowledge comes as a result of a notification by the county superintendent of schools or chief school administrator or otherwise, shall communicate with the court to obtain the judgment of conviction, copy of testimony and other evidence for presentation of the case before the State Board of Examiners. The Secretary of the State Board of Examiners shall issue an order to show cause and shall issue a statement of charges upon which revocation will be considered, which shall not preclude the subsequent inclusion of new findings, and shall notify the certificate holder that an answer must be filed with the State Board of Examiners no later than 20 days from the receipt of that notice. After an answer has been filed on behalf of the certificate holder, the State Board of Examiners shall refer the case to the Office of Administrative Law for a hearing, in accordance with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.).

iii. Upon the filing of a petition by any person for revocation of a certificate with the State Board of Examiners against a certificate holder pursuant to (a) above:

(1) A petitioner must furnish to the Secretary of the State Board of Examiners evidence of proof of service of petition to the other party or parties involved.

(2) The Secretary of the State Board of Examiners shall notify the certificate holder that an answer must be filed with the State Board of Examiners no later than 20 days from the receipt of that notice. Upon timely filing of an answer, the board shall determine whether a matter is a contested case. Each contested case shall be referred to the Office of Administrative Law for a hearing in accordance with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.).

2. After the State Board of Examiners has acted upon the initial decision of the administrative law judge in accordance with N.J.S.A. 18A:6-38, where the decision of the board has resulted in revocation of a certificate, the Secretary of the State Board of Examiners shall notify the following:

i. The 50 states and other such agencies which are part of the Interstate Certification Project;

ii. All New Jersey county offices of education;

iii. Appropriate governmental pension and annuity funds, or retirement services.

3. Decisions pertaining to revocation made by the State Board of Examiners shall be appealable to the State Board of Education, in accordance with the provisions of N.J.S.A. 18A:6-28.

6:11-3.8 Suspension of certificates

(a) A teacher employed by a district board of education who shall, without the consent of the district board of education, leave the school before the expiration of the term of his

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or her employment, shall be deemed guilty of unprofessional conduct.

(b) The Commissioner of Education may, upon receiving notice of that fact, suspend the certificate for a period not exceeding one year.

6:11-3.9 Oath of allegiance required

(a) Every person whose application is pending, or who hereafter applies for a license, or any renewal thereof, to teach or supervise in any of the public schools of this State, shall subscribe to the oath of allegiance and office prescribed in N.J.S.A. 41:1-3.

(b) Any person who is a citizen or subject of any country other than the United States, such as an exchange teacher, is required to file an oath to support the Constitution of the United States while so employed.

6:11-3.10 Citizenship requirement

(a) To be eligible for a certificate, the applicant must be a citizen of the United States (except a teacher of foreign languages, unless such teacher has been a resident of the United States for more than 10 years; or an applicant for temporary employment under a special program approved by the Commissioner of Education) or have preliminary citizenship status as follows:

1. Any citizen of any other country who has declared his or her intention of becoming a United States citizen and who is otherwise qualified may, with the approval of the Commissioner of Education, be granted a teacher's certificate and employed as a teacher by a district board of education (N.J.S.A. 18A:26-1).

2. Any certificate granted pursuant to this act shall be void and shall be cancelled by the State Board of Examiners who issued the same, if the holder thereof shall not have become a United States citizen within five years of the date of its issuance, and may be revoked within said period by the State Board of Examiners if the said board is satisfied that the holder thereof has abandoned his or her efforts to become a United States citizen or has become disqualified for such citizenship (N.J.S.A. 18A:26-8.1).

3. No teaching staff member shall acquire tenure unless he or she is, or until he or she shall become, a citizen of the United States (N.J.S.A. 18A:28-3).

6:11-3.11 Minimum degree and age requirement

In addition to meeting other requirements specified in these rules, applicants for teachers certificates must be at least 18 years old, ***have been graduated from an approved high school or have an equivalent education as determined by the State Board of Examiners*** and have received a baccalaureate degree from an accredited institution of higher education except in certain vocational fields as indicated in N.J.A.C. 6:11-6.3.

6:11-3.12 Teachers in evening schools

Teachers of academic subjects in accredited public evening schools and teachers in evening schools for foreign-born residents shall hold a valid New Jersey elementary or subject teacher's endorsement authorizing the teaching of the specified subject or subjects in public day schools.

6:11-3.13 Certification for experimental curriculum

Certification to teach in a school having an experimental curriculum not covered by these certification rules may be granted by the Commissioner of Education.

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6:11-3.14 Veterans regulation

Veterans who received an evaluation before entering the service may continue under that evaluation, provided a request for reinstatement of the preservice status is made within a period of time equivalent to the length of the military service, upon presentation of a copy of an honorable discharge from the service. At the expiration of the time period equivalent to the length of military service, the veteran shall be subject to rules in N.J.A.C. 6:11-5.

6:11-3.15 Replacement of lost certificates

Replacement of a lost certificate requires completion of the appropriate application form and payment of required fee.

6:11-3.16 Methods of appeal

(a) An applicant who has reason to believe that his or her application has not been given proper consideration has the right to appeal the decision. ***The applicant may be accompanied by a personal representative of his or her choice***

(b) Information concerning procedure for making such an appeal may be secured from the Secretary of the State Board of Examiners or the office of the county superintendent of schools.

6:11-3.17 Validation of college degrees and professional preparation

(a) Rules of the New Jersey State Board of Education require teacher candidates to present college study completed at accredited or approved institutions.

(b) Except as indicated in (d) below, college degrees will be recognized for purposes of teacher certification in New Jersey only from colleges accredited or approved by the State Board of Department of Education or Higher Education of the state in which the college exists, and from foreign institutions of higher education which are recognized by international accreditation agencies.

(c) Professional preparation required for New Jersey teacher's certificates will be accepted from:

1. New Jersey colleges approved for the preparation of teachers by the New Jersey State Board of Education; and

2. Out-of-State colleges approved by the state board or department of education or higher education in the state in which the college is established, and approved by the New Jersey Department of Education on the basis of reciprocal agreements or individual review.

3. Accredited two-year colleges provided:

i. The courses are accepted toward meeting the requirements for certification by a college approved for the preparation of teachers by the State Department of Education and such courses do appear on the official transcript of approved colleges.

ii. No more than six semester-hour credits in professional education are completed on the two-year college level.

(d) College degrees and professional preparation from colleges in states in which the state board or department of education lacks authority to regulate the establishment of colleges or their approval for purposes of teacher education, may be accepted for purposes of teacher certification in New Jersey only if such degrees and professional preparation are accepted for purposes of teacher certification by the state department of education in the state in which the college exists.

6:11-3.18 Recognition of advanced standing in a college

(a) Advanced work completed in a secondary school, which is assigned college credit by the institution of higher

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education which the candidate attends, shall be counted toward meeting the requirements for certification.

(b) Where advanced standing but not college credit is given by the higher institution as a basis for admission to advanced work in the field, the equivalent of college credit may be granted (for purposes of certification) for the courses which were waived by the institution.

6:11-3.19 Course information

(a) Courses completed by correspondence may be accepted only if they are a part of a degree program completed by the applicant.

(b) Teaching a course in an accredited college or university shall be deemed the equivalent of having presented the course on a college transcript. Evidence of such teaching must be submitted in the form of a letter from the college president or dean.

6:11-3.20 Issuance of a certificate

(a) The appropriate certificate will be issued by the Bureau of Teacher Preparation and Certification upon completion of all requirements. The certificate should always be kept in the possession of the teacher.

(b) Issuance of a certificate to an applicant enrolled in an approved program may be denied when the applicant fails to secure the recommendation of the preparing institution.

6:11-3.21 Equivalency of work taken in other countries

The Secretary of the State Board of Examiners is authorized to determine the equivalency of work taken in foreign universities and colleges and, in cases where records are unavailable or indefinite, to conduct oral, written, and performance examinations in various teaching fields in order to establish such equivalency.

6:11-3.22 Certification in reorganized schools

(a) When school reorganization results in the inclusion of elementary grades in combination with higher grades, the elementary or secondary principal's certificate issued under previous rules, will be recognized as valid for this reorganized school.

(b) Further, the elementary or secondary teacher's certificate issued under previous rules, will be recognized as valid for teaching the particular subjects covered by these certificates in this reorganized school.

6:11-3.23 Exchange teachers

(a) If a teacher from a foreign country is to be paid by a district board of education as its own employee, it is necessary for the district board of education to adopt a resolution stating that "_____ is employed as a substitute teacher in place of _____ for the school year 19-____ as part of an experimental program of teacher exchange approved by the Commissioner of Education, to receive a salary for his services as a substitute of _____." The purpose of this resolution is to indicate that the exchange teacher employed by the district board of education is a temporary rather than a permanent person and is actually a substitute for the permanent teacher.

(b) The teacher will be required to file an oath of allegiance with the district board of education as required by N.J.S.A. 18A:6-7 to the effect that he or she will support the institutions of the United States during the period of his or her employment within the State.

(c) The district board of education should request, through the county superintendent's office, the Commissioner of Edu-

cation's authorization or a letter of approval for the foreign teacher so employed, upon receipt of which the Commissioner of Education may issue to the said teacher a letter certifying him or her for the period of his or her temporary service in the State as a teacher employed in an experimental program, as authorized by the rules of the State Board of Education.

6:11-3.24 Substitution of alternative educational background and/or experience

(a) Notice of certification deficiency rules are:

1. The Secretary of the State Board of Examiners shall notify all unsuccessful applicants for certification of the certification requirements lacking and of the procedures set forth in (b) below for submitting evidence of alternative education and/or experience.

(b) Offer of alternative education and/or experience rules are:

1. Any such unsuccessful applicant may supply the State Board of Examiners with materials which the applicant considers evidence of alternative education and/or experience warranting certification.

2. Such material shall be supplied on forms provided by the Bureau of Teacher Preparation and Certification. These forms must be requested by the unsuccessful applicant within 15 days of the date of the Secretary's notice that the certificate has been denied.

3. The applicant wishing to substitute alternative education and/or experience for routine credentials shall complete and return 25 copies of the forms supplied pursuant to paragraph 2 above within 30 days of their receipt.

(c) Review of alternative education and/or experience by State Board of Examiners rules are:

1. The Secretary shall review said forms for sufficiency and transmit them to the State Board of Examiners, which shall review their contents no later than its second regular meeting after said forms have been received by the Bureau.

2. In reviewing the applicant's alternative education and/or experience, the Board of Examiners may request written commentary by appropriate members of the staff of the Department of Education. Copies of any such commentary shall be supplied to the applicant.

(d) Public discussion of alternative education and/or experience rules are:

1. The Secretary shall give an applicant not less than 10 days' notice of the Board of Examiners' meeting at which his or her application for certification based on alternative education and/or experience is to be considered.

2. The applicant may be present at said meeting and may be accompanied by a personal representative of his or her choice.

3. The applicant may be questioned by the Board of Examiners and shall be given an opportunity to be heard personally or through a representative.

(e) Decision rules are:

1. The Board of Examiners shall render its decision on each application for substitution no later than its first regular meeting after the application has been considered publicly.

2. The Board of Examiners' decision shall be in written form setting forth its reasons for the decision.

(f) Appeal rules are:

1. Said decision shall be appealable to the Commissioner of Education pursuant to N.J.S.A. 18A:6-9 and N.J.S.A. 6:24-1.1 et seq.

6:11-3.25 Interstate contracts

In accordance with the Interstate Agreement on Qualifications of Education Personnel (N.J.S.A. 18A:26-11), the Commissioner of Education may, with the approval of the State Board of Education upon recommendation of the State Board of Examiners, enter into contracts with other states to allow transfer of teachers' credentials between New Jersey and other states.

SUBCHAPTER 4. TYPES OF CERTIFICATES

6:11-4.1 *[Regular]* *Standard* certificate

Certificates with lifetime validity are issued to candidates who meet New Jersey Standards for *[regular]* *standard* certification.

6:11-4.2 Provisional certificate

(a) A provisional certificate is a substandard one-year certificate issued to an applicant who is not eligible for a *[regular]* *standard* certificate. It may be issued under certain circumstances to an applicant whose preparation does not meet completely the New Jersey requirements for standard certification.

(b) To be eligible for the provisional certificate the applicant shall:

1. Hold a bachelor's degree from an accredited college or university (except in certain technical fields as noted in N.J.A.C. 6:11-6.3(c)) and;

2. Pass a subject matter test for teaching field(s) or a test of general knowledge for the elementary ***and nursery*** endorsement*s*. In order to be eligible to take a subject field test, the applicant must have completed at least 30 semester hours in a coherent major or five years of experience in the subject fields; and

3. Have been offered employment in a New Jersey public school district approved by the commissioner at the recommendation of the Board of Examiners to offer a certification training program; and

4. Persons who pass the appropriate test shall be granted a formal document which will enable them to seek employment as provisional teachers in the public schools.

6:11-4.3 Emergency certificate

(a) An emergency certificate is a substandard one-year certificate issued only in the fields of administration, educational services, teacher of the handicapped, teacher of the blind and partially sighted, teacher of the deaf and hard of hearing, bilingual education, English as a Second Language and certain technical fields (see N.J.A.C. 6:11-8.3).

(b) An emergency certificate is issued only on application of a public school district, submitted after August 1, in which the district board of education declares its inability due to unforeseen shortages or other extenuating circumstances to locate a suitable certificated teacher.

6:11-4.4 County substitute certificate

(a) Persons who do not hold a *[regular]* *standard* instructional certificate issued by the State Board of Examiners but who can present a minimum of 60 semester-hour credits completed in an accredited college, may be granted a county substitute certificate for day-to-day substitute teaching in the county which grants the certificate.

(b) Each district board of education shall submit to the county superintendent for review and approval, each applicant's official transcripts, oath of allegiance, and credentials.

(c) The certificate will be issued for a three-year period, but the holder may serve for no more than 20 consecutive days in the same position in one school district during the school year. Such certificates, which are issued by the county superintendent of schools, are to be granted only when the supply of properly certificated teachers is inadequate to staff the school. They carry none of the accrued benefits, such as pension and tenure, to which a regularly employed teacher is entitled, and are intended only for persons temporarily performing the duties of a fully certificated and regularly employed teacher.

(d) For specific vocational-technical skills, a vocational county substitute certificate may be issued to an applicant on the basis of appropriate work experience in lieu of 60 semester-hour college credits. Such work experience shall be substantiated by a notarized statement of previous employment.

(e) Applicants for the county substitute teaching certificate shall submit with transcripts and credentials, the appropriate fee in accordance with N.J.S.A. 18A:6-38.

(f) Persons who hold a *[regular]* ***standard*** New Jersey instructional certificate issued by the State Board of Examiners may serve as a substitute in areas outside the scope of this certificate, for no more than 20 consecutive days in the same position in one school district during the school year. A substitute certificate will not be needed for this service.

(g) The holder of a *[regular]* ***standard*** teaching certificate who is to be employed by a local district as a substitute teacher must record such certificate with the Office of the County Superintendent of Schools prior to employment in accordance with N.J.A.C. 6:11-3.1.

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

(i) The holder of a county substitute certificate is authorized also to serve as an athletic coach in the district in which he or she is employed. The 20-day limitation noted in (c) above shall not apply to such coaching situations. Issuance of a certificate under these conditions shall be subject to the approval of the county superintendent of schools as specified in N.J.A.C. 6:29-6.3.

(j) The State Board of Examiners shall from time to time review procedures and practices associated with the issuance of county substitute certificates.

6:11-4.5 Paraprofessional approval

(a) Schools aides and/or classroom aides, assisting in the supervision of pupil activities under the direction of a principal, teacher or other designated certified professional personnel, shall be approved in accordance with regulations and procedures adopted by the State Board of Education in February, 1968. Copies of these procedures are available from the Bureau of Teacher Preparation and Certification or the offices of county superintendent of schools.

(b) Current rules require school districts employing aides to develop job descriptions and standards for appointment. These descriptions and standards should be based on study of local needs. The nature of the job descriptions will dictate the qualifications to be met, the proficiency standards needed, and the pay to be received.

(c) The locally developed descriptions and standards adopted by the district board of education shall be submitted by the chief school administrator to the county superintendent for approval, in accordance with the rules outlined below:

1. Any district board of education employing school aides or classroom aides shall submit to the county superintendent of schools a job description for each type of aide to be employed, setting forth the duties to be performed, the types of proficiency needed, the qualifications to be required, and the arrangement for supervision of the aides. The qualifications shall include proof of good moral character.

2. The county superintendent of schools shall review the job descriptions and the qualifications proposed for positions for the various types of supervisory or classroom aides. If he or she finds that the description and qualifications are in accordance with the policies of the State Board of Education, and conform to sound educational practice, he or she shall approve them, and notify the district board of education of his or her approval in writing.

3. At least once each year, and at such other times as the county superintendent may require, the chief school administrator shall submit to the county superintendent the names of the persons employed as aides, and a statement certifying that the persons appointed meet the qualifications approved by the county superintendent of schools and are being supervised in accordance with the approved plan. The chief school administrator and the county superintendent shall keep appropriate records of the individuals so approved.

SUBCHAPTER 5. BASES FOR ISSUANCE OF *[REGULAR]* ***STANDARD*** TEACHER CERTIFICATION

6:11-5.1 General procedure

(a) New Jersey *[regular]* ***standard*** instructional certificates are issued to applicants who:

1. Possess a baccalaureate degree from an accredited institution, who have completed approved teacher education programs in New Jersey colleges and universities (see N.J.A.C. 6:11-7) or equivalent programs in out-of-State institutions approved for teacher education by the State Department of Education of the state in which the college is located and who have passed a test of subject matter knowledge in the appropriate subject teaching field(s) or a test of general knowledge for the elementary ***and nursery*** endorsement*s*; or

2. Hold a Bachelor's degree from an accredited institution, have passed a State test of subject matter knowledge in the teaching field(s) or a State test of general knowledge for the elementary ***and nursery*** endorsement*s* and have completed a State-approved alternative training program as described in N.J.A.C. 6:11-5.3 (except in fields as noted in N.J.A.C. 6:11-8.3c). In order to be eligible to take a subject field test, the applicant must have completed at least 30 semester hours in a coherent major or five years of experience in the subject field.

(b) State-approved alternative training programs are not authorized in the fields of teacher of the handicapped, teacher of the deaf and hard of hearing, teacher of the blind and partially sighted, bilingual education, English as a second language and certain vocational fields (N.J.A.C. 6:11-8.3(c)). The professional preparation of candidates in these fields shall be assessed on the basis of having completed an approved college program (N.J.A.C. 6:11-7) or on the basis of transcript evaluation (N.J.A.C. 6:11-8).

6:11-5.2 Reciprocity

(a) Applicants may qualify for a *[regular]* ***standard*** New Jersey teachers certificate in one or more of the comprehensive or single field endorsements listed in N.J.A.C. 6:11-6.*[1]* ***2*** by successful completion of one of the following:

1. Completion of a college teacher education program, which is included in the NASDTEC Certification Reciprocity System, issued by the National Association of State Directors of Teacher Education and Certification, designating approval as meeting the national standards described in Standards for State Approval of Teacher Education.

2. Completion of an appropriate out-of-State teacher education program approved by the National Council for Accreditation of Teacher Education (NCATE), provided that the program is approved by the Commissioner of Education as meeting New Jersey requirements in the required areas of general background, professional education, and subject specialization as stated in N.J.A.C. 6:11-7.

3. Completion of an appropriate teacher education program including student teaching, approved by the state department of education in the state in which the college is located, (but not appearing on the NCATE or NASDTEC list of accredited colleges and approved programs), provided that the program is approved by the Commissioner as meeting the minimum standards outlined in Standards for State Approval of Teacher Education (see N.J.A.C. 6:11-7).

4. Completion of a baccalaureate or postbaccalaureate teacher preparation program in one of the states party to the Agreement, approved by the state department of education of the state in which the college is located, provided the college and program are approved, the specific program completed by the applicant was approved on or after January 1, 1964, and the state in which the college is located would issue the applicant a comparable certificate.

5. Completion of 27 months of appropriate teaching experience in states in the Agreement, within seven years prior to applying for a certificate in another state in the Agreement, a comparable valid *[regular]* **standard** or advanced certificate, still in force, issued by one of the states in the Agreement, and the appropriate degree required for the certificate in the receiving state.

[6.] **(b)** All applicants who present satisfactory preparation, experience, or certificates from other states must also pass a State test of subject matter or a State test of general knowledge *[in]* **for** elementary **and nursery** education in order to receive a standard New Jersey certificate. All such applicants shall be eligible to take the test on the basis of preparation and experience accepted by another state.

6:11-5.3 Requirements for provisional certification for State-approved alternative training programs

(a) The State-approved training program is an alternative to the college teacher preparation program as a means to acquire standard certification. These training programs may be offered in all instructional fields except bilingual education, English as a second language, teacher of the handicapped, teacher of the deaf and hard of hearing, teacher of the blind and partially sighted, and certain vocational fields (N.J.A.C. 6:11-8.3(c)). To participate in a State-approved alternative training program, the candidate shall:

1. Possess a Bachelor's degree (except as noted in N.J.A.C. 6:11-6.3(c));

2. Pass a State test of subject matter knowledge in the teaching field. For the elementary **and nursery** endorsement*s*, the candidate shall pass a State test of general knowledge. In order to be eligible to take a subject field test, the applicant must have completed at least 30 semester hours in a coherent major or five years of experience in the subject field; and

3. Have been offered employment in a school approved by the Commissioner of Education at the recommendation of the State Board of Examiners to offer a certification training program.

(b) The provisional certificate is of one-year duration and will be issued by the State Board of Examiners to participants in a State-approved training program. The standard certificate will be issued by the State Board of Examiners upon satisfactory completion of the program.

(c) The Board of Examiners shall have the right to reject the application of any candidate who is judged not to meet academic requirements comparable to those for students enrolled in New Jersey college teacher preparation programs.

(d) Provisional certificates shall not be granted to teachers of bilingual education, English as a second language, the handicapped, deaf or hard of hearing, or blind or partially sighted.

6:11-5.4 Requirements for State-approved plans

(a) Each district or consortium of schools seeking to hire a provisional teacher must submit a plan to the Department of Education and receive approval in accordance with the same procedures used for initial approval of collegiate preparation programs.

(b) Each plan shall describe the key elements of the proposed training program in accordance with guidelines established and published by the State Department of Education.

(c) Districts or consortia of institutions shall show evidence in their plans of having sought joint sponsorship of their State-approved training programs with colleges or universities.

(d) No public school district shall be authorized to employ a provisional teacher unless it has submitted a plan and received the approval of the commissioner at the recommendation of the State Board of Examiners.

6:11-5.5 Requirements for State-approved alternative training programs

(a) Each State-approved alternative training program shall provide essential knowledge and skills to provisional teachers through the following phases of training:

1. A full-time seminar/practicum of no less than 20 days duration which takes place prior to the time at which the provisional teacher takes full responsibility for a classroom. This seminar/practicum shall provide formal instruction in the essential areas for professional study listed in N.J.A.C. 6:11-8.2. It should introduce basic teaching skills through supervised teaching experiences with students. The seminar and practicum components of the experience shall be integrated and shall include an orientation to the policies, organization and curriculum of the employing district.

2. A period of intensive on-the-job supervision beginning the first day on which the provisional teacher assumes full responsibility for a classroom and continuing for a period of at least ten weeks. During this time, the provisional teacher shall be visited and critiqued no less than one time per week by members of a Professional Support Team (see N.J.A.C. 6:11-5.5(b)) and shall be observed and formally evaluated at the end of five weeks and at the end of ten weeks and at the end of ten weeks by the appropriately certified members of the team. During this same period, formal instruction shall be continued in essential areas listed in N.J.A.C. 6:11-8.2(a) and shall emphasize the topics of student assessment, development, and learning, curriculum and school/classroom organi-

zation. At the end of the ten-week period, the provisional teacher shall receive a formal written progress report from the chairperson of the Support Team.

3. An additional period of continued supervision and evaluation of no less than 20 weeks duration. During this period, the provisional teacher shall be visited and critiqued at least once per month and shall be observed formally and evaluated at least twice. No more than two months shall pass without a formal observation. Formal instruction shall continue in the essential areas listed in N.J.A.C. 6:11-8.2(a). Opportunities shall be provided for the provisional teacher to observe the teaching of experienced colleagues.

(b) Approximately 200 hours of formal instruction shall be provided in all three phases of the program combined.

[(b)] *(c)* Training and supervision of provisional teachers in State approved alternative programs shall be provided by a Professional Support Team comprised of a school principal, an experienced teacher, a college faculty member, and a curriculum supervisor. Districts or schools which do not employ curriculum supervisors or have been unable to establish a relationship with a college should provide for comparable expertise on the team. The school principal shall serve as chairperson of the team.

[(c)] *(d)* In accordance with the provisions of N.J.S.A. 18A:26-8, all provisional teachers must pass an examination in physiology and hygiene in order to receive standard certification.

[(d)] *(e)* The State Department of Education shall coordinate the training efforts of districts and shall establish regional programs for provisional teachers. The Department shall provide orientation programs for Support Team Members.

6:11-5.6 Requirements for the evaluation of provisional teachers

(a) Provisional teachers shall be observed and evaluated by appropriately certified Support Team Members as described in N.J.A.C. 6:11-5.5.

(b) Evaluation of provisional teachers shall be shared by at least two, but no more than three members of the Support Team.

(c) The State Department of Education shall devise standardized criteria and forms for a final comprehensive evaluation of each provisional teacher, conducted at the end of the provisional period by appropriately certified Support Team Members. Teachers who participate in the observation process shall not participate in decisions which might have a bearing on the future employment or certification of provisional teachers.

6:11-5.7 Recommendation for certification of provisional teachers

(a) At the conclusion of the alternative training program, the chairperson of the Support Team shall prepare a comprehensive evaluation report on the provisional teacher's performance. This report shall be submitted by the chairperson directly to the Bureau of Teacher Preparation and Certification and shall contain a recommendation as to whether or not a standard certificate should be issued to the provisional teacher.

(b) The final comprehensive evaluation report on each provisional teacher shall be made on standard forms developed by the State Department of Education.

(c) The final report on each provisional teacher shall include one of the following recommendations:

1. Approved; recommends issuance of a standard certificate.

2. Insufficient; recommends that a standard certificate not be issued but that the candidate be allowed to seek entry ***on one more occasion*** in the future into a State-approved training program.

3. Disapproved; recommends that a standard certificate not be issued and that the candidate not be allowed to enter into a state-approved training program.

(d) All certification recommendations must be either accepted or rejected by the State Board of Examiners in accordance with the same procedures used for graduates of New Jersey college preparation programs.

SUBCHAPTER 6. ENDORSEMENTS ON THE INSTRUCTIONAL CERTIFICATE

6:11-6.1 Authorizations—General

(a) Each teaching endorsement is required for the corresponding teaching assignment. Each endorsement is valid for all levels, except that the nursery school endorsement is valid in nursery schools and kindergartens, and the elementary endorsement is valid for grades kindergarten through eight.

(b) Teachers with elementary endorsements are not permitted to devote more than one-half time to teaching art, music, health, home economics, industrial arts, or physical education in elementary grades. Teachers with elementary endorsements are authorized to teach the common branch subjects, such as, reading, writing, arithmetic, and spelling in the secondary school, grades seven through 12.

(c) Teachers with English endorsements who taught reading prior to February, 1976, may continue to teach in such assignment. After February, 1976, teachers of reading shall hold the appropriate endorsement.

6:11-6.2 Endorsements and authorizations

(a) Teaching endorsements and authorizations are listed below:

1. Agriculture: This endorsement authorizes the holder to teach agriculture/agribusiness/natural resources occupational education, including the related theory and procedures and/or coordinating supervised occupational experience programs in all public schools;

2. Art: This endorsement authorizes the holder to teach art in all public schools;

3. Bilingual/bicultural education: This endorsement authorizes the holder to teach bilingual/bicultural education in all public schools;

4. Business education;

i. Comprehensive: This endorsement authorizes the holder to teach business education subjects in all public schools; Included in the comprehensive business education endorsement are the subject areas of: bookkeeping and accounting, secretarial studies, general business, consumer education, business math, business English;

ii. Bookkeeping and accounting: This endorsement authorizes the holder to teach bookkeeping, accounting, and business mathematics, in all public schools;

iii. Data processing: This endorsement authorizes the holder to teach data processing in all public schools. Data processing normally includes the areas of keypunching, unit record operation, computer operation, programming and technology;

iv. General business: This endorsement authorizes the holder to teach general business studies in all public schools. General business studies normally include: business law, eco-

conomic geography, economics, social business studies, consumer education, sales, retailing, advertising;

v. Secretarial studies: This endorsement authorizes the holder to teach secretarial studies in all public schools. Secretarial studies normally include: shorthand, typewriting, office procedures, business machines, business English;

vi. Typewriting: This endorsement authorizes the holder to teach typewriting in all public schools;

vii. Marketing and Distributive occupations: This endorsement authorizes the holder to teach marketing and distributive occupations in all public schools. Distributive occupations include: sales, advertising, retailing;

5. Driver education: This endorsement authorizes the holder to teach driver education in all public schools;

6. Elementary education : This endorsement authorizes the holder to serve as elementary school teacher in grades kindergarten through eight in all public schools. Teachers with elementary endorsements are not permitted to devote more than one half time to teaching art, music, health, home economics, industrial arts, or physical education in the elementary grades. Teachers with elementary endorsements are authorized to teach the common branch subjects such as reading, writing, arithmetic, and spelling in the secondary school;

7. English: This endorsement authorizes the holder to teach English in all public schools;

8. English as a Second Language: This endorsement authorizes the holder to teach English as a second language in all public schools;

9. Foreign language: This endorsement authorizes the holder to teach a designated foreign language in all public schools. See listing of foreign languages below;

- i. Chinese;
- ii. French;
- iii. German;
- iv. Greek;
- v. Hebrew;
- vi. Italian;
- vii. Japanese;
- viii. Latin;
- ix. Portuguese;
- x. Russian;
- xi. Spanish;
- xii. Other foreign languages.

10. Health education: This endorsement authorizes the holder to teach health education in all public schools;

11. Health and physical education: This endorsement authorizes the holder to teach health and physical education in all public schools;

12. Home economics: This endorsement authorizes the holder to teach home economics in all public schools. Home economics normally includes: homemaking and consumer education, foods and nutrition, family living and parenthood education, child development and guidance, housing and home furnishings, home management, clothing and textiles, and family health and safety;

13. Industrial arts: This endorsement authorizes the holder to teach industrial arts in all public schools. Industrial arts normally **[include]* *includes**: graphic arts, drafting, wood-working, metal working, arts and power mechanics;

14. Mathematics: This endorsement authorizes the holder to teach mathematics in all public schools;

15. Military science: This endorsement authorizes the holder to teach military science in all public schools;

16. Music: This endorsement authorizes the holder to teach vocal and instrumental music and related theory in all public schools;

17. Nursery school: This endorsement authorizes the holder to teach in nursery schools and kindergartens in all public schools;

18. Physical education: This endorsement authorizes the holder to teach physical education in all public schools;

19. Psychology: This endorsement authorizes the holder to teach psychology in all public schools;

20. Reading: This endorsement authorizes the holder to teach reading in all public schools;

21. Science:

i. Comprehensive: This endorsement authorizes the holder to teach science (comprehensive) in all public schools. Comprehensive science normally includes: physics, chemistry, biological sciences, earth and space sciences other than geography;

ii. Biological science: This endorsement authorizes the holder to teach biological science in all public schools. Biological science includes: botany, anatomy and physiology, zoology, biology;

iii. Earth science: This endorsement authorizes the holder to teach earth science in all public schools. Earth science includes: astronomy, geology, meteorology, oceanography, physical geography and space science;

iv. Physical science: This endorsement authorizes the holder to teach physical science in all public schools. Physical Science includes: physics, chemistry, and earth and space sciences other than geography;

22. Social studies: This endorsement authorizes the holder to teach social studies in all public schools;

23. Special education

i. Blind or partially sighted: This endorsement authorizes the holder to teach blind or partially sighted children in all public schools;

ii. Deaf or hard of hearing: This endorsement authorizes the holder to teach deaf or hard of hearing children in all public schools;

iii. Teacher of the handicapped: This endorsement authorizes the holder to teach physically limited, socially and emotionally maladjusted, mentally retarded (educable and trainable children), or children with multiple handicaps;

24. Speech arts and dramatics: This endorsement authorizes the holder to teach speech arts and dramatics in all public schools;

25. Teacher of agricultural occupations: This endorsement authorizes the holder to teach designated agricultural occupations in all public schools. See listing of agricultural occupations below:

- i. Agricultural mechanics;
- ii. Agricultural sales and service;
- iii. Animal husbandry;
- iv. Crop production;
- v. Greenhouse management;
- vi. Landscaping;
- vii. Natural resources occupations;
- viii. Nursery management;

26. Teacher of practical nursing: This endorsement authorizes the holder to teach practical nursing in all public schools;

27. Teacher of production, personal or service occupations: This endorsement authorizes the holder to teach designated occupations in all public schools. See listing of production, personal or service occupations below:

- i. Barbering;
- ii. Building maintenance;
- iii. Clothing, apparel and textile management, production, and services;
- iv. Cosmetology;

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- v. Custodial training (includes buildings and grounds);
 - vi. Dental assisting;
 - vii. Dental receptionist;
 - viii. Food management;
 - ix. Food production;
 - x. Food services;
 - xi. Health occupations;
 - xii. Hotel motel (front desk clerk);
 - xiii. Hotel motel management;
 - xiv. Laundering, cleaning, and pressing;
 - xv. Medical assisting;
 - xvi. Medical receptionist;
 - xvii. Nursing assistances;
 - xviii. Service station attendant;
 - xix. Small animal care;
 - xx. Small engine repair;
 - xxi. Warehousing;
 - xxii. Machine operator (assembly);
28. Teacher of skilled trades: This endorsement authorizes the holder to teach a designated skilled trade in all public schools. See listing of skilled trades below:
- i. Air conditioning and refrigeration;
 - ii. Aircraft mechanics (air frame and power plant);
 - iii. Auto body repair;
 - iv. Auto mechanics;
 - v. Baking;
 - vi. Brick and masonry;
 - vii. Cabinet making;
 - viii. Carpentry;
 - ix. Commercial art;
 - x. Commercial photography;
 - xi. Diesel mechanic;
 - xii. Drafting;
 - xiii. Electrical trades;
 - xiv. Electricity and electronics;
 - xv. Electronic motor repair;
 - xvi. Electronic products servicing;
 - xvii. Fire science;
 - xviii. Heating and ventilating (includes oil and gas burner mechanic);
 - xix. Heavy duty equipment mechanic;
 - xx. Machine shop;
 - xxi. Maintenance mechanic (includes industrial maintenance mechanic and industrial mechanic);
 - xxii. Marine trades;
 - xxiii. Millwright;
 - xxiv. Office machine repair;
 - xxv. Painting and decorating;
 - xxvi. Plumbing and pipefitting;
 - xxvii. Printing;
 - xxviii. Radio and television repair;
 - xxix. Sheet metal;
 - xxx. Stationary engineering;
 - xxxi. Tool and die making;
 - xxxii. Upholstering;
 - xxxiii. Water waste water;
 - xxxiv. Welding;
 - xxxv. Television broadcasting (issued to teachers of television broadcasting who teach trade and industry courses)
29. Teacher of technical occupations: This endorsement authorizes the holder to teach a designated technical occupation in all public schools See listing of technical occupations below:
- i. Agricultural technology;
 - ii. Air conditioning technology;
 - iii. Automotive technology;

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- iv. Basic aviation and instrumentation (includes aviation mechanic);
 - v. Chemical technology;
 - vi. Computer science technology;
 - vii. Construction technology;
 - viii. Drafting and design technology;
 - ix. Electrical technology;
 - x. Electronic technology;
 - xi. Engineering technology;
 - xii. Food technology;
 - xiii. Highway technology;
 - xiv. Instrumentation technology;
 - xv. Laboratory technology;
 - xvi. Metallurgical technology;
 - xvii. Power plant technology;
 - xviii. Radio and television broadcast technology;
 - xix. Telecommunications technology;
30. Teacher of vocational-technical related subjects: This endorsement authorizes the holder to teach those subjects utilized in skill and technical trades such as math, science, related theory.

6:11-6.3 Endorsements: requirements

(a) Holders of standard instructional certificates, except as noted in (b) below shall obtain additional instructional endorsements by:

1. Presenting evidence of having acquired a baccalaureate degree at an accredited institution (except as noted in N.J.A.C. 6:11-6.3(c)1); and

2. Passing a State test in the subject field or a State test of general knowledge for an elementary ***or nursery*** endorsement. In order to be eligible to take a subject field test, the applicant must have completed at least 30 semester hours in a coherent major or five years of experience in the subject field.

(b) The following subject field endorsements, while requiring a baccalaureate degree, constitute exceptions to the requirements in (a) above (see N.J.A.C. 6:11-8.3):

1. Typewriting endorsement applicants must hold a valid New Jersey instructional endorsement in business education and demonstrate proficiency in typing.

2. Driver education endorsement candidates shall hold a New Jersey instructional endorsement in another subject field and a current New Jersey driver's license. Also required are three years of automobile driving experience and evidence of a driver education training program approved by the New Jersey State Department of Education.

3. Military science endorsement requires official evidence of 20 years of military service and recommendation by the branch of service in which the applicant served a minimum of 20 years.

(c) Exceptions to the requirements of a baccalaureate degree (see N.J.A.C. 6:11-5.1(a)1 and 2):

1. In the following endorsement areas, work experience is accepted in lieu of the baccalaureate degree in accordance with N.J.A.C. 6:11-8.3(c).

- i. Agricultural occupations;
- ii. Skilled trades;
- iii. Personal production and service occupations;
- iv. Practical nursing;
- v. Technical occupations.

(d) Applicants who receive official transcript evaluations before September 1, 1985, shall be permitted to fulfill requirements by taking the college courses indicated or by taking the appropriate State test and State-approved training program where applicable. Such applicants who choose to complete college courses must do so by September 1, 1990, after which

they must take the State test. No new transcript evaluations will be issued after September 1, 1985 in fields in which State-approved training programs are authorized.

SUBCHAPTER 7. STANDARDS FOR STATE APPROVAL OF TEACHER PREPARATION

6:11-7.1 Procedures for accreditation or approval

(a) The State Board of Education authorizes the use of Standards for State Approval of Teacher Education of the National Association of State Directors of Teacher Education and Certification (NASDTEC), in the evaluation of teacher preparation programs in colleges and universities of the State. The 1983 edition of NASDTEC (further editions, subsequent amendments and supplements) is hereby authorized for use in the evaluation of teacher preparation programs, and is hereby adopted as a rule.

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

2. This document may be purchased from NASDTEC, Utah State Office of Education, Staff Development Section, 250 East Fifth South, Salt Lake City, Utah 84111.

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

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

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

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

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

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

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

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

3. Only students who have been confirmed as candidates for certification shall be assigned to student teaching.

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

i. Maintained a cumulate grade point average of 2.5 (4 equals A);

ii. Demonstrated continued competence, aptitude, motivation, and potential for outstanding success in teaching as indicated by assessments of student teaching performance by college and school supervisors. Such assessments shall be communicated to the student and shall be a part of the student's file;

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

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

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

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

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

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

9. Each approved teacher preparation program shall require its students to complete a coherent sequence of study no fewer than 30 semester credit hours in the arts/humanities, behavioral/social science and/or mathematics/science technology disciplines. Introductory courses in the coherent sequence may also satisfy up to 12 semester credit hours of the general education requirements. The inclusion of technology as a potential academic area is intended to provide for those

candidates who will be certified to teach one of the technical disciplines such as distributive occupations or industrial technology.

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

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

12. Collegiate faculty assigned to supervise students shall:

- Have had experience supervising, consulting or otherwise working in an elementary/secondary school in contact with classroom teachers within the previous two years;
- Be full-time faculty members or part-time faculty with demonstrated expertise in the field they are supervising.

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

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

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

SUBCHAPTER 8. NEW JERSEY INSTRUCTIONAL SUPPLEMENT TO STANDARDS FOR STATE APPROVAL OF TEACHER EDUCATION

6:11-8.1 Scope

(a) This subchapter will be used by the Bureau of Teacher Preparation and Certification in the following ways:

1. In defining the essential areas of study to be included in the professional component of approved college programs and the formal instruction component of State-approved alternative training programs.

2. As the basis for performing transcript evaluations and issuing certificates in fields in which State-approved training programs are not authorized; and

3. As the basis for issuing certificates in certain technical fields in which the baccalaureate degree is not required.

6:11-8.2 Common requirements; all college teacher education programs and State-approved alternative programs

(a) Approved college programs and state-approved alternative-programs shall include study in the following areas of professional education:

1. Curriculum: Studies designed to foster an understanding of the curriculum taught and the assessment of learning, including topics such as the following: the organization and presentation of subject matter, the development and use of tests and other forms of assessment, the evaluation and selection of instructional materials and the appropriate use of textbooks and teachers' guides, the use and interpretation of standardized tests and teacher-developed instruments*[,] * **the reading process and other language art skill development appropriate to the field of specialization and grade level, and a knowledge of techniques and materials for fostering the development of reading and language arts skills.***

2. Student Development and Learning: studies designed to foster an understanding of students, their characteristics as individuals, and the ways in which they learn, including topics such as: student interests, motivation, preventing classroom disruption, creating a healthy learning climate, individual and group learning, language development, individual differences, and the role of technology in early learning.

3. The Classroom and the School: studies designed to foster an understanding of the school as a social unit and classroom management, including such topics as: the bureaucratic/social structure of public education, the making of teaching decisions, allocation of instructional time, setting of priorities, pacing of instruction, setting of goals, questioning techniques, student practice and independent work.

4. Physiology and Hygiene: In accordance with the provisions of N.J.S.A. 18A:26-8, candidates must pass an examination in physiology and hygiene, including the effects of narcotics and alcohol. In lieu of this examination, the applicant may present basic military training or study in areas such as biology, health or nutrition.

6:11-8.3 Exceptions to requirements for standard certification

(a) State-approved alternative training programs are not authorized in fields of vocational education. In addition, work experience may be substituted for the baccalaureate degree. Teachers in these fields may be employed on an emergency basis in accordance with N.J.A.C. 6:11-4.3. The emergency certificate is a one-year certificate which is renewable annually for an indefinite period. Candidates in the fields of vocational education may obtain a standard endorsement by meeting the following requirements.

1. Agricultural occupations: (experience background). Applicants who present five years of experience in a particular area of agriculture, such as farm machinery repairman, nursery worker, greenhouse florist or poultryman, may receive this endorsement without the requirement of a bachelor's degree. They must present approved training for the agricultural occupation, and have completed an approved teacher education program. Instead of approximately 60 credit-hours in general education, the program must include eighteen semester-hour credits in general background courses, including study in at least three of the following fields: English, social studies, fine arts, science, mathematics and foreign language. The 30 credit major field requirement does not apply to this endorsement.

2. Practical nursing: (Experience Background). Registered nurses who present three years of approved full-time nursing

experience may receive this endorsement without the requirement of a bachelor's degree if they have completed an approved teacher education program. Instead of approximately 60 credit hours in general education, the program must include eighteen semester-hour credits in general background courses, including study in at least three of the following fields: English, social studies, fine arts, science, mathematics, and foreign languages. The 30-credit field requirement does not apply to this endorsement.

i. A *[regular]* ***standard*** school nurse certificate or a bachelor's or higher degree in nursing education will be accepted as meeting the study requirement for the practical nursing teacher's certificate.

3. Production, personal and service occupations: (Experience Background). Applicants who present three years of experience in occupations such as beauty culture, dry cleaning and pressing, shoe repairing, lathe operation, and commercial foods preparation, may receive this endorsement without the requirement of a bachelor's degree if they present approved training for the skilled occupation and have completed an approved teacher education program. Instead of approximately 60 credit-hours in general education, the program must include 18 semester-hour credits in general background courses, including study in at least three of the following fields: English, social studies, fine arts, science and mathematics. The 30-credit field requirement does not apply to this endorsement.

4. Skilled trades: (Experience Background). Applicants who present six years of approved full-time experience (which may include apprenticeship) in a skilled trade requiring a minimum learning period of two years on-the-job training before reaching the classification of skilled worker or journeyman, of any trade listed by the Federal Committee on Apprentice Training, may receive this endorsement without the requirement of a bachelor's degree. Such candidates must present approved training, and have completed an approved teacher education program. Instead of approximately 60 credit-hours in general education, the program must include 18 semester-hour credits in general background courses, including study in at least three of the following fields: English, social studies, fine arts, science and mathematics. The 30-credit field requirement does not apply to this endorsement.

i. Graduates of approved vocational-technical high schools or institutes may receive one year of credit toward the experience requirement.

5. Technical occupations: (Experience Background). Applicants who present approved training in technical occupations such as electronic technicians, chemical technicians, industrial drafting and design technicians, engineering aides, and metallurgical technicians may receive this endorsement without a bachelor's degree. Such applicants must present approved training and either:

i. A bachelor's degree and two years of experience, or

ii. Four years experience without the bachelor's degree. Instead of approximately 60 credit-hours in general education, the program must include eighteen semester-hour credits in background courses, including study in at least three of the following fields: English, social studies, fine arts, science, and mathematics. The 30-credit field requirement does not apply to this endorsement.

6. Vocational-technical related subjects: A minimum of two years of approved occupational experience is required. The 30-credit field requirement does not apply to this endorsement.

7. Vocational-technical; part-time teacher

i. This certificate is required for vocational teachers who teach on a part-time basis in any approved vocational-technical evening, apprentice, extension, industrial-in-plant training or short-term preemployment program in any of the fields of vocational education, such as, agriculture, distributive education, home economics, trades and industries or technical education, and who do not possess a certificate valid for teaching in an all-day program.

ii. The applicant must have demonstrated evidence of practical experience to fit him for the particular position he is to fill. The adequacy will be evaluated by the particular supervisor in whose field the teaching is to be done and will be approved by recommendation of the State Director of Vocational-Technical Teacher Training to the State Board of Examiners.

iii. The part-time vocational certificate is valid for five years from the date of issuance. Issuance of a standard certificate after five years will be predicated upon presenting evidence of the completion of an approved in-service program in methods of teaching vocational-technical subjects and a certificate of success as a teacher signed by the administrator or supervisor under whom the teaching was done.

(b) State-approved alternative training programs are not authorized in fields of special education. Teachers in these fields may be employed on an emergency basis in accordance with N.J.A.C. 6:11-4.3. The emergency certificate is a one-year certificate which is renewable annually for an indefinite period. Candidates in the fields of special education may obtain an endorsement by completing an approved program at a college or university, or by meeting the following requirements as determined by an evaluation of transcripts or other official documents:

1. Handicapped: This endorsement authorizes teaching the physically limited, socially and emotionally maladjusted, mentally retarded (educable and trainable) children, or children with multiple handicaps. Candidates for this endorsement must complete eighteen semester-hour credits in the education of handicapped, twelve semester-hour credits in education electives, and student teaching. The eighteen credits in education of the handicapped must include study in each of the following areas: nature and causes of disabilities, practices and materials in teaching the handicapped, and resources and community agencies available in teaching the handicapped.

2. Blind or partially sighted: Candidates for this endorsement must complete eighteen semester-hour credits in education of the handicapped, twelve semester-hour credits in education electives, and student teaching. The eighteen credits in education of the handicapped must include study in each of the following areas: nature and causes of disabilities, curriculum and/or methods of teaching blind or partially sighted children, including typewriting and Braille, resources and community agencies available for teaching the handicapped.

3. Deaf or hard of hearing: Candidates for this endorsement must complete eighteen semester-hour credits in the education of the handicapped, twelve semester-hour credits in education electives, and student teaching. The eighteen credits in education of the handicapped must include study in each of the following areas: nature and causes of disabilities, curriculum and/or methods of teaching speech, speech reading, and language to the deaf or hard of hearing, resources and community agencies available in teaching the handicapped.

(c) In accordance with N.J.A.C. 6:11-3.16, applicants who have not completed the course study requirements in technical

fields or the field of special education may have such requirements waived by presenting evidence of alternative education or experience. In addition, the student teaching requirements in these fields shall be waived for those candidates who:

1. Hold a valid *[regular]* ***standard*** New Jersey instructional certificate in another field; or
2. Present a baccalaureate degree, a valid regular certificate from another state, and evidence of at least one year of successful teaching experience in the other state; or
3. Have completed three years of successful classroom teaching experience in an approved or recognized school prior to the acceptance of public school employment in New Jersey; or
4. Have completed two consecutive years of successful teaching experience under an emergency certificate in a New Jersey public school district.

6:11-8.4 Bilingual/bicultural education

(a) The bilingual/bicultural education endorsement requires prior completion of requirements for certification in another instructional field. Therefore, candidates will already have acquired essential knowledge and skills and shall not be required to complete student teaching or a State-approved alternative. Teachers in the field of bilingual/bicultural education may be hired on an emergency basis in accordance with N.J.A.C. 6:11-4.3. Applicants may obtain certificates by completing an approved college program or through a review of their college transcripts.

(b) The requirements are as follows:

1. A bachelor's degree based upon a four-year program in an accredited college;
2. A *[regular]* ***standard*** New Jersey teaching certificate in another field;
3. Completion of 30 semester-hour credits in bilingual/bicultural education, including study in the following areas.
 - i. Cultural and cross-cultural studies: A minimum of 12 semester-hour credits, in separate or integrated courses, including study in each of areas (1), (2) and (3) below is required, each course should be designed to increase the understanding of crossculture variables affecting learning, and include such courses as the following:
 - (1) Social psychology and the bilingual child or Contemporary social problems (with emphasis on the bilingual/bicultural child); except

(A) An applicant who has completed a minimum of three full years of successful experience as a teacher of bilingual/bicultural and/or English as a second language education under a valid New Jersey standard or substandard certificate, or its equivalent, will be excused from completing three credits in this area;

(2) Language and culture; except an applicant who has completed a minimum of three full years of successful experience as a teacher of bilingual/bicultural and/or English as a second language education under a valid New Jersey standard or substandard certificate, or its equivalent, will be excused from completing three credits in this area;

(3) Bilingual/bicultural field experiences, except an applicant who has completed a minimum of one full year of successful experience as a teacher of bilingual/bicultural and/or English as a second language education under a valid New Jersey standard or substandard certificate, or its equivalent, will be excused from completing three credits in this area, and an applicant who has completed three or more years of successful experience will be excused from completing an additional three credits in this area;

- (4) Cultural anthropology;
- (5) Comparative cultures.

ii. Linguistics: Three credits in the Area of study (1) below is required.

(1) Applied linguistics: Courses stressing techniques of second language skills development.

iii. Other areas: A minimum of nine semester-hour credits in separate or integrated courses. *[Area]* ***Areas*** of study (1), (2) and (3) below are required.

(1) Foundations of bilingual/multicultural education (rationale, history, survey of existing models);

(2) Theory and practice of teaching the bilingual child in content areas. If this requirement is fulfilled with coursework, then it should be taught in English and the other language being used as a medium of instruction, wherever possible, except an applicant who has completed a minimum of three full years of successful experience as a teacher of bilingual/bicultural education under a valid New Jersey standard or substandard certificate, or its equivalent, will be excused from completing three credits in this area;

(3) Theory and practice of teaching English as a second language, except an applicant who has completed a minimum of three full years of successful experience as a teacher of English as a second language education under a valid New Jersey standard or substandard certificate, or its equivalent, will be excused from completing three credits in this area.

iv. Demonstration of verbal and written proficiency in English and in one other language used also as a medium of instruction.

(c) All bilingual/bicultural certification programs to be offered at New Jersey colleges and universities must be reviewed by the Department of Higher Education and approved by the State Department of Education. Bilingual/bicultural programs shall be developed by institutions of higher education so that the requirements set forth in subsection (b) above of this section may be met in a variety of settings, including but not limited to specific courses.

(d) The participants in such approved programs shall acquire the skills and knowledge prescribed in these rules and regulations before the dean of education recommends the candidate to the Bureau of Teacher Preparation and Certification for a bilingual/bicultural certificate.

6:11-8.5 Teaching English as a second language

(a) Teachers of English as a second language may be hired on an emergency basis in accordance with N.J.A.C. 6:11-4.3. Applicants may obtain certification by completing an approved college program or through a review of their college transcripts.

(b) The requirements are as follows:

1. A bachelor's degree based upon a four-year curriculum in an accredited college;
2. Successful completion of a college curriculum approved by the State Department of Education as the basis for issuing this certificate; or
3. Successful completion of a program of college studies including the following.

i. A minimum of 45 semester-hour credits in general background courses distributed in at least four of the following fields:

- (1) English;
- (2) Social studies;
- (3) Science;
- (4) Fine arts;
- (5) Mathematics;

- (6) Foreign languages;
- (7) Philosophy and psychology;
- (8) Music.
- ii. Fifteen credits in the field of professional education in accordance with New Jersey certification standards;
- iii. Thirty credits, comprehensive field endorsement:
 - (1) Cultural and cross-cultural studies: A minimum of nine semester-hour credits in separate or integrated courses, including study in each of areas (A), (B), (C) and (D) below is required—designed to increase the understanding of cross-culture variables affecting learning, including such courses as the following:
 - (A) Social psychology of the bilingual child; or
 - (B) Contemporary social problems (with emphasis on the bilingual/bicultural child), except an applicant who has completed a minimum of three full years of successful experience as a teacher of bilingual/bicultural and/or English as a second language education under a valid New Jersey standard or substandard certificate, or its equivalent, will be excused from completing three credits in this area;
 - (C) Language and culture;
 - (D) Bilingual/bicultural field experiences, except an applicant who has completed a minimum of one full year of successful experience as a teacher of bilingual/bicultural and/or English as a second language education under a valid New Jersey standard or substandard certificate, or its equivalent, will be excused from completing three credits in this area;
 - (E) Cultural anthropology;
 - (F) Comparative cultures.
 - (2) Linguistics: Twelve semester hours. Courses in areas (A), (B) and (C) below are required:
 - (A) General linguistics;
 - (B) Phonology and structure of American English;
 - (C) Applied linguistics (including problems of second language experience);
 - (D) Comparative linguistics;
 - (E) Semantics;
 - (F) Dialectology;
 - (G) Sociolinguistics;
 - (H) Psycholinguistics;
 - (I) Grammar systems;
 - (J) History and development of the English language, except an applicant who has completed a minimum of three full years of successful experience as a teacher of English as a second language under a valid New Jersey standard or substandard certificate, or its equivalent, will be excused from completing three credits in this area. "General linguistics," "Phonology and structure of American English," and "Applied linguistics" will not be excused.
 - (3) Theory and practice of teaching English as a second language: Six credits, except an applicant who has completed a minimum of three full years of successful experience as a teacher of English as a second language education under a valid New Jersey standard or substandard certificate, or its equivalent, will be excused from completing three credits in this area.
 - (4) Foreign language: Minimum of three credits, except applicants who have not completed coursework in a language foreign to their native tongue may be excused from completing this requirement if they have:
 - (A) Successfully completed a State Department of Education language proficiency interview; or
 - (B) Successfully completed a Thomas Edison College Examination Program (TECEP); or
 - (C) Successfully completed a College Level Examination Program (CLEP); or

- (D) Presented official verification by a college or university that an applicant has fulfilled the requirement in a manner other than through the completion of a course; or
- (E) Successfully completed any other oral language proficiency instrument approved by the State Board of Examiners.
- (5) Evidence of native or near-native competency in English as determined by guidelines to be established by the State Department of Education.
 - iv. Approved student teaching in an English as a second language setting;
 - v. Physiology and hygiene.
- (c) The holder of a standard New Jersey teacher's certificate may qualify for an endorsement to teach English as a second language by completing the 30-credit comprehensive field endorsement.
- (d) All English as a second language certification programs to be offered at New Jersey colleges and universities must be reviewed by the Department of Higher Education and approved by the State Department of Education. English as a second language programs shall be developed by institutions of higher education so that the requirements set forth in (b) above may be met in a variety of settings, including but not limited to specific courses.
 1. The participants in such approved programs shall acquire the skills and knowledge prescribed in these rules and regulations before the dean of education recommends the candidate to the Bureau of Teacher *Education and Academic Credentials]* ***Preparation and Certification*** for an English as a second language certificate.

6:11-8.10 Reserved

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Fish and Game Council 1984-85 Game Code

Adopted Amendment: N.J.A.C. 7:25-5.29

Proposed: August 20, 1984 at 16 N.J.R. 2195(a).
 Adopted: September 26, 1984 by Fish and Game Council, Anthony E. DiGiovanni, Chairman.
 Filed: September 28, 1984 as R.1984 d.471, **without change.**

Authority: N.J.S.A. 13:1B-30 et seq. and N.J.S.A. 23:1-1 et seq.

Effective Date: October 15, 1984.
 Expiration Date pursuant to Executive Order 66(1978): July 31, 1985.

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

Full text of the adoption follows.

7:25-5.29 White-tailed deer (*Odocoileus virginianus*) special permit season, shotgun only, either-sex.

(a)-(j) (No change.)

(k) Deer management zone map (on file at the Office of Administrative Law).

**1984 SHOTGUN DEER SEASON PERMIT QUOTAS
EITHER SEX**

Deer Mgt. Zone No.	Anticipated Deer Harvest	Permit Quota	Portions of Counties Involved
	1984	1984	
1	149	931	Sussex
2†	258	860	Sussex
3	38	380	Sussex, Passaic, Bergen
4	111	585	Sussex, Warren
5†	1025	2770	Sussex, Warren
6†	201	1150	Sussex, Morris, Passaic, Essex
7†	365	986	Warren, Hunterdon
8†	1076	2624	Warren, Hunterdon, Morris, Somerset
9‡	304	950	Morris, Somerset
10	608	1737	Warren, Hunterdon
11	348	1122	Hunterdon
12‡	676	1502	Mercer, Hunterdon, Somerset
13‡	197	657	Morris, Somerset
14‡	461	1537	Mercer, Somerset, Middlesex, Burlington
15	107	713	Mercer, Monmouth, Middlesex
16†	63	630	Ocean, Monmouth
17	118	407	Ocean, Monmouth, Burlington
18	38	292	Ocean
19	31	172	Camden, Burlington
20	33	275	Burlington
21	17	131	Burlington, Ocean
22	15	136	Burlington, Ocean
23	15	125	Burlington, Camden, Atlantic
24	9	64	Burlington, Ocean
25	27	142	Gloucester, Camden, Atlantic, Salem
26	32	128	Atlantic
27	74	296	Salem, Cumberland
28	21	117	Salem, Cumberland, Gloucester
29	202	594	Salem, Cumberland
30	18	72	Cumberland
31	9	90	Cumberland
32	0	0	Cumberland
33	30	167	Cape May, Atlantic
34	48	117	Cape May, Cumberland
35	53	212	Gloucester, Salem
41‡	541	751	Mercer, Hunterdon
42	10	67	Atlantic
43	0	0	Cumberland
44	10	42	Cumberland
45	0	0	Cumberland, Atlantic, Cape May
46	21	75	Atlantic
47	12	48	Atlantic, Cumberland, Gloucester
48	35	218	Burlington
49	0	0	Burlington, Camden, Gloucester
50‡	57	285	Middlesex, Monmouth
51‡	52	260	Monmouth, Ocean
Total	7,515	24,417	

† indicates two day zones (December 12 and 13, 1984)
‡ indicates three day zones (December 12, 13 and 14, 1984) with provision for second deer tag.

(l)-(n) (No change.)

(a)

**DIVISION OF FISH, GAME AND
WILDLIFE**

**Marine Finfish
Purse Seine Fishing of Menhaden**

Readoption: N.J.A.C. 7:25-22.2

Proposed: August 6, 1984 at 16 N.J.R. 2171(a).
Adopted: September 24, 1984 by Robert E. Hughey, Commissioner, Department of Environmental Protection.
Filed: September 28, 1984 as R.1984 d.473, **without change.**

Authority: N.J.S.A. 23:2B-6 and 23:3-51.

Expiration Date pursuant to Executive Order No. 66(1978): May 2, 1988.

DEP Docket No. 035-84-06.

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

Full text of the adoption follows.

7:25-22.2 Purse seine fishing of menhaden

(a) Persons licensed to fish for menhaden with a purse seine or shirred net in the marine waters of New Jersey pursuant to N.J.S.A. 23:3-51 and 23:3-52 shall abide by the following rules:

1. Fishing, for the purpose of this section, shall be defined as having a purse seine in the marine waters of this State.

2. Fishing shall be restricted to the Atlantic Ocean, and Delaware, Raritan and Sandy Hook Bays, not closer than 0.6 nautical miles of any point along the shore, jetties or fishing piers. It will be incumbent upon the captain of a menhaden purse seine vessel to determine the possibility of drifting inside the 0.6 nautical mile limit established herein while fishing before setting his net. Drifting into the 0.6 nautical mile restricted area along the shore, or around a pier, will not be considered a viable defense.

3. No fishing shall be conducted on Saturdays, Sundays, and the days on which Memorial Day, Independence Day or Labor Day are officially observed by the State of New Jersey.

4. All pump outlets, except normal engine cooling water, shall discharge below the vessel's water line.

5. All discharge from fish pumps must be treated with a United States Coast Guard approved anti-foaming agent.

6. No refuse, litter or garbage of any kind, or any quantity of dead fish shall be thrown overboard or released from the vessel or its net(s).

7. The licensee is responsible for cleaning up any fish which are released from split or torn nets and must initiate such cleanup no later than 24 hours after the incident begins. Such cleanup shall include, but not be limited to, the marine and estuarine waters of the State and adjacent beaches, shorelines and marshes.

8. No stakes, markers, or buoys designating channels, crab pots, lobster pots, fish pots, or traps, or staked leased shell-fish grounds, including, but not limited to that portion of Delaware Bay north and west of a line from Fourteen Foot light to Deadman Shoal light (Bug light) and thence to Dennis Creek light, shall be disturbed by the act of fishing.

(a)

**DIVISION OF WASTE MANAGEMENT
BOARD OF PUBLIC UTILITIES**

**Interdistrict and Intradistrict Solid Waste
Flow**

**Joint Adopted Amendment: N.J.A.C.
7:26-6.5**

Proposed: May 7, 1984, at 16 N.J.R. 1000(a).
Adopted: September 27, 1984 by Robert E. Hughey,
Commissioner, Department of Environmental Protection,
and September 26, 1984 by Board of Public Utilities,
Barbara A. Curran, President.
Filed: September 28, 1984 as R.1984 d.474, with **substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 13:1B-3, 13:1E-6, 13:1E-23 and 48:13A-1 et seq.

Effective Date: October 15, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): December 5, 1987.
DEP Docket No. 021-84-04.

Summary of Public Comments and Agency Responses:

On May 7, 1984, the Department of Environmental Protection (DEP) and the Board of Public Utilities (BPU) proposed an amendment to the "waste flow rules", N.J.A.C. 7:26-6, to redirect solid waste generated in Mercer County from disposal in the Parklands Reclamation Project Landfill, Bordentown Township, Burlington County, New Jersey, to out-of-state facilities as designated in the Mercer County District Solid Waste Management Plan upon termination of the Mercer-Burlington interdistrict waste flow agreement.

A public hearing concerning the redirection was held on May 16, 1984 at Mercer County Community College in Trenton. Approximately 15 persons attended the hearing, three of whom commented on the proposal. Subsequent to the hearing, the Mercer-Burlington interdistrict waste flow agreement expired and therefore, on May 30, 1984, the DEP and BPU issued an Emergency Redirection Order directing the Mercer County waste to the GROWS Landfill, Falls Township, Bucks County, Pennsylvania. The rule amendment has been modified accordingly.

The DEP and the BPU have reviewed the transcript of the hearing and the written comments which were submitted dur-

ing the comment period which closed on June 7, 1984. The following is a summary of the major issues raised which were relevant to the proposal and the agencies' responses. Copies of a more complete "Response to Comments and Questions" document may be obtained from Barbara M. Greer, Office of Regulatory Services, Department of Environmental Protection, CN 402, Trenton, New Jersey 08625.

Comment: Mercer County has not cited failure or indicated to the DEP that no interdistrict agreement with other New Jersey districts was possible.

Response: The DEP Commissioner in issuing the Certification of Approval of the December 13, 1983 Amendment to the Mercer County District Solid Waste Management Plan on May 11, 1984 required the county within 45 days either: (1) to propose for adoption a plan amendment designating a landfill site located within the district; or (2) to adopt a plan amendment jointly with another district to provide for the disposal of Mercer County's waste in that district; or (3) to adopt a plan amendment certifying the absence of sufficient available suitable sites within the Mercer District, and failure to reach agreement with any other district, and submit with the plan amendment the documentary record considered by the County in arriving at this determination. The GROWS Agreement was approved by the DEP Commissioner as an interim measure to provide the necessary disposal capacity for Mercer County while it pursues the above requirements of the Solid Waste Management Act. In addition, the DEP has begun negotiation with Mercer County to enter into a Consent Agreement setting forth a schedule for the County's compliance with the Act.

Comment: An in-state disposal facility (namely the Parklands Landfill) exists to accept the solid waste generated by Mercer County municipalities and, therefore, disposal out-of-state is not necessary.

Response: We are advised by the Office of the Attorney General that there is no legal requirement that the State of New Jersey exhaust all available disposal capacity within this State before it may look to use disposal capacity outside of the State of New Jersey. Mercer County has, therefore, entered into a disposal agreement with the GROWS Landfill and the DEP accepts the County's action as an interim solution to its disposal problem.

Comment: By authorizing the redirection of Mercer's solid waste to an out-of-state disposal facility, \$680,000 in taxes will be lost by the State of New Jersey.

Response: Some revenue will be lost by the State because of the out-of-state disposal of Mercer's waste. However, these taxes (recycling, landfill closure, landfill contingency) were enacted, in part, as a disincentive to landfilling within the State. Again, the out-of-state disposal site has been approved as an interim measure with the expectation that Mercer County will find an in-state disposal site in the near future.

Comment: A decrease in solid waste loading at the Parklands Landfill will decrease the amount of sludge which the facility can dispose of and since Parklands is one of the few remaining in-state landfills authorized to accept dry sewage sludge, a hardship will be created Statewide.

Response: The revised Certificate of Approved Registration and Engineering Design Approval issued by the DEP, dated May 18, 1984, requires Parklands to cease acceptance of all

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sludges within 90 days of May 18, 1984 because of the severe odor problems at the landfill. Alternate disposal sites will have to be found for sludges now landfilled at Parklands whether or not the Mercer County waste is redirected from this site.

Comment: The DEP has not addressed the disposal capacity issue of Burlington County landfills.

Response: Burlington County has had a consultant prepare semi-annual landfill capacity reports estimating the capacity remaining at the Parklands and L & D Landfills. DEP has reviewed and accepted the capacity projections made by the County's consultant.

Comment: Because of past improper disposal practices at the GROWS Landfill, significant expenditures for remedial activities will have to be undertaken by the owners of this facility. The cost of these remedial actions may be passed on to the present and future users of the landfill, including Mercer County residents, through steeply increased tipping fees. These increased tipping fees will be in addition to other expenses such as new vehicles and longer hauling distances associated with the use of GROWS when compared to the Parklands and L & D Landfills.

Response: To preserve the remaining capacity of the Burlington County landfills for the use of Burlington residents until the planned County Solid Waste Facilities Complex is operational, the Burlington County Freeholders terminated the Burlington-Mercer interdistrict agreement. Faced with no in-county disposal facilities, the Mercer County Freeholders sought disposal agreements with neighboring landfills and concluded that the agreement with the GROWS facility represented the best disposal option at this time. The DEP and the BPU respect the decision made by Mercer County but have no control over the tipping fees assessed by the owners of GROWS.

Comment: Mercer County lacks the authority to redirect its solid waste to an out-of-state disposal facility.

Response: The Office of the Attorney General has informed the DEP and BPU that Mercer County possessed adequate legal authority to adopt the amendment.

Comment: Mercer County is being permitted to operate a solid waste franchise through the issuance of a coupon system to collector/haulers utilizing the GROWS Landfill.

Response: The Office of the Attorney General had advised that Mercer County's actions have not resulted in the granting of a franchise to the GROWS Landfill or any other party affected by the amendment.

Comment: The tariff granted by the BPU to the Parklands Reclamation Project Landfill indicated it was a regional landfill designed to service the disposal needs of both Mercer and Burlington Counties. This redirection violates the tariff.

Response: The Parklands Landfill does not have a franchised service area and, therefore, does not have any legal right to continue to receive Mercer County's solid waste. The Mercer/Burlington Interdistrict Agreement was entered in July of 1981 and clearly indicated that Parklands would receive Mercer waste only until the agreement expired on January 1, 1984. Parklands has no legal right beyond the Mercer/Burlington agreement to receive Mercer County's waste. Burlington County had extended the agreement to May 31,

1984 only to accommodate Mercer County until another disposal site could be found.

Comment: Mercer County's solid waste accounts for 80-85 percent of the waste landfilled at Parklands. This decrease in loading results in an annual loss of \$3.5 million and this revenue is needed for proper closure at the landfill.

Response: To compensate for the waste flow loss at Parklands, the Burlington County Freeholders have passed a plan amendment reallocating in-county generated waste between Parklands and the L & D Landfill. Owners of the Parklands Landfill may petition the BPU for a rate increase to recover such costs, if any.

Comment: Due to the Burlington County reallocation of waste flows, the L & D Landfill will suffer a revenue loss of \$3.5 million due to decreased loading.

Response: As with Parklands, the owners of the L & D Landfill may petition the BPU for a rate adjustment through which the BPU will more fully evaluate L & D's claim of revenue loss.

Comment: The BPU never addressed the economic impact of this proposed redirection.

Response: The BPU has reviewed the Mercer County Amendment together with its supporting record, and by virtue of its joint participation in this proceeding, has reviewed all written comment with respect to the proposed rule change. In addition, a hearing was held at the BPU through which the parties were permitted to present further evidence as to the economic impact of the redirection and the GROWS Contract. Its review of these materials has enabled it to appropriately assess the economic impact of this proposed redirection on all parties concerned and the economic impact thereof was addressed in a series of Orders entered by the Board in this separate proceeding.

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

7:26-6.5 District waste flow planning requirements and disposal facility designations

(No change.)

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

(c) Waste flows within, into and out of the Burlington County District:

1.-10. (No change.) (See related adoption in this issue of the Register.)

[13. All waste types 10, 13, 23, 25 and 27 generated from within Mercer County shall be disposed of at the Parklands Reclamation Project landfill, facility number 0304A, located in Bordentown Township, Burlington County, New Jersey, as provided for in the Interdistrict Waste Flow Agreement between Burlington and Mercer Counties and subject to the terms and conditions set forth therein until such time as the Interdistrict Waste Flow Agreement is terminated.]

[14.]* *11. (No change in text.) (See related adoption in this issue of the Register.)

(d)-(k) (No change.)

(l) Waste flows within, into and out of the Mercer County District:

1. All waste types 10, 13, 23, 25, and 27 generated from within Mercer County shall be disposed of at ***[the Parklands Reclamation Project landfill, facility number 0304A, located**

in Bordentown Township, Burlington County, New Jersey as provided for in the Interdistrict Waste Flow Agreement between Burlington and Mercer Counties and subject to the terms and conditions set forth therein. Upon termination of the Interdistrict Waste Flow Agreement, said solid wastes may be disposed of at]* out-of-state facilities as designated in the Mercer County District Solid Waste Management Plan when such disposal does not violate any law or regulation of the receiving state.

(m)-(v) (No change.)

(a)

**DIVISION OF WASTE MANAGEMENT
BOARD OF PUBLIC UTILITIES**

**Interdistrict and Intradistrict Solid Waste
Flow**

**Joint Adopted Amendment: N.J.A.C.
7:26-6.5**

Proposed: May 21, 1984, at 16 N.J.R. 1149(a).

Adopted: September 27, 1984 by Robert E. Hughey, Commissioner, Department of Environmental Protection, and September 26, 1984 by Board of Public Utilities, Barbara A. Curran, President.

Filed: September 28, 1984 as R.1984 d.475, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 13:1B-3, 13:1E-6, 13:1E-23 and 48:13A-1 et seq.

Effective Date: October 15, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): December 5, 1987.

DEP Docket No. 025-84-04.

Summary of Public Comments and Agency Responses:

On May 21, 1984, the Department of Environmental Protection (DEP) and the Board of Public Utilities (BPU) proposed an amendment to the "waste flow rules", N.J.A.C. 7:26-6, to redirect solid waste generated within Burlington County among the landfills in the county and to update some sections of the rules governing solid waste generated outside the county to partially reflect the current status of interdistrict waste flow agreements.

A public hearing on the proposed amendment was held June 11, 1984 in Bordentown Township and was attended by approximately 15 persons. Prior to the hearing, the Mercer-Burlington and Camden Burlington Interdistrict Waste Flow Agreements terminated. In addition to modifying the proposal to reflect those changes, the termination of the Lumberton-Hainesport interlocal agreement and the signing of the

Evesham Township Landfill consent agreement are reflected in this adoption.

The DEP and BPU have carefully reviewed the relevant comments contained in the transcript of the public hearing and submitted in writing during the comment period which closed on June 21, 1984. The following is a summary of those comments. Responses to those comments which were more relevant to the redirection of Mercer County waste will be found elsewhere in this issue of the Register. A more complete "Response to Comments and Questions" document may be obtained from Barbara M. Greer, Office of Regulatory Services, Department of Environmental Protection, CN 402, Trenton, New Jersey 08625.

Comment: With the termination of the Burlington County-Camden County interdistrict agreement, Cherry Hill Township, with a Saturday collection, has no available facility for Saturday disposal.

Response: It is the responsibility of Camden County to provide for a Saturday disposal facility for Cherry Hill collected waste. If such a facility is not available within Camden County, then the Camden County Freeholders must reach an interdistrict agreement with another county to provide for such a facility, or Cherry Hill will have to rearrange its collection schedule.

Comment: The DEP and the BPU have prejudged the proposed rule adoption through issuance of the emergency redirection orders for Mercer and Burlington Counties.

Response: The issuance of the Mercer redirection order was to permit disposal of that county's solid waste at the GROWS Landfill concurrent with the commencement of the GROWS-Mercer disposal agreement on June 1, 1984. The Burlington redirection order was also dated June 1 to reallocate Burlington County generated waste to compensate for the shortfall of waste disposed of at the Parklands Landfill. Both redirection orders were emergency situations issued on a temporary basis. Neither was intended as a prejudgment of the final waste flow rule adoption.

Comment: By reducing the waste flow into the Parklands Landfill, the DEP and the BPU through their actions have increased the remaining lifespan of the facility from three to six years.

Response: The very purpose of this Burlington County plan amendment is to extend the lifespan of the Parklands and L & D Landfills to ensure that sufficient in-county disposal capacity exists until the county's planned regional landfill is operational.

Comment: The proposed rule change directs waste types 10, 13, 23, and 27 generated from within Lumberton and Hainesport Townships to the Lumberton Township Landfill for disposal. This is incorrect since the Hainesport-Lumberton interlocal agreement providing for disposal of Hainesport's waste at the Lumberton Landfill has terminated.

Response: The final rule adoption reflects termination of the interlocal agreement with waste types 10, 13, 23, and 27 generated from within Hainesport Township directed to the L & D Landfill for disposal. Waste type 25 generated from within Hainesport Township will continue to be disposed of at the Parklands Landfill.

Comments: The BPU never addressed the economic impact of this proposed redirection.

Response: The BPU has reviewed the amendment together with its supporting record, and by virtue of its joint participation in the public hearing, has reviewed all written comment with respect to the proposed rule change. Also, on June 22 the

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BPU held a hearing in addition to that held already in this proceeding so as to receive any further testimony regarding the economic consequences of the proposed redirection. Its review of these materials has enabled it to appropriately assess the economic impact of this proposed reallocation on all parties concerned. The BPU considers it to be in Burlington County's economic interest to extend the useful life of landfills located within its boundaries. In order to minimize the negative economic impact, if any, of this determination on the landfills situate therein, the BPU also considers the reallocation of waste in accordance with the Burlington County Plan amendment to be appropriate.

Comment: Due to the Burlington County reallocation of waste flows and the loss of Mercer County solid waste, the Parklands Landfill will suffer a revenue loss of \$2.3 million due to decreased loading.

Response: The BPU's review of all economic data filed in these proceedings has led it to conclude that the reallocation at issue herein is the best economic interest of Burlington County. The owners of Parklands landfill may petition the BPU for rate increases to recover costs of the reallocation, which costs must be proven within the context of a contested case proceeding, pursuant to requirements of N.J.S.A. 48:2-21.

Comment: Due to the Burlington County reallocation of waste flows, the L & D Landfill will suffer a revenue loss of \$3.2 million due to decreased loading.

Response: As with Parklands, the owners of the L & D Landfill may petition the BPU for a rate adjustment through which the BPU will further evaluate L & D's claim of revenue loss.

Full text of the adoption follows (additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***). (See related adoption concerning the redirection of Mercer County waste, in this issue of the Register.)

7:26-6.5 District waste flow planning requirements and disposal facility designations

Due to the lack of adequate disposal capacity within certain solid waste districts, and pursuant to a finding by the BPU that the public interest will be best served by designating specific disposal facilities as the ultimate destination of specific waste streams, it is necessary to direct waste flows, as described in this section.

(a) Waste flows within, into and out of the ***[Burlington]* *Atlantic*** County District:

1.-12. (No change.)

13. All waste types 10, 13, 23, 25 and 27 generated from within the Cape May County municipality of Ocean City shall be disposed of at the Lee's Gravel Pit landfill, facility number 0108B, located in Egg Harbor Township, Atlantic County until the Cape May County regional landfill becomes operational. This due to a lack of landfill capacity currently available in Cape May County.

i. All waste types 10, 13, 23, 25, and 27 generated from within the Burlington County municipalities of Bass River and Washington shall be disposed of at the Lee's Gravel Pit landfill, facility number 0108B, located in Egg Harbor Township, Atlantic County, New Jersey due to the transportation difficulties associated with bridge weight limitations in hauling wastes to Burlington County solid waste facilities.

(b) (No change.)

(c) Waste flows within, into, and out of the Burlington County District:

1. All waste types 10, 13, 23, 25, and 27 generated from within the Burlington County municipalities of Bass River and Washington shall be disposed of at the ***[Lee's Gravel Pit]* *Pinelands Park*** landfill, facility number 0108B, located in Egg Harbor Township, Atlantic County, New Jersey, due to the transportation difficulties associated with the bridge weight limitations in hauling the wastes to Burlington County solid waste facilities.

i. If a county landfill is not operational and the ***[Lee's Gravel Pit]* *Pinelands Park*** landfill should become unavailable, Burlington County wastes directed to ***[Lee's Gravel Pit]* *Pineland Park*** shall be disposed of at the Landfill and Development Company landfill, facility number 0323A until such time that a county landfill becomes available.

2. All waste types ***[20]* *10***, 13, 23, 25, and 27 generated from within the Burlington County municipalities of Beverly City, Bordentown City, Bordentown Township, Burlington Township, Chesterfield, Delanco, Edgewater Park, Fieldsboro, Florence, Mansfield, New Hanover, North Hanover, Pemberton Township, Pemberton Borough, Springfield, Wilkesboro, and Wrightstown shall be disposed of at the Parklands Reclamation Project landfill facility number 0304A, located in Bordentown Township, Burlington County, New Jersey.

i. If a county landfill is not operational and Parklands Reclamation Project landfill should become unavailable, the wastes directed to the Parklands Reclamation Project landfill pursuant to (c)2 above shall be disposed of at the Landfill and Development Company landfill, facility number 0323A until such time that a county landfill becomes available.

3. All waste types 10, 13, 23, and 27, generated from within the Burlington County municipality of Burlington City shall be disposed of at the Burlington City Landfill, facility number 0305A, located in Burlington City, Burlington County, New Jersey.

i. All waste type 25 generated from within Burlington City shall be disposed of at the Parklands Reclamation Project landfill, facility number 0304A.

ii. Upon closure of the Burlington City Landfill, wastes going to this facility shall be disposed of at the Parklands Reclamation Project landfill, facility number 0304A.

iii. If a county landfill is not operational and Parklands Reclamation Project landfill should become unavailable, wastes directed to the Parklands Reclamation Project landfill from Burlington City shall be disposed of at the Landfill and Development Company landfill, facility number 0323A until such time that a county landfill becomes available.

4. All waste type 10 generated from within the Burlington County municipality of Evesham Township shall be disposed of at the Evesham Township Landfill, facility number 0313A, located in Evesham Township, Burlington County, New Jersey until ***[April 18, 1984]* *December 31, 1984***. ***[If a consent agreement is signed with the department by that date, type 10 waste may continue to be disposed of at that facility; if not,]* *Thereafter,*** type 10 waste ***[after April 18, 1984]*** shall be disposed of at the Landfill and Development Company landfill, facility number 0323A.

i. All waste types 13, 23, and 27 generated from within Evesham Township shall be disposed of at the Landfill and Development Company landfill, facility number 0323A.

ii. All waste type 25 generated from within Evesham Township shall be disposed of at the Parklands Reclamation Project landfill, facility number 0304A.

iii. If a county landfill is not operational and the Landfill and Development Company landfill should become unavailable, wastes directed to the Landfill and Development Com-

pansy landfill pursuant to (c)4 i. above shall be disposed of at the Parklands Reclamation Project landfill, facility number 0304A until such time that a county landfill becomes available.

5. All waste types 10, 13, 23, and 27 generated from within the Burlington County municipalities of Lumberton *[and Hainesport]* shall be disposed of at the Lumberton Township Sanitary Landfill, facility number 0317A, located in Lumberton Township, Burlington County, New Jersey.

i. All waste type 25 generated from within Lumberton Township *[and Hainesport Township]* shall be disposed of at the Parklands Reclamation Project Landfill, facility number 0304A.

ii. Upon closure of the Lumberton Township Sanitary Landfill, facility number 0317A, wastes going to this facility shall be disposed of at the Landfill and Development Company Landfill, facility number 0323A.

iii. If a county landfill is not operational and the Landfill and Development Company landfill should become unavailable, wastes directed to the Landfill and Development Company landfill pursuant to (c)5 ii. above shall be disposed of at the Parklands Reclamation Project landfill, facility number 0304A, until such time that a county landfill becomes available.

6. All waste types 10, 13, 23, and 27 generated from within the Burlington County municipalities of Eastampton, *Hainesport,* Maple Shade, Medford, Medford Lakes, Mount Holly, Mount Laurel, Shamong, Southampton, Westampton, and Woodland shall be disposed of at the Landfill and Development Company landfill, facility number 0323A, located in Mount Holly Township, Burlington County, New Jersey.

i. All type 25 wastes generated from within the Burlington County municipalities of Eastampton, *Hainesport,* Maple Shade, Medford, Medford Lakes, Mount Holly, Mount Laurel, Shamong, Southampton, Westampton, and Woodland shall be disposed of at the Parklands, Reclamation Project landfill, facility number 0304A.

ii. If a county landfill is not operational and the Landfill and Development Company landfill should become unavailable, wastes directed pursuant to (c)6. above shall be disposed of at the Parklands Reclamation Project landfill facility number 03034A, until such time that a county landfill becomes available.

7. All waste types 10, 13, and 23 generated from within the Burlington County municipality of Tabernacle shall be disposed of at the Tabernacle Sanitary Landfill, facility number 0335A, located in Tabernacle Township, Burlington County, New Jersey.

i. Type 25 wastes generated from within Tabernacle Township shall be disposed of at the Parklands Reclamation Project landfill, facility number 0304A.

ii. Type 27 wastes generated from within Tabernacle shall be disposed of at the Landfill and Development Company landfill, facility number 0323A.

iii. Upon closure of the Tabernacle Sanitary Landfill, facility number 0334A, wastes going to this facility shall be disposed of at the Landfill and Development Company landfill, facility number 0323A.

iv. If a county landfill is not operational and the Landfill and Development Company landfill should become unavailable, wastes directed to the landfill and Development Company landfill from Tabernacle Township shall be disposed of at the Parklands Reclamation Project landfill, facility number 0304A, until such time that a county landfill becomes available.

8. All waste types 10, 13, 23 and 27 generated from within the Burlington County municipalities of Cinnaminson, Delran, Moorestown, Palmyra, Riverside and Riverton shall be disposed of at the Pennsauken Township landfill, facility number 0427D, located in Pennsauken Township, Camden County, New Jersey until May 7, 1984 as provided for in the Interdistrict Waste Flow agreement between Burlington and Camden Counties subject to the terms and conditions set forth therein. Thereafter, all waste types 10, 13, 23, and 27 shall be disposed of at the Landfill and Development Company Landfill, facility number 0323A.

i. Waste type 25 generated from within the Burlington County municipalities of Cinnaminson, Delran, Moorestown, Palmyra, Riverside and Riverton shall be disposed of at the Parklands Reclamation Project landfill, facility number 0304A, located in Bordentown Township, Burlington County, New Jersey.

ii. If a county landfill is not operational and the Landfill and Development Company landfill should become unavailable, wastes directed to the Landfill and Development Company landfill pursuant to (c)8 above shall be disposed of at the Parklands Reclamation Project landfill until such time that a county landfill becomes available.

9. All waste types 10, 13, 23 and 27 generated from within the Camden County municipalities of Audubon, Lindenwold, Voorhees and that portion of Cherry Hill Township which is collected east of Kings Highway to the municipal line of Mt. Laurel and the Borough of Haddonfield, estimated to be a portion of 20,500 tons per year, shall be disposed of at the Landfill and Development Company landfill, facility number 0323A, located in Mount Holly Township, Burlington County, New Jersey until May 7, 1984 as provided for in the Interdistrict Waste Flow agreement between Burlington and Camden Counties and subject to the terms and conditions set forth therein.

10. All waste type 13 generated from within the Camden County municipality of Camden City shall be disposed of at the Landfill and Development Company landfill, facility number 0323A, located in Mount Holly Township, Burlington County, New Jersey, until May 7, 1984 as provided for in the Interdistrict Agreement between Burlington and Camden Counties and subject to the terms and conditions set forth therein.

[11.] (See related adoption in this issue of the Register.)

[12.] *11.* Burlington County shall accept certain wastes from Pennsylvania hauling companies pursuant to agreements between Burlington County and these companies, subject to the terms and conditions set forth therein.

(d) Waste flows within, into and out of the Camden County District:

1. All waste types 10, 13, 23, 25, and 27 generated from within the Camden County municipalities of Audubon Park, Barrington, Bellmawr, Berlin Borough, Berlin Township, Brooklawn, Clementon, Collingswood, Gibbsboro, Gloucester City, Gloucester Township, Haddon Heights, Hi-Nella, Laurel Springs, Lawnside, Magnolia, Mount Ephraim, Oaklyn, Pine Hill, Pine Valley, Runnemeade, Somerdale, Stratford, and Woodlynne shall be disposed of at Kinsley's Landfill, Inc., facility number 0802B, located in Deptford Township, Gloucester County, New Jersey.

2. (No change.)

3. All waste types 10, 13, 23, and 27 generated from within the Camden County municipalities of Audubon, Lindenwold, and Voorhees Township shall be disposed of at the Landfill and Development Company landfill, facility number 0323A, located in Mount Holly township, Burlington County, New

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Jersey until May 7, 1984 as is provided for in the interdistrict waste flow agreement between Burlington and Camden Counties and subject to the terms and conditions set forth therein.

i. All waste type 25 generated from within the Camden County municipalities of Audubon, Lindenwold, and Voorhees Township shall be disposed of at the Kinsleys Landfill, Inc., facility number 0802B, located in Deptford Township, Gloucester County, New Jersey.

4. All waste types 10, 13, 23, and 27 generated from within the Camden County municipality of Cherry Hill Township, with the exception of that portion which is collected east of Kings Highway to the municipal line of Mt. Laurel and the Borough of Haddonfield (estimated to be a portion of 20,500 tons per year) shall be disposed of at the Pennsauken Township Sanitary Landfill, facility number 0427D, located in Pennsauken Township, Camden County, New Jersey.

i. The 20,500 tons per year of waste types 10, 13, 23, and 27 generated and collected from the service area described above shall be disposed of at the Landfill and Development Company landfill, facility number 0323A, located in Mount Holly Township, Burlington County, New Jersey until May 7, 1984 as provided for in the interdistrict waste flow agreement between Burlington and Camden Counties and subject to the terms and conditions set forth therein.

ii. All waste type 25 generated from within the Camden County municipality of Cherry Hill Township shall be disposed of at the Kinsley's Landfill, Inc., facility number 0802B, located in Deptford Township, Gloucester County, New Jersey.

5. All waste types 10, 23, 25, and 27 generated from within the Camden County municipality of Camden City shall be disposed of at the Kinsley's Landfill, Inc. facility number 0802B, located in Deptford Township, Gloucester County, New Jersey.

i. All waste type 13 generated from within the Camden County municipality of Camden City shall be disposed of at the Landfill and Development Company landfill, facility number 0323A, located in Mount Holly Township, Burlington County, New Jersey, until May 7, 1984 as provided for in the interdistrict waste flow agreement between Burlington and Camden Counties and subject to the terms and conditions set forth therein.

6. All waste types 10, 13, 23, and 27 generated from within the Camden County municipalities of Haddonfield, Haddon Township, Merchantville Township, Pennsauken, and Tavistock shall be disposed of at the Pennsauken Township Sanitary Landfill, facility number 0427D, located in Pennsauken Township, Camden County, New Jersey.

i. All waste type 25 generated from within the Camden County municipalities of Haddonfield, Haddon Township, Merchantville Township, Pennsauken, and Tavistock shall be disposed of at the Kinsley's Landfill, Inc., facility number 0802B, Deptford Township, Gloucester County, New Jersey.

7. All waste types 10, 13, 23, and 27 generated from within the Burlington County municipalities of Cinnaminson, Delran, Moorestown, Palmyra, Riverside, and Riverton shall be disposed of at the Pennsauken Township Sanitary Landfill, facility number 0427D, located in Pennsauken Township, Camden County, New Jersey until May 7, 1984 as provided for in the interdistrict waste flow agreement between Burlington and Camden Counties and subject to the conditions set forth therein.

8. (No change.)

(e)-(g) (No change.)

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(h) Waste flows within, into and out of the Gloucester County District:

1. -4. (No change.)

5. All waste types 10, 13, 23, 25, and 27 generated from within the Camden County municipalities of Audubon Park, Barrington, Bellmawr, Berling Boro, Berlin Township, Brooklawn Township, Clementon, Collingswood, Gibbsboro, Gloucester City, Gloucester Township, Haddon Heights, Hinnella, Laurel Springs, Lawnside, Magnolia, Mt. Ephraim, Oaklyn, Pine Hill, Pine Valley, Runnemeade, Somerdale, Stratford, and Woodlynne shall be disposed of at the Kinsley's Landfill, Inc., facility number 0802B, located in Deptford Township, Gloucester County, New Jersey as directed by Section D.2a and c of the approved Gloucester County District Solid Waste Management Plan and Section C.1 of the approved Camden County District Solid Waste Management Plan.

i. (No change.)

ii. All waste type 25 generated from within the Camden County municipalities of Audubon, Cherry Hill Township, Haddonfield, Haddon Township, Lindenwold, Merchantville Township, Pennsauken, Tavistock and Voorhees Township shall be disposed of at the Kinsley's Landfill, Inc. facility number 0802B, located in Deptford Township, Gloucester County, New Jersey.

6-7. (No change.)

(a)

DIVISION OF WASTE MANAGEMENT

Hazardous Waste National Uniform Manifest System

Adopted Amendments: N.J.A.C. 7:26-7.3, 7.4, 7.5 and 7.6

Proposed: August 6, 1984 at 16 N.J.R. 2044(b).

Adopted: September 28, 1984 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: September 28, 1984 as R.1984 d.472, with **substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 13:1E-6.

Effective Date: October 15, 1984.

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

Summary of Public Comments and Agency Responses:

The Department received one comment which was germane to the proposed rule amendment. The first suggested that it was unnecessarily duplicative to require that a hazardous waste generator send the State a copy of the completed manifest, which accompanied the generator's waste to the disposal facility, after the disposal facility operator has completed the final section. (See N.J.A.C. 7:26-7.4(h)3.) The Department requires that the generator send such a copy to the state agency only if the receiving facility does not do so. The Department needs to receive a copy of the completed manifest to confirm that the waste shipment reached its legal treatment, storage or disposal destination. If the waste is destined for a state that does not require its facilities to distribute completed manifests back to the States of waste origin and disposal, the Department requires the generator to assume this responsibility in order to close the loop for adequate hazardous waste management. The Department added a sentence to the rule to clarify the more limited intent of this provision.

The Department has also made several other minor changes which are needed, due to oversights in the original proposal. The requirements proposed in N.J.A.C. 7:26-7.3(b) that the generator and facility operator send manifest copies to the states of waste origin and destination duplicate existing requirements in N.J.A.C. 7:26-7.4(a)5iii and N.J.A.C. 7:26-7.6(b)5 and are therefore deleted.

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

SUBCHAPTER 7. LABELING, RECORDS AND TRANSPORTATION REQUIREMENTS

7:26-7.3 Hazardous waste manifest forms

(a) For the purpose of these rules, only the national uniform manifest forms are to be used for hazardous waste shipments originating in or destined for New Jersey. Manifests shall be obtained in accordance with the procedures set forth in 40 CFR 262.21.

1. (No change.)
2. For shipments originating from a site in another state and destined for New Jersey, manifest forms shall be:
 - i. Those supplied by the Department.
 - ii. If the Department's forms are unavailable, the manifest form approved for use by the state of origin which complies with all standards set forth in 40 CFR 262.
 - iii. If the forms are unavailable from the Department and the state of origin, the manifest form may be obtained from any source.
3. For shipments originating from a site in New Jersey and destined for a site in another state, manifest forms shall be:
 - i. Those supplied by the consignment (destination) state.
 - ii. If the forms are not available from the consignment state, the generator shall use the manifest form supplied by the Department.
 - iii. If the forms are not available from the consignment state or the Department, forms may be obtained from any source.

(b) Manifest forms used for shipments to or from New Jersey must provide at least the number of copies which will allow distribution of one copy to the generator, each hauler and the owner/operator of the designated facility for their records*. One copy shall be sent by the generator to both the

States of waste origin and destination. One copy shall be sent by the owner or operator of the designated facility to the States of origin and destination]*, as well as one copy to be returned to the generator by the facility owner or operator. Photocopies may supplement manifest forms that do not provide the *[prescribed]* ***necessary*** number of copies.

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

7:26-7.4 Hazardous waste generator responsibilities

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

1. (No change.)
2. A generator must not offer hazardous waste to a hazardous waste hauler or to an owner or operator of a hazardous waste treatment, storage or disposal facility who does not possess an EPA identification number, except when the waste is destined for a facility in a state where that facility is not required to have an EPA identification number.
3. (No change.)
4. A generator must provide the following information on the manifest form:
 - i. The generator's name, mailing address, site address, if different from the mailing address, and phone number;
 - ii. (No change.)
 - iii. The hauler (or haulers) name, phone numbers and New Jersey registration number.
 - iv.-vii. (No change.)
 - viii. Special handling instructions and any other information required on the form to be supplied by the generator.
5. Before allowing the manifested waste to leave the generator's property, the generator must:
 - i.-iii. (No change.)
 - iv. Make additional copies of the manifest form, if necessary to provide the required number of copies described in ***this subsection (a) and*** 7:26-7.3(b) above; and
 - v. (No change in test.)
 - 6.-8. (No change.)
 - (b) (No change.)
 - (c) When shipping hazardous waste outside the United States, the generator must:
 1. Notify the Administrator of the United States Environmental Protection Agency (USEPA) and the Department in writing four weeks before the initial shipment of hazardous waste to each country in each calendar year;
 - i.-ii. (No change.)
 - iii. These notices must be sent to: Hazardous Waste Export, Division of Oceans and Regulatory Affairs (A-107), United States Environmental Protection Agency, Washington, D.C. 20460 and New Jersey State Department of Environmental Protection, Division of Waste Management Manifest Section, CN 028, Trenton, New Jersey 08625.
 - 2.-3. (No change.)
 - (d)-(f) (No change.)
 - (g) Annual reporting requirements are as follows:
 1. The hazardous waste generator shall submit to the Department by March 1 of each year a report of manifest activities during the previous calendar year. The report shall be on forms approved by the Department and must include the following information:
 - i.-x. (No change.)
 2. (No change.)
 - (h) Exception reporting requirements are as follows:
 1. A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was

accepted by the initial hauler must contact the hauler and/or the owner or operator of the designated facility to determine the status of the hazardous waste and the Department at 609-292-8341 to inform the Department of the situation.

- 2. (No change.)
- 3. The generator is responsible for assuring that the *[generator's State]* ***Department*** and the designated facility's *[S]*s*tate receive copies of the completed manifest, containing the handwritten signature of the owner or operator of the designated facility. ***If the waste receiving facility is located in a state that does not mandate its facilities to return copies of the completed manifests to the states of origin and disposal, the generator must so distribute these copies.*** The generator may provide photocopies to satisfy this requirement, if the manifest form provided by the destination State does not contain a sufficient number of copies.
- 4. (No change in text.)

- 7:26-7.5 Hazardous waste hauler responsibilities
- (a)-(c) (No change.)
 - (d) General requirements are as follows:
 - 1. (No change.)
 - 2. A hauler may not accept hazardous waste from a generator unless it is accompanied by a manifest, properly completed with all information required by State and Federal law and rules and signed by the generator in accordance with the provisions of N.J.A.C. 7:26-7.4.
 - 3. (No change.)
 - 4. Before transporting the hazardous waste and in accordance with instructions on the manifest, the hauler must sign and date the manifest, acknowledging acceptance of the hazardous waste from the generator. The hauler must return a signed copy to the generator before leaving the generator's property.
 - 5.-18. (No change.)
 - (e)-(h) (No change.)

- 7:26-7.6 Hazardous waste facility operator responsibilities
- (a) General requirements are as follows:
 - 1. (No change.)
 - 2. Except as hereinafter provided, the facility operator shall only accept hazardous waste shipments which are properly labeled and marked in accordance with these rules, and which are accompanied by a properly completed manifest unless no manifest is required pursuant to N.J.A.C. 7:26-8.1 et seq. All manifests for waste shipments destined for New Jersey must contain all elements of information listed in N.J.A.C. 7:26-7.4(a)4.
 - 3.-5. (No change.)
 - (b) If a facility receives hazardous waste accompanied by a manifest, the owner or operator, or his/her agent, must:
 - 1.-4. (No change.)
 - 5. Forward the pertinent copy of the uniform manifest form to the Department and to the generator's State agency by the next business day; and
 - 6. (No change.)
 - (c)-(f) (No change.)

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(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Manual for Physician's Services Procedure Code Manual

Adopted Amendments: N.J.A.C. 10:54-3

Proposed: July 2, 1984 at 16 N.J.R. 1685(b).
 Adopted: September 27, 1984 by George J. Albanese, Commissioner, Department of Human Services.
 Filed: September 27, 1984 as R.1984 d.457, **without change.**

Authority: N.J.S.A. 30:4D-7 & 7b.

Effective Date: October 17, 1984.
 Expiration Date pursuant to Executive Order 66(1978): May 14, 1989.

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

Full text of the adoption follows.

	Follow- Up Days	Surg. S	Value \$ NS	Basic Units
0457 Complete (simple) mastectomy to be used for "lumpectomy, guardranteotomy" or other sub-total or partial breast surgery for significant malignant disease.	45	163.	142.	3.
0643 Spinal Fusion for scoliosis, child or young adult, up to and including five interspaces.	90	936.	814.	13.
1137 Total shoulder replacement, arthroplasty with gelnoid and proximal humeral prosthetic device, plastic cement, etc. (Use for revision or removal also.)	90	604.	NA	10.
2151 Thoracotomy (open), exploratory, with or without biopsy, culture, cell washing, independent procedure. (Not for use with any definitive cardiac surgery procedure.)	90	202.	168.	13.
2157 Closed Tube Thoracotomy/Thoracostomy with closed drainage of empyema cavity; tube drainage with negative pressure (independent procedure), in hospital.	0	121.	105.	4.
2558 (No change in text.)	30	103.	88.	3.
2561 (No change in text.)	30	144.	122.	3.
2562 (No change in text.)	30	222.	189.	3.
2563 (No change in text.)	30	205.	174.	3.
2565 (No change in text.)	30	308.	262.	3.

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2576 (No change in text.)	30	54.	46.	3.
2581 (No change in text.)	15	31.	26.	3.
2585 (No change in text.)	15	29.	25.	3.
3540 Percutaneous skinny needle (aspiration) biopsy of the Pancreas.	0	65.	NA	3.
3548 Biopsy of pancreas (incisional, wedge, punch or aspiration performed in addition to other intra-abdominal surgery).	0	21.	18.	3.
3549 Excision of lesion of pancreas (cyst, adenoma), independent procedure; any surgical approach.	60	289.	246.	7.
3550 Pancreatectomy, subtotal; resection of distal pancreas with or without splenectomy.	60	332.	289.	7.
3809 Percutaneous Nephrostomy Tube Replacement	2	75.	NA	4.
3926 Bladder irrigation, simple lavage and/or instillation. (To obtain drug replacement of DMSO used for FDA approved diagnosis obtain Prior Authorization (PA) for a prescription from Medicaid District Office and enter PA number and FDA approved diagnosis on the prescription made out in the patient's name.)	0	13.	11.	3.
5207 Chemonucleolysis; Chymopapain injection therapy for herniated intervertebral disc single or multiple; lumbar region only (FDA eligibility criteria apply.)	30	302.	NA	7.
5639 Panretinal cryo-ablation (cutting panretinal cryopexy) through conjunctival incisions.	30	362.	NA	6.

Medicaid Dollar Value	
<u>Office</u>	<u>Hosp. Based</u>

RADIATION THERAPY AND TREATMENT PLANNING

Treatment Planning

The treatment planning process includes interpretation of special testing, tumor localization, treatment volume determination, treatment time/dosage determination, choice of treatment ports, selection of appropriate treatment devices, and other procedures.

7604 Simple - planning requiring single treatment area of interest encompassed in single port or simple parallel opposed ports with minimal blocking	22.00	22.00
7620 Intermediate planning requiring three or more converging ports, two separate treatment areas, special blocking, standard wedges, or special time dose constraints.	34.00	34.00
7621 Complex planning requiring highly complex blocking, tangential ports, special wedges or compensators, three or more separate treatment areas, special beam considerations.	45.00	45.00
7622 Unlisted procedure	BR	BR

Teleradiotherapy Treatment

1. Includes use of x-ray and other high energy modalities (betatron, linear accelerator, etc.) radium, cobalt, and other radioactive substances unless otherwise specified.
2. Values for treatment of MALIGNANCIES include one year follow-up care unless otherwise specified.
3. Values for NONMALIGNANT conditions include 60 days follow-up care unless otherwise specified.
4. Values include concomitant office visit, but not concomitant surgical, diagnostic, radiological, or laboratory procedures.

Except where specified, assumes use of supervoltage/megavoltage or high energy particle sources. Per Treatment - Single or multiple portals, same area.

7623 Simple - benign lesions and most metastatic lesions of appendicular skeleton.	10.00	7.50
7624 Intermediate - the usual treatment for malignancy, including skin cancer and metastases to the trunk or spine.	20.00	15.00
7625 Complex - treatment of more complex problems such as Hodgkins disease, central nervous system or head and neck irradiation.	30.00	21.00
7626 Additional areas, each	10.00	7.50

Guidance for Radiation Therapy

7627 Ultrasonic guidance for placement of radiation therapy fields.	75.00	56.00
7628 Computerized tomography guidance for placement of radiation therapy fields.	75.00	56.00

The above codes include the concomitant office visit but not the concomitant surgical, diagnostic, radiological or laboratory services.

8982 Virus Culture - all viruses except for Herpes Simplex (See Code 8983). Includes inoculation of embryonated egg, small animals, suitable tissue or other media. Includes required observation, dissection and identification by recognized laboratory method.	44.00
8983 Herpes Simplex Virus isolation and identification - Total Study	25.00

Medicaid
Dollar
Value

	<u>S</u>	<u>NS</u>
9030 CONSULTATION - COMPREHENSIVE - referring to what is commonly known as a total systems evaluation by history and physical examination including a total systemic review and total sys-	37.	NA

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tems physical examination. A written report must be provided to the referring physician including diagnosis and recommendations for future management.

This code usually refers to comprehensive medical problems requiring as a minimum the total history and physical examination as described. If this minimum is not met, the code may still be used provided evidence is available with documentation on the record and is accompanied by a statement that the consultation utilized 60 or more minutes of the physician's personal time.

NOTE:Reimbursement for this code is dependent upon the addition to item 34 of the 1500 N.J. Claim Form of either of the following applicable statements or language essentially similar to either applicable statement over the physician's personal signature.

1. I personally performed a total systems evaluation by history and physical examination as stated in the code narrative.

or

2. This consultation utilized 60 or more minutes of my personal time.

Failure to comply with one (1) or two (2) above will result in the downgrading of the code to the fee for Code 9029 if its requirements have been met.

Submission of a copy of the consultation may be requested for professional review.

NOTE:If the patient is seen for the same illness on repeated visits by the same consultant, these visits may be billed only as routine visits if the criteria are met, e.g., 0001, 0002, 0003, 0004. The medical necessity and criteria for concurrent care also must be met.

NOTE:No reimbursement is allowable for Procedure Code 9030 if performed in an emergency room setting and the patient is then admitted within 24 hours to the consultant's service as a hospital inpatient. If the patient is admitted to another physician's service, then Procedure Code 9030 is reimbursable to the consultant and future visits to the consultant for that inpatient hospitalization may be billed as 0003 and

may be considered as concurrent care if concurrent care can be justified as medically necessary.

NOTE:Procedure Code 9030 will be disallowed if performed on the same recipient, by the same physician, group, shared health care facility, or practitioners sharing a common record within a 12 month span of a prior claim for this code despite a different illness unless the utilization of one hour or more of personal time as noted under #2 above applies. Otherwise Code 9029 should be utilized if its criteria are met.

NOTE:This code and Code 9029 will be declined in an office or sheltered boarding home setting if the consultation occurs between or among members of the same group, shared health care facility, or practitioners sharing common records. Code 0001 or 0002 becomes applicable if codes criteria are met.

For Psychiatric/Psychological Consultations, see Codes 9029-9030.

For Psychiatric/Psychological evaluations, see Codes 9056 and 9061.

9040	Monthly maintenance for dialysis patients (home or outpatient).	160.	
9063	Initial Evaluation Visit (new illness) by a physical therapist in a physician's office. Payable only to that physician with no prior authorization required. Refer to code 9090 for treatment visits where prior authorization is required.	7.	7.
9091	Patient-Activated ECG Recorders Office, or Nursing Home, with or without transtelephonic transmissions of the recording; with or without voice recording. "Includes all services" (use of equipment decoder, professional interpretation, report, etc.) No additional allowances for either time or number of events recorded.	51.	NA
9101	Electrocardiogram, mounted tracing - Technically acceptable with interpretation and report with minimum of 12 different leads performed in the office, home or nursing home.	16.	
9104	Exercise tolerance test - Masters or equivalent including appropriate electrocardiograms, interpretation	21.	

and report performed in the office or nursing home.

NOTE: The report must be recorded on the mounted tracings.

9201 Spirometry, Complete (Respirometer) including spiographic record, total and timed vital capacity, maximal mid-expiratory flow rate (MMF), maximal expiratory flow rate (MEFR), maximal breathing capacity (MBC) with interpretation and report. 29.

NOTE: Code 9200 contains MMF and MEFR Code 9201 contains MMF, MEFR, and MBC

9400 Phlebotomy, therapeutic - (do not confuse with Code 9076, which is drawing of blood for laboratory tests.) performed by a physician in an "office" setting and includes supplies, equipment, and all related professional services. 28.

9423 PUVA therapy of Psoriasis (Psoralen and ultra-violet A therapy), office setting during initial 30 day course of therapy, includes all standard office visit services, plus required ultra-violet radiation; limited to 30 day course of treatment and includes the cost of the Psoralen. 13.50 NA

9424 PUVA therapy of Psoriasis (Psoralen and ultra-violet A therapy), second or third thirty day course of office treatment within calendar year (requires review of documentation of medical necessity). Also, includes cost of the Psoralen. 13.50 NA

(a)

DIVISION OF PUBLIC WELFARE

Public Assistance Manual
Complaints, Hearings and Administrative Reviews

Adopted Repeal and New Rule: N.J.A.C. 10:81-6

Proposed: August 6, 1984 at 16 N.J.R. 2051(b).
Adopted: September 27, 1984, by George J. Albanese, Commissioner, Department of Human Services.
Filed: September 28, 1984, as R.1984 d.468, with substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 44:7-6 and 44:10-3; 45 CFR 205.10.

Effective Date: October 15, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): October 15, 1989.

Summary of Public Comments and Agency Responses:

Comments were received from a county welfare agency, Middlesex County Legal Services Corporation and the Assistant Deputy of the Department of Public Advocate.

Comment: It was observed that although the proposed new rule at N.J.A.C. 10:81-6.2 recognizes the right of an applicant to a fair hearing on an adverse agency action as well as notification of the right in adverse action notices, it does not contain a statement requiring notice at time of application. A recommendation was made to incorporate the broad notification rights contained in current regulations regarding a county welfare agency's responsibility to inform applicants of their rights.

Response: Current notice requirements include notice of a right to a fair hearing and a statement regarding the conduct of the hearing for both positive and adverse action by a county welfare agency. Regulations in the Public Assistance Manual (N.J.A.C. 10:81), relevant to the application process do include the required statement of notice at the time of application. At N.J.A.C. 10:81-2.3(a), it is specified that applicants be given the pamphlets, "Your Rights and Responsibilities" (PA-197) and "Fair Hearing in the Aid to Families with Dependent Children Program" (PA-196). In view of this, the Department wishes to retain, as proposed, the language in the new rule.

Comment: One comment noted that clarification was needed at N.J.A.C. 10:81-6.2(a) to stipulate that applicants and recipients had a "right to have a hearing conducted" rather than simply a right to "request a hearing".

Response: The Department concurs with this and language has been added for clarification.

Comment: At N.J.A.C. 10:81-6.8, the proposed language regarding time limitations on entitlement to fair hearings only implied that an applicant/recipient has a right to a fair hearing up to 90 days after an agency action. It was suggested that language be added to stipulate that the applicant or recipient does have such right.

Response: For clarification purposes, a definite statement of time limitation has been included in the regulation as suggested by the commenter.

Comment: An objection was raised to the proposed rule at N.J.A.C. 10:81-6.9, regarding eligibility for continued benefits. It was interpreted that the fair hearing filing time, for purposes of receiving continued unreduced benefits, was not consistent with the 90 day maximum filing period time limitation allowed at N.J.A.C. 10:81-6.8 which deals with entitlement to fair hearings. That is, a distinction between a general request for a fair hearing and a request for a fair hearing that is coupled with continued benefits is prohibited by 45 CFR 205.10(a)(6).

Response: It should be noted that the timely notice period referred to in the Code of Federal Regulations at 205.10(a)(6) refers to the number of days a notice is sent before agency action is taken, not the 90 day time limitation allowed for requesting a fair hearing. Pursuant to Federal regulations at

45 CFR 205.10(a)7, reinstatement of assistance may be made when the request for a hearing is filed within 10 days of the mailing date of the adverse action notice. Unreduced benefits may be continued pending a fact/policy determination at the hearing. The State is provided with an option at 45 CFR 205.10(a)7 to provide an additional period after the date of agency action during which a request for continued benefits may be granted. The period may not exceed 10 days from the date of agency action. The Department has opted to grant continuation for requests made within 5 days of agency action making the full period 15 days. Pursuant to 45 CFR 233.37(b), suspension, reduction and termination actions involving monthly reporting/retrospective budgeting, a 10 day filing time applies for continued unreduced benefits. In view of these observations, no change is warranted in the proposed rule pertaining to continuation of benefits.

Comment: The proposed regulation at N.J.A.C. 10:81-6.12 regarding disposition of a hearing request, through abandonment, lacks the provision for a 10 day time period after a notice of abandonment is sent, so that the applicant/recipient may have the opportunity to explain an absence and be reinstated before the case is deemed abandoned.

Response: This comment refers to Office of Administrative Law (OAL) operational procedures regulations which are not addressed in this rule. The regulations, as proposed, provide the policy base for fair hearing activity which will be supplemented by Rules of Special Applicability issued by the Office of Administrative Law.

Comment: It was noted that some clarification was needed at N.J.A.C. 10:81-6.15(f) to determine that the term "request" means with regard to the beginning of the time frame for a final decision by the Director, Division of Public Welfare.

Response: The wording has been revised to include additional language which clarifies that "request" means the date a request was made for a fair hearing. This means the final decision rendered by the Director, Division of Public Welfare, including any corrective action required by that decision, must be completed within 90 days of the date of the fair hearing request.

Comment: Each of the respondents submitted observations regarding emergency fair hearing regulations at N.J.A.C. 10:81-6.16. Primarily, the proposed regulations were viewed as ambiguous and in need of a more specific timetable to designate notices and decisions, rather than stating "as soon as reasonably possible."

Additionally, concern was expressed over the length of time involved for processing emergency fair hearing decisions and, in particular, the four-day time frame allowed between the rendering of an initial emergency decision by the OAL judge and the acceptance, rejection or modification of that decision by the Director, Division of Public Welfare.

Response: Upon thorough review of the proposed regulation and in light of the commenters' observations, language at N.J.A.C. 10:81-6.16(b) and (c) has been rewritten for clarity and to provide timetable specifications of the entire emergency fair hearing process. Further, the time allowed for issuance of a final decision by the Director, Division of Public Welfare, after receiving an initial decision by the OAL judge, has been changed from four to three business days. It should be pointed out, however, that a salient factor in amending the emergency fair hearing procedure is to afford parties an opportunity to comment prior to a decision by the Agency

Head. The rule would also eliminate duplication by enabling the matter to be closed at the time a decision is rendered on an emergency situation. Finally, the revised regulations are in alignment with the Rules of Special Applicability which will be issued shortly by the Office of Administrative Law.

Summary of Changes Subsequent to Proposal:

Note: All commas are to be deleted from the Federal citations throughout the text of regulations in order to correct this publication error.

N.J.A.C. 10:81-6.2(a) For clarification purposes, the word "request" has been changed to "be afforded".

6.4(c) The phrase "to the maximum extent feasible" has been deleted as unnecessary language used in conjunction with a fixed time frame.

6.8(a) A paragraph has been added to avoid misinterpretation of time limitations on entitlement to fair hearings.

6.8(b) The word "a" has been inserted merely as a technical correction.

6.9(a) Two technical corrections are included. The word "a" has been inserted and the word "involve" has been changed from singular to plural.

6.11(c) The "Bureau of Employment and Training" has been corrected to read "Bureau of Employment Programs."

6.14(a) Due to a publication error, the Federal citation has been corrected.

6.15(f) The sentence has been revised to clarify that the word "request" refers to a fair hearing. Additionally, language has been added to indicate that final action by the Director, Division of Public Welfare on Administrative hearing decisions includes any corrective action required by the decision.

6.16(a) The word "applicant" has been included for clarification purposes.

6.16(b)(c) These sections have been rewritten as (b)1-6 to include more specific time frames and procedures in the emergency fair hearing process. The language is consistent with that of OAL's forthcoming Rules of Special Applicability. A change has been made from four to three days, the time allowed for the director of the Division of Public Welfare to issue a final decision following the initial decision by the Administrative Law Judge.

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

SUBCHAPTER 6. COMPLAINTS, HEARINGS AND ADMINISTRATIVE REVIEWS

10:81-6.1 Definitions

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

"Administrative Hearings" are hearings concerning either contested cases or non-contested cases, which have been determined by the Director of the Division of Public Welfare (DPW) in accordance with N.J.A.C. 1:1-1 et seq. to be appropriately heard in the Office of Administrative Law (See N.J.A.C. 10:6).

“Administrative Law Judge” (ALJ) means the person from the Office of Administrative Law (OAL) who conducts the hearing and who writes an initial decision which may be reviewed by the Director of the Division of Public Welfare.

“Administrative Review” means a review of a disputed matter which has been determined by the Director of DPW not to constitute a contested case and therefore remains in the Division for review. At the discretion of the Director an Administrative review may be conducted as a procedure at which parties appear and are heard or it may be a paper review. (See N.J.A.C. 10:6-2).

“Administrative Review Official” is a representative of the State, Department of Human Services assigned to conduct an administrative review.

“CFR” is the acronym for Code of Federal Regulations.

“Contested Case” means a dispute that is heard by an Administrative Law Judge. (For statutory definition see N.J.S.A. 52:14B-2(b), see also N.J.A.C. 1:1-1.5, 1.6).

“Fair Hearing” means a formal or informal procedure through which a public assistance client may protest an adverse action or decision of the county welfare agency (CWA) regarding eligibility, amount or manner of granting assistance. Fair hearing is a general term which includes administrative hearing and administrative review.

“Initial decision” means the decision of an Administrative Law Judge that is sent to the Director of the Division of Public Welfare, who may accept, reject or modify it within 45 days.

10:81-6.2 Right to fair hearing and administrative review

(a) It is the right of every applicant or recipient adversely affected by an action by a county welfare agency (CWA) to ***[request]* *be afforded*** a fair hearing in a manner established by the rules in this subchapter and by the Uniform Administrative Procedure Rules of Practice (N.J.A.C. 1:1-1.1 et seq.). These rules have been established pursuant to Federal regulations (45 CFR 205.10) and the New Jersey Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.).

(b) Agency action which adversely affects an applicant or recipient includes:

1. Any action, inaction, refusal of action, or unduly delayed action with respect to program eligibility, including denial, termination or suspension of benefits, adjustment in the level of benefits or condition of payment of benefits with respect to designation of a protective payee or work requirements. (45 CFR 205.10(a), (5)).

(c) No fair hearing will be granted when either State or Federal law require automatic grant adjustments for classes of recipients unless the reason for an individual appeal is incorrect grant computation. (45 CFR 205.10(a), (5)).

(d) The notification of the right to a fair hearing shall be incorporated in or attached to each adverse action notice (denial, termination, reduction, suspension). The notice shall include explanation on how to request a fair hearing, time limits on requesting a hearing, the right to examine evidence and the circumstances under which benefits are continued unreduced.

10:81-6.3 Responsibilities of the CWA in processing hearing requests

(a) To assure orderly and expeditious processing of complaints and hearing requests, each CWA will designate a liaison between the county and State Division whose duties shall include but not be limited to:

1. Informing Bureau of Administrative Review and Appeals (BARA) by telephone on the same day an oral or written

request for a hearing is received, providing the following information:

- i. Case number, name, address;
- ii. Date request received;
- iii. Nature of contested action;
- iv. Date of action;
- v. Reason for action.

2. Establishing a system to assure that every written request for a hearing received in the CWA office is stamped with the date of receipt and forwarded to BARA within one work day of the date;

3. Reviewing incoming requests for possible corrective action prior to hearing;

4. Identifying and arranging for participation of staff individuals who are essential to a hearing, and assembling all records relevant to a hearing and arranging for an interpreter when the client is non-English speaking;

5. Contacting the applicant/recipient or his or her legal or authorized representative not less than two days prior to a hearing to confirm attendance and arranging for transportation when required by program regulations;

6. Submitting special reports on hearing requests prior to the hearing date, when requested by BARA;

7. Submitting reports on implementation of fair hearing decisions as soon as such action is taken; and

8. Serving as the single individual in the CWA to be contacted regarding matters relating to hearings and the monitoring system.

(b) To inform the applicant/recipient who is requesting a hearing and elects to receive continued assistance that the ALJ may find him or her not entitled to all or a portion of assistance granted during the pendency of the hearing and that, in such event, repayment will be required of the amount of benefits received from the effective date of the proposed adverse action to the date of the scheduled hearing.

1. The applicant/recipient shall also be advised that if he or she elects not to receive continued assistance and the hearing decision is favorable to the client, assistance will be reinstated retroactive to when it was suspended, reduced or terminated.

10:81-6.4 Responsibilities of the Division of Public Welfare

(a) Each request for a fair hearing shall be registered by BARA on the date the request is received.

(b) Requests initially received in BARA will be transmitted by telephone to the CWA on the date received.

(c) ***[To the maximum extent feasible,]*** BARA will transmit each contested case to OAL within five work days of the receipt of the request.

(d) Written determination on entitlement to receive assistance at an unreduced level shall be included in the OAL transmittal and sent to the applicant/recipient and the CWA.

10:81-6.5 Responsibilities of the Office of Administrative Law upon transmittal of a contested case from the DPW (45 CFR 205.10 and N.J.A.C. 1:1-1 et seq.)

(a) The Office of Administrative Law shall schedule the hearing and shall send any necessary notices to the parties.

(b) The hearing shall be conducted by an administrative law judge who shall issue an initial decision.

10:81-6.6 Administrative hearings and administrative reviews

(a) Requests on matters which constitute a contested case (as defined by N.J.A.C. 1:1-1 and consistent with case law) shall be handled in accordance with the Department of Hu-

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man Services (DHS) Rule on "Administrative Hearings and Administrative Reviews" at N.J.A.C. 10:6-1.1.

(b) Requests on matters which do not constitute a contested case (as defined by N.J.A.C. 1:1-1 and consistent with case law) shall be handled in accord with the DHS Rule on "Administrative Hearings and Administrative Reviews" at N.J.A.C. 10:6-1.2.

10:81-6.7 Complaints and adjustment procedures

(a) Prompt and courteous attention will be given to all complaints, whether or not such complaints constitute requests for fair hearing and whether or not they are directed to the CWA or the State Division of Public Welfare (State Division). All complaints received shall be acknowledged promptly and, if it is not apparent from the complaint that a fair hearing request has been made, the acknowledgement shall inform the recipient of his or her right to a fair hearing.

(b) Informal efforts to effect an adjustment may be made through field contacts, office interviews with supervisory personnel, consultation with the State Field Representative, and so forth. In no event, however, are such informal efforts to be considered as prerequisite to a fair hearing, and in no event do they delay, interfere with or otherwise impede the processing of a fair hearing whenever a request for such is made. Agency emphasis must be on helping the client to prepare and submit his or her request for a fair hearing.

(c) Any clear expression (oral or written) by a client (or person acting for him or her, such as his or her legal representative or relative) to the effect that the client wants the opportunity to present his or her case to a higher authority constitutes a request for a fair hearing.

(d) A request for a fair hearing may be either oral or in writing and addressed to the CWA or to the State Division. Oral requests for fair hearing shall be immediately reduced to a written record by the staff person to whom the request is made. No special form of statement or manner of expression is required so long as the request identifies the nature of the complaint and the relief sought. Requests made to the CWA shall be immediately transmitted to the BARA, and in no event later than one work day after receipt of the request.

(e) Upon receipt of any request for a fair hearing, a determination shall be made by BARA on the appropriateness of an Administrative Hearing or Administrative Review (N.J.A.C. 10:6-1.2). If the matter is deemed contested, BARA will send an acknowledgement of the request to the client, along with a copy of the statement entitled "How a Fair Hearing is Conducted", together with a Notice of Status of Continuing Benefits Following Request for a Fair Hearing (Form PA-850). All contested cases will be promptly forwarded to the OAL for a hearing before an ALJ.

10:81-6.8 Time limitations on entitlement to fair hearings

(a) An applicant or recipient has a right to request a fair hearing which relates to an agency action or lack of action within 90 days of such action or lack of action.

(b) If the request for ***a*** fair hearing relates to an agency action or lack of action that occurred more than three months (90 calendar days) prior to the date of the request, there shall be no entitlement to a hearing on such action or lack of action, unless extraordinary and extenuating circumstances exist as determined by the Division of Public Welfare. (45 CFR 205.10(a), (5), (iii))

10:81-6.9 Eligibility for continued benefits

(a) When a request is made for ***a*** fair hearing within 15 days from the date of mailing of a notice of termination,

suspension or reduction, (within 10 days when the adverse action involve*s* monthly reporting/retrospective budgeting) benefits shall be continued at an unreduced level until the scheduled date of the administrative hearing or the date of the administrative review unless the recipient waives such entitlement or requests postponement of the scheduled hearing or review date. In the event the recipient elects to receive continued benefits, they will be continued unreduced pending a final decision if the ALJ or the administrative review official determines that the issue is one of fact rather than law or policy. (45 CFR 205.10(a), (7))

(b) An adjournment of a hearing at the request of an applicant/recipient shall not prolong continuation of benefits at an unreduced level, unless the adjournment is due to: delay caused by the State Division, OAL or the CWA; unavoidable causes, such as an illness on the part of the applicant/recipient or the failure of the CWA to provide assistance for transportation when such assistance is required by regulations. Adjournment at the request of the CWA or by the ALJ shall not affect continued benefits.

(c) The ALJ or the administrative review official will promptly inform the recipient in writing whether or not benefits will be continued unreduced pending a final decision. (45 CFR 205.10(a), (6), (ii))

10:81-6.10 Access to discovery of information in contested cases

The CWA shall provide the applicant/recipient and/or his or her authorized representative opportunity to review the entire case file or documents and records to be used in the administrative hearing. Such materials shall be made available at a reasonable time before the scheduled hearing date as well as during the hearing. (45 CFR 205.10(a), (13))

10:81-6.11 Representation at hearings

(a) An applicant or recipient may appear at a proceeding pro se (without legal representation), be represented by an attorney or be assisted in presentation by a relative, friend, or other spokesperson pursuant to N.J.A.C. 1:1-3.12 and 45 CFR 205.10. CWA staff shall help persons make use of any legal services available in the community that can provide legal representation at the fair hearing.

(b) The CWA representative must have knowledge of the matter at issue and must be able to present the agency case, supplying the ALJ with that information needed to substantiate the agency action. If the CWA representative feels that he or she must be an advocate of the client and is unable to represent the agency, then another CWA staff person must appear at the hearing to fulfill the above identified role.

(c) In hearings involving a determination by any component of the DPW (that is, determinations by the Bureau of Medical Affairs or the Bureau of Employment *[and Training]* ***Programs***) the matter at issue shall be presented by the appropriate staff representative(s) of the DPW.

10:81-6.12 Disposition of hearing request through withdrawal, abandonment or settlement

(a) Prior to transmittal to the OAL, if a party desires that a hearing request be withdrawn, that party shall notify the CWA or the DPW in writing of the withdrawal request. The DPW shall in turn acknowledge, in writing, receipt of the withdrawal request. No CWA shall deny or dismiss a request for a fair hearing. The determinations on the validity of each hearing request shall be made by the DPW including any determination on the appropriateness of processing hearing

requests pursuant to N.J.A.C. 10:6-1.2 which authorized "Administrative Reviews and Administrative Hearings".

(b) The filing of a request for a fair hearing shall not of itself preclude continued effort to accomplish corrective action, settlement, adjustment or any other agreement through informal procedures. Any withdrawal or abandonment or any settlement or agreement reached, subsequent to the transmittal of the case to the OAL, shall be processed according to N.J.A.C. 1:1-1 including *[any]* Rules of Special Applicability which *[may]* apply to disposition by settlement of *the* withdrawal.

(c) If an applicant/recipient or his or her representative fails to appear for a scheduled hearing without giving proper notice, a notice of abandonment shall be sent.

10:81-6.13 Adjournments

Any adjournment requested by an applicant or recipient and granted by the OAL may not operate to extend the deadlines for a final decision and final agency implementation of the final decision.

10:81-6.14 Hearings involving medical issues

(a) If the hearing involves medical issues, requiring a diagnosis or a report from an examining physician, or concerning a determination by the State Medical Review Team (MRT), the ALJ may issue an order requiring a medical assessment by someone other than the person who made the original medical determination. *[(45 CFR 2065.10(a), (10))]* **(45 CFR 205.10(a) (10))***

(b) The CWA shall pay for this medical assessment which shall be obtained at reasonable expense.

10:81-6.15 Decision by Director, Division of Public Welfare

(a) A final administrative hearing decision will be rendered by the Director of the DPW. The applicant/recipient, his or her representative and the CWA shall be notified by mail of any decision or order.

1. Unless otherwise indicated the decision shall be effective on the date of issuance.

(b) An official and complete record of each administrative hearing will be maintained in the files of the DPW for at least one year after the date the final decision is rendered. During this one year period, the applicant/recipient or his or her legal representative may review, upon appointment, all or any part of the official and complete record of his or her administrative hearing.

(c) A decision requiring action by the CWA may apply either prospectively with regard to future action by the CWA or retroactively to the date an incorrect action was taken. If the decision results from mutual agreement of the parties at the hearing and disposition by settlement and withdrawal, the terms of settlement will be binding upon the parties.

(d) The DPW will compile a monthly synopsis of all decisions. Copies of administrative hearing decisions, edited to insure client confidentiality, will be available for perusal at the DPW for a period of one year.

1. Administrative hearing decisions shall be retained by the DPW for a period of three years.

(e) The DPW will take such steps as may be necessary to assure that the decision has been carried out. Corrective or remedial measures ordered by the hearing decision, unless otherwise directed in the decision, will be implemented by the CWA immediately upon receipt of the decision.

(f) Final administrative *[agency]* action on Administrative hearing decisions ***, including any corrective action re-

quired by the decision,*** shall be implemented by the CWA within 90 days of the date of the request *for a fair hearing* . (45 CFR 205.10(a) (16))

10:81-6.16 Emergency fair hearing

(a) An emergency fair hearing for purposes of expediting the fair hearing procedure will be scheduled when:

1. The fair hearing request results from denial by the CWA of a request for emergency assistance made in accordance with the provisions of N.J.A.C. 10:82-5.10(c) or replacement of a lost or stolen check has been declined by the CWA in accordance with N.J.A.C. 10:81-7.18, and the *applicant*/recipient family contends they are without funds or resources; and

2. The State Division determines that there exists a threat to the health and physical safety of the *applicant*/recipient family sufficiently compelling and imminent to require acceleration of the fair hearing procedure.

[(b) When it is determined that a request for hearing should be scheduled as an emergency fair hearing;

1. BARA shall transmit the case to the OAL on the same business day as the request is received, or as soon as reasonably possible thereafter;

2. The OAL shall give notice, as soon as reasonably possible, of the time, date and place of the hearing to BARA who will inform the CWA, the petitioning applicant/recipient or the petitioner's representative by telephone.

(c) The ALJ shall issue an initial decision.

1. The petitioning applicant/recipient, his or her representative or the CWA may, by telephone, make exception or objection to the initial decision, to the DPW.

2. The Director shall accept, reject or modify the initial decision no later than four business days following the date of the initial decision. On the same date BARA shall notify the CWA, by telephone, of the decision by the director. The CWA shall immediately inform the petitioner or the petitioner's representative of the director's decision and any relief ordered shall be provided on the day notice of the decision is received.]***

[(b) When it is determined that a request for a hearing should be scheduled as an emergency fair hearing;

1. BARA shall notify the OAL by telephone of the hearing request on the same business day as the request is received. The Clerk of the OAL shall prepare the OAL transmittal form based upon the telephone call.

2. The case shall be scheduled by the OAL for a hearing within three business days after the phone call is received.

3. Notice of the time, date and place of the hearing shall be transmitted by telephone to the BARA within one business day after the OAL is notified of the hearing request. BARA shall notify the CWA, the petitioning applicant/recipient or the petitioner's representative of the scheduled hearing by telephone.

4. The ALJ shall file an Initial Decision by mailgram with the director of the DPW and the parties no later than the business day following the date of the hearing.

5. The petitioning applicant/recipient, his or her representative or the CWA may, by telephone, make exception or objection to the Initial (mailgram) Decision, to the DPW no later than the first business day following the issuance of the Initial Decision.

6. The director of the DPW shall issue a final decision no later than three business days following the date the Initial Decision is received which shall accept, reject or modify the Initial Decision. On the day the final decision is issued, the

DPW shall notify the CWA, the OAL and the petitioner or the petitioner's representative by telephone of the final decision and any relief ordered shall be provided by the CWA on the day notice of the final decision is received.*

LABOR

(a)

THE COMMISSIONER

Contributions, Records and Reports Hearings

Adopted Amendments: N.J.A.C. 12:16-10.1 through 10.8

Proposed: August 20, 1984 at 16 N.J.R. 2240(a).
 Adopted: September 26, 1984, William G. Van Note, Jr., Acting Commissioner, Department of Labor.
 Filed: September 27, 1984 as R.1984 d.459, **with technical change** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 43:21-1 et seq. (L.1984, c.24) specifically 43:21-11.

Effective Date: October 15, 1984.
 Expiration Date pursuant to Executive Order No. 66(1978): September 26, 1989.

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

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

SUBCHAPTER 10. HEARINGS

12:16-10.1 Scope of Subchapter
 All hearings involving any question of coverage, status, liability for contributions, penalties and interest, reporting, refunds, or rates of contribution shall be conducted in accordance with the procedure prescribed in this Subchapter.

12:16-10.2 Application
 (a) Any written notice of determination by a representative of the Department as to any question of coverage, status liability for contributions, penalties and interest, reporting, refunds, or rates of contributions shall be deemed final, un-

less any party with an interest in the matter shall make written request for a hearing within 30 days after the date of the notice.

(b) Requests for hearings shall be directed to the Director of Legal Management.

12:16-10.3 Scheduling
 (a) When a hearing is requested, the Director of Legal Management shall provide the requesting party with a "Petition for Hearing", which shall be completed and returned to him within ten days after receipt thereof.

(b) Upon the filing of the "Petition for Hearing", a copy shall be furnished to the Controller.

(c) A "Notice of Hearing" shall sent to the parties with an interest of record, specifying the place, date and time of the hearing, at least ten days prior to the date of the hearing.

12:16-10.4 Conduct
 (a) All hearings shall be held before a hearing officer designated by the Director of Legal Management.

(b) A prehearing conference may be held at the hearing officer's discretion for the purpose of determining admissions or stipulations and the factual and legal contentions of the parties. Failure of the petitioner to appear at a scheduled conference or to participate therein, shall be considered a withdrawal from or an abandonment of interest in the proceeding, unless within five days thereafter it is shown to the satisfaction of the hearing officer that there was good cause for such failure.

(c) The hearing officer may issue subpoenas to compel the attendance of witnesses or the production of books, records and all other papers necessary as evidence in the proceedings, may administer oaths, examine and cross-examine witnesses, and do such other acts as may be necessary for the hearing and determination of the issues involved.

(d) The Attorney General or any qualified representative of the ***[Division]* *Department*** shall have the right to appear at any hearing, examine and cross-examine any witnesses, and adduce evidence.

(e) Failure to appear at a scheduled hearing shall be considered as a withdrawal from, or an abandonment of interest in the proceedings unless within five days thereafter it is shown to the satisfaction of the hearing officer that there was good cause for such failure.

(f) Adjournments of hearings shall be granted at the discretion of the hearing officer.

(g) The hearing officer shall deliver to the Commissioner a complete record of the proceedings, together with his proposed findings of fact and conclusions.

12:16-10.5 Decisions and notification
 (a) All final decisions shall be made by the Commissioner.
 (b) Copies of decisions issued by the Commissioner shall be supplied or mailed to all interested parties.

(c) Any decision of the Commissioner shall become final as to any party upon the mailing of a copy thereof to such party at his last known address, or to his attorney.

(a)

THE COMMISSIONER

**Income Security
Registration for Work and Claims for
Benefits**

**Adopted Amendment: N.J.A.C. 12:17-2.1
Adopted Repeal: N.J.A.C. 12:17-2.2 and
12:17-2.3**

Proposed: June 18, 1984 and 16 N.J.R. 1456(a).
Adopted: September 26, 1984 by William G. Van Note,
Jr., Acting Commissioner, Department of Labor.
Filed: September 27, 1984 as R.1984 d.458, **with sub-
stantive changes** not requiring additional public no-
tice and comments (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 43:21-4, 43:21-6.

Effective Date: October 15, 1984.

Expiration Date pursuant to Executive Order No.
66(1978): September 27, 1989.

**Summary of Public Comments and Agency Responses
and Reasons for Making Changes:**

No comments were received. However in reviewing the pro-
posed amendments to N.J.A.C. 12:17-2.1, the Department
felt that additional clarification was needed with respect to
the requirements relating to filing claims for benefits and report-
ing to the employment service office. Therefore N.J.A.C.
12:17-2.1(a) is amended to provide the Division with flexibil-
ity in requiring individuals to file claims and to register with
the employment service.

Similarly, N.J.A.C. 12:17-2.1(b)(1) is amended to provide
that a claimant's failure to report without good cause will
result in the loss of unemployment insurance benefits until the
claimant reports to an unemployment insurance claims office
or an employment service office.

Finally, the Department has amended N.J.A.C. 12:17-
2.1(g) to broaden the reporting requirements which the Divi-
sion may establish under certain unique circumstances. Under
this amendment, the Division will have the authority to extend
reporting requirements when unusual unemployment condi-
tions prevail and in temporary mass lay-off situations where
there is a specific recall date for the workers involved.

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

**SUBCHAPTER 2. REGISTRATION FOR WORK AND
CLAIMS FOR BENEFITS**

12:17-2.1 Claims and registration for individuals generally

(a) ***Unless otherwise directed by the Division;*** ***[Any]***
any individual claiming benefits or waiting period credit for
unemployment shall report in person at the local unemploy-

ment insurance claims office nearest to his residence, and
shall file a claim for benefits and shall also report to the local
employment service office to register for work and for other
job related activities ***[, as directed by the Division]***.

(b) A claimant will be required to report in person to the
local employment service office as directed by the Division.

1. A claimant's failure to report to the local employment
service office without good cause on the date and time desig-
nated ***[may]* *will*** result in the loss of unemployment bene-
fit rights from the date the failure to report occurred, to such
time as the claimant reports to either the local employment
service office or the unemployment insurance claims office
and is rescheduled for employment services.

(c) The claimant shall report in person to the local unem-
ployment insurance claims office on the date and time desig-
nated by a representative of the Division.

1. The Division, for reasons found to constitute good cause
for any individual's failure to report on the date and at the
time designated for him to report at the local unemployment
insurance claims office, may accept a continued claim from
such individual for the week or weeks in question; provided
the individual reports in person at the local unemployment
insurance claims office within 14 days after his assigned re-
porting day, or, if he is unable to so report, he notifies the
local unemployment insurance claims office in writing within
such time of the reason for his failure to report on his report-
ing date.

2. Failure to report within 14 days from the assigned re-
porting date will result in the loss of benefits for the compen-
sable weeks currently claimed, until the date he actually re-
ports.

(d) A claimant shall not be denied any benefit rights to
which he is entitled, except for his inability to report on his
assigned reporting date, when such inability is due to reem-
ployment; provided he notifies the local unemployment insur-
ance claims office at which he has been reporting of the
reason for his failure to report within 14 days after his as-
signed reporting date.

(e) A claimant who, without good cause, reports before his
designated reporting time may be required to report at the
designated time. A claimant who, after being warned, and
without good cause, has reported after his designated report-
ing time may be required to report again at a future desig-
nated day and time.

(f) The Division, if satisfied of any individual's inability to
report to the local unemployment insurance claims office at
which he filed his claim for benefits, may permit such individ-
ual to report to any other local unemployment insurance
claims office.

(g) During periods when unusual unemployment condi-
tions prevail, ***or in the case of a temporary mass separation
with a specific date of recall*** the Division, through the Direc-
tor, may, subject to the approval of the Employment and
Training Administration of the United States Department of
Labor, direct claimants to report on any periodic basis
deemed to be in the best interests of all concerned.

(h) With reference to reporting requirements, good cause
includes any situation over which the claimant did not have
control and which was so compelling as to prevent the claim-
ant from reporting on the assigned reporting date, or as soon
as possible thereafter.

1. Failure to report shall not be considered to have resulted
from good cause if the reason for the failure is noncompelling
in nature or is characterized by negligence on the part of the
claimant or if the claimant could have reasonably adjusted his

outside activities to conform to the reporting schedule and failed to do so.

12:17-2.2 (Reserved)

12:17-2.3 (Reserved)

LAW AND PUBLIC SAFETY

(a)

BOARD OF MEDICAL EXAMINERS

Termination of Pregnancy

Adopted Amendment: N.J.A.C. 13:35-4.2

Proposed: August 6, 1984 at 16 N.J.R. 2064(a).

Adopted: September 19, 1984 by New Jersey State Board of Medical Examiners, Edward W. Luka, M.D., President.

Filed: September 28, 1984 as R.1984 d.470, with **substantive changes** not requiring additional notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 45:9-2.

Effective Date: October 15, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): August 1, 1988.

Summary of Public Comments and Agency Responses:

The proposed amendment was published on August 6, 1984 at 16 N.J.R. 2064. 32 comments were received; 26 opposed and 6 in favor. Those opposed, including the New Jersey Catholic Conference, another Catholic organization, and private individuals, referred uniformly to their sincerely held conviction that terminations of pregnancy are wrong per se, and objected to any measures which would lessen the burden on persons elected to terminate pregnancies. No reasons of a medical nature affecting the safety of the patient were advanced to support that opposition. Another criticism concerned the proposed requirement that a clinic have a medical director and credentials committee; it was suggested that such requirement poses a conflict of interest. This criticism is regarded as unfounded, as it fails to recognize that hospitals themselves function with their own professional membership staffing credentials committees, and that both hospitals and clinics are licensed and regulated by the Department of Health. One writer misread the proposal and erroneously objected to permitting physicians to perform second trimester termination procedures in a private office; this could not be done under the former rule and cannot be done under the present formulation either. Procedures after the first trimester

may be done only in licensed health-care facilities; within that category, the rule permits only dilatation and evacuation procedures to be done in an out-patient licensed facility and even then only through the eighteenth week LMP. All other procedures in the second trimester or beyond must be done in a hospital.

Those in favor of the proposal included the original petitioner for the rule change and another licensed ambulatory surgical facility performing termination procedures, as well as both Planned Parenthood of America and of New Jersey, and the Medical Society of New Jersey. One facility pointed out that there would indeed be some economic impact for those clinics choosing to offer expanded services, in that there are additional medical supply and staff costs incurred in performing the later procedures and not all health-care insurance plans have recognized those extra costs. While this may be true, it is not an "economic impact" of the sort contemplated by the requirement to give notice of economic impact to the public, since the rule change imposes no mandatory duty on any clinic to provide expanded service and any extra costs will be incurred only to the extent a clinic elects to offer the service. Also writing in favor of the proposal was the Director of the New Jersey Department of Health Licensing, Certification and Standards section, who also noted that the proposal is not in conflict with existing hospital regulations. The Director also offered to propose amendments to that Department's Ambulatory Care Standards so as to be consistent with the Medical Board's rule.

In summary, as no objections of a substantial medical nature had been received regarding the rule, and as those supporting the proposal agreed that dilatation and evacuation procedures can be done through the eighteenth week LMP in a licensed out-patient facility with the appropriate degree of safety for the patient, and as these views are entirely consistent with the professional testimony discussed in three recent major decisions of the United States Supreme Court, and as no writer disputed that there would be cost savings for patients, the rule is adopted as published.

However, the Board notes some concern on the part of the Department of Health regarding the Board requirement that licensed facilities have a Medical Director and Credentials Committee. It should be clear that the Medical Board's concern in the present rule is solely to assure that Board licensees in engaging in practices such as the types of pregnancy terminations permitted by this rule, will be as careful to assess individual physician surgical abilities as is regularly done in hospitals. To clarify that there is no jurisdictional question, an explanatory paragraph (e) has been added.

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

13:35-4.2 Termination of Pregnancy

(a) The termination of pregnancy is a procedure which may be performed only by a physician licensed to practice medicine and surgery in the State of New Jersey.

(b) Beyond the first trimester and within a period of gestation not exceeding 18 weeks from the first day of the last menstrual period or 16 weeks' gestational size as determined by a physician, termination of pregnancy using the dilatation and evacuation procedure shall be performed either in a licensed hospital or a licensed health-care facility, and if any other procedure is used the termination of pregnancy shall be performed in a licensed hospital.

(c) Any licensed health care facility performing procedures for termination of pregnancy after the 14th week from the first day of the last menstrual period or 12 weeks' gestational size must have a Medical Director and a Credentials Committee. Said Committee shall grant to operating physicians practice privileges relating to complexity of the procedure and commensurate with an assessment of the training, experience and skills of each physician for the health, safety and welfare of the public. A list of the privileges of each physician shall contain the effective date of each privilege conferred, shall be reviewed at least biennially, and shall be preserved in the files of the facility.

(d) Termination of pregnancy by any procedure on patients with a gestation exceeding 18 weeks from the first day of the last menstrual period or 16 weeks' gestational size as determined by a physician, shall be performed only in a licensed hospital.

(e) These rules are intended to regulate the quality of medical care offered by licensed physicians for the protection of the public, and are not intended to affect rules of the Department of Health establishing institutional requirements.

(a)

**DIVISION OF CONSUMER AFFAIRS
BOARD OF PROFESSIONAL
ENGINEERS
AND LAND SURVEYORS**

**Land Surveyors
Preparation of Land Surveys**

Notice of Correction: N.J.A.C. 13:40-5.1

An error appears in the September 4, 1984 issue of the New Jersey Register at 16 N.J.R. 2371 concerning preparation of land surveys. N.J.A.C. 13:40-5.1(d) should have appeared as follows:

13:40-5.1 Land surveyors; preparation of land surveys
(a)-(c) (No change.)

(d) Appropriate corner markers, such as stakes, iron pipes, cut crosses, monuments, and so forth, shall be set either by the licensed land surveyor or under the supervision of the licensed land surveyor. Such markers shall be set at each property corner **not** previously marked by a property marker, unless the actual corner is not accessible, or unless written contractual arrangements specify otherwise. When written contractual arrangements are made to omit corner markers, a notation stating that such omissions have been made shall be included on the plat or plan of survey.

1.-5. (No change.)

(e)-(n) (No change.)

ENERGY

(b)

THE COMMISSIONER

Energy Facility Review Board

Readoption: N.J.A.C. 14A:8-1

Proposed: August 20, 1984 at 16 N.J.R. 2253(a).

Adopted: September 20, 1984 by Leonard S. Coleman, Jr., Commissioner, Department of Energy.

Filed: September 20, 1984 as R.1984 d.450, **without change.**

Authority: N.J.S.A. 52:2F-11q and 52:27F-15c.

Effective Date: September 20, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): September 20, 1989.

DOE Docket No: 012-84-08.

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

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 14A:8-1.

(c)

THE COMMISSIONER

**Reporting of Energy Information
Suppliers of Home Heating Oil**

**Readoption with Amendments: N.J.A.C.
14A:11-2**

Proposed: August 20, 1984 at 16 N.J.R. 2254(a).

Adopted: September 20, 1984 by Leonard S. Coleman, Jr., Commissioner, Department of Energy.

Filed: September 20, 1984 as R.1984 d.449, **without change.**

Authority: N.J.S.A. 52:27F-18.

Effective Date: September 20, 1984 for Readoption;
October 15, 1984 for Amendments.

Expiration Date pursuant to Executive Order No. 66(1978): September 20, 1989.

DOE Docket No. 013-84-08.

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

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 14A:11-2.

Full text of the adopted amendments to the readoption follows.

14A:11-2.3 Reporting

- (a)-(c) (No change in text.)
 Department of Energy
 101 Commerce Street
 Newark, New Jersey 07102
 Attention: Data Center

(a)

THE COMMISSIONER

**Shared Energy Cost-Savings Methodology
 Schools Buildings**

Adopted Amendments: N.J.A.C. 14A:12-1

Proposed: August 20, 1984 at 16 N.J.R. 2255(a).

Adopted: September 20, 1984 by Leonard S. Coleman Jr., Commissioner, Department of Energy.

Filed: September 20, 1984 as R.1984 d.451, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: P.L. 1984, c. 49.

Effective Date: October 15, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): February 7, 1988.

DOE Docket No: 014-84-08.

Summary of Public Comments and Agency Responses:

The Department received a comment from the Department of Education pointing out that a technical error had been made in the title of the Public School Contracts Law. The Department has made the correction in the adoption. It was further suggested that in N.J.A.C. 14A:12-1.2, reference be made to the entire text of the amending legislation, P.L. 1984, c.49, rather than to section 1j and 2a(16). The Department has also made that technical change.

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

CHAPTER 12
 ENERGY CONSERVATION MEASURES FINANCING

SUBCHAPTER 1. METHODOLOGY FOR COMPUTING
 ENERGY COST SAVINGS

14A:12-1.1 Scope

(a) This subchapter shall apply to all contracts, the entire price of which is established as a percentage of the resulting energy savings, and which involve the performance of work or services or the furnishing of materials, supplies or equipment for the purpose of conserving energy in the following:

1. Buildings owned or operations conducted by those entities subject to the provisions of the Local Public Contracts Law, P.L. 1971, c. 198 (N.J.S.A. 40A:11-15), as amended by P.L. 1981, c. 551; and
2. Buildings owned by any board of education subject to the provisions of N.J.S.A. 18A:18A-5 and 18A:18A-42, as amended by P.L. 1984, c. 49.

14A:12-1.2 Purpose

This subchapter fulfills the requirements of section 15(12) of P.L. 1981, c.551, and of N.J.A.C. 18A-5 and 18A:18A-42 as amended by *[section 1j and section 2a(16) of]* P.L. 1984, c.49, by establishing a methodology for computing energy cost savings associated with contracts for the furnishing of energy conserving renovations on a shared-savings or guaranteed-saving basis.

14A:12-1.3 Definitions

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

...
 "User" means a municipality, county or other entity subject to the provisions of P.L. 1971, c. 198 (N.J.S.A. 40A:11-15), as amended by P.L. 1981, c. 551, and a board of education subject to the provisions of N.J.S.A. 18A:18A-5 and 18A:18A-42 as amended by P.L. 1984, c. 49, which enters into a shared-savings or guaranteed-savings contract with a firm.

14A:12-1.4 Pre-contract phase

(a) In this section "user" shall mean only municipalities, counties and other entities subject to the provisions of P.L. 1971, c. 1978 (N.J.S.A. 40A:11-15), as amended by P.L. 1981, c. 551.

Redesignate (a) as (b) (No change in text.)

14A:12-1.5 Contract phase

(a) All contracts and modifications thereof subject to the provisions of this chapter shall meet, in addition to the requirements of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. or the *[Local]* ***Public*** School Contracts Law, N.J.S.A. 18A:18A-1 et seq., and regulations promulgated thereunder, the minimum requirements stated below. The firm and user may agree to any additional terms or conditions which do not limit, contradict or abrogate the said minimum requirements and which comply with the applicable provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. or the *[Local]* ***Public*** School Contracts

Law, N.J.S.A. 18A:18A-1 et seq., and regulations promulgated thereunder. At a minimum the contracts and modifications shall:

1.-20. (No change.)

14A:12-1.6 Technical assistance
(No change.)

TREASURY-GENERAL

(a)

STATE LOTTERY COMMISSION

Lottery Commission Rules Deposit of Lottery Moneys

Adopted Amendment: N.J.A.C. 17:20-6.3

Proposed: August 6, 1984 at 16 N.J.R. 2074(a).
Adopted: September 11, 1984 by New Jersey Lottery Commission, Hazel Frank Gluck, Executive Director.
Filed: September 26, 1984 as R.1984 d.455, **without change.**

Authority: N.J.S.A. 5:9-7(a), (b) and (f).

Effective Date: October 15, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

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

Full text of the readoption follows.

17:20-6.3 Deposit of lottery moneys
(a)-(g) (No change.)
(h) Net settlements due to the State Lottery shall bear interest at the legal rate from the date payment is due until it is received by the Lottery; however, the Director may establish grace periods for payment without the accrual of such interest.

(b)

STATE LOTTERY COMMISSION

Lottery Commission Rules Civil Penalties and Sanctions

Adopted New Rule: N.J.A.C. 17:20-9

Proposed: July 2, 1984 at 16 N.J.R. 1709(b).
Adopted: September 11, 1984 by New Jersey Lottery Commission, Hazel Frank Gluck, Executive Director.
Filed: September 26, 1984 as R.1984 d.456, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 5:9-1 et seq., specifically 5:9-7(a)(b)(f) and P.L. 1983, c.429.

Effective Date: October 15, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

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

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

SUBCHAPTER 9. CIVIL PENALTIES AND SANCTIONS

17:20-9.1 Penalties not exceeding \$2,500
(a) The Director may, after notice and hearing, impose civil penalties on licensed agents in an amount up to \$2,500 per incident for violations of the Act or this Chapter.
(b) The Director shall make findings of fact in each instance where penalties are imposed and shall report periodically to the Commission regarding the imposition of such penalties.
(c) In assessing civil penalties under this section, the Director shall give due consideration to:
1. The nature of the conduct or offense;
2. The impact of the offense upon the operations of the Division;
3. The prior history of the agent and any mitigating factors which may be proven;
4. The need to preserve the dignity of the State and the integrity of the Lottery;
5. The need for deterrence of future violations by the party charged or by others, and
6. The amount of the penalty in relation to the severity of the offense and the financial means of the agent.

17:20-9.2 Civil penalties between \$2,500 and \$5,000

(a) The Director may assess civil penalties pursuant to N.J.A.C. 17:20-9.1 in amounts from \$2,500 to \$5,000 per incident, subject to the right of the person against whom the penalty is assessed to seek review of the assessment before the Commission.

(b) Petitions for review under (a) above shall be filed with the Director, acting as Secretary of the Commission, within 15 days of the service of notice that a penalty has been assessed.

(c) Upon receipt of a petition for review, the Director shall place the matter on the agenda for the next meeting of the Commission, at which the matter shall be acted upon unless, for good cause, it is carried until a subsequent meeting.

(d) The Commission shall consider the matter on the record compiled by the Director and shall have the power to reverse, modify or amend the Director's actions, including an increase in the penalties assessed, but only if it finds that such actions constituted a gross abuse of discretion by the Director amounting to a miscarriage of justice.

17:20-9.3 Civil Penalties in excess of \$5,000

(a) The Director may assess civil penalties in excess of \$5,000 per incident in accordance with N.J.A.C. 17:20-9.1, pursuant to Commission review in accordance with N.J.A.C. 17:20-9.2.

(b) Such review will be a consideration de novo of the record compiled before the Director, and the Commission may call for further evidence, or seek oral argument, if it deems such actions, or either of them, to be necessary.

(c) Upon review under this section, the Commission shall make independent findings of fact if its action alters the action of the Director.

(d) The Commission may increase a penalty if it deems such increase proper under the criteria set forth in N.J.A.C. 17:20-9.1(c).

(e) No penalty shall exceed \$10,000 per incident.

17:20-9.4 Restitution; *[*c]**C*ease and *[*d]**D*esist *[*o]**O*rders

(a) The Director shall exercise the power to order restitution and/or enter cease and desist orders pursuant to L. 1983, c.429, acting as Secretary of the Commission, subject to the right of the person against whom an order is entered to seek review by the Commission.

(b) Petitions for relief shall be filed and considered in accordance with N.J.A.C. 17:20-9.2(b), (c) and (d).

(c) In the absence of a petition for review, or if the Commission has acted upon a petition, the Director shall be empowered to seek judicial relief for the enforcement of orders entered under this section.

17:20-9.5 Hearings; procedures

(a) All determinations under this subchapter shall be made in conformity with N.J.A.C. 17:20-5.3.

(b) The cost of all appeals to the Commission, including transcript preparation, shall be borne by the party seeking review.

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

**Corporation Business Tax
International Banking Facilities**

**Adopted Amendments: N.J.A.C. 18:7-4.1,
and 5.2**

**Adopted New Rules: N.J.A.C. 18:7-8.16 and
18:7-16.1 through 16.5**

Proposed: June 4, 1984 at 16 N.J.R. 1327(a).

Adopted: September 21, 1984 by John R. Baldwin,
Director, Division of Taxation.

Filed: September 24, 1984 as R.1984 d.453, **without
change.**

Authority: N.J.S.A. 54:10A-27 and P.L. 1983, c.422.

Effective Date: October 15, 1984.

Expiration Date pursuant to Executive Order No.
66(1978): March 19, 1989.

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

Full text of the adoption follows.

18:7-4.1 "Entire net worth"; definition; computation

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

(c) In the case of banking corporations which have international banking facilities as defined in N.J.A.C. 18:7-8.16, net worth shall be reduced by the amount of retained earnings of the international banking facility. For purposes of valuation of an international banking facility, the taxpayer shall prepare an information return for the 1981 accounting year, as though the international banking facility was in operation for the entire year, and the definitions enacted by P.L. 1983, c.422 were in effect for 1981 as set forth in said chapter. The retained earnings accumulated over the life of such international banking facility, beginning with the net worth accumulated for the taxpayer's 1981 Corporation Business Tax Return, shall be reduced by the pro rata share of dividends paid, and by the pro rata share of federal income tax paid or payable for each tax year. (See: Subchapter 16 regarding international banking facilities.)

Example for Calendar Year Taxpayer

January 1, 1981

1.	Total net worth of taxpayer	\$1,000,000
2.	Net worth of international banking facility (IBF)	-0-

December 31, 1981

3.	1981 Net income before deduction for dividends and Federal income tax	500,000
4.	1981 IBF income before deduction for dividends and Federal income tax	50,000
	(Note: IBF pro rata share is 10 percent)	
5.	1981 Dividends \$200,000; Income tax \$50,000 Total	250,000
6.	1981 Net income after deduction for dividends and income tax	250,000
7.	1981 IBF income after deduction for dividends and income tax (10 percent of line 6)	25,000

December 31, 1981

8.	Total net worth \$1,000,000 + 250,000	1,250,000
9.	IBF net worth -0- + \$25,000	25,000
10.	Total net worth less IBF net worth	\$1,225,000

January 1, 1982

1.	Total net worth of taxpayer	\$1,250,000
2.	Net worth of international banking facility (IBF)	25,000

December 31, 1982

3.	1982 Net income before deduction for dividends and Federal income tax	600,000
4.	1982 IBF income before deduction for dividends and Federal income tax	90,000
	(Note: IBF pro rata share is 15 percent)	
5.	1982 Dividends \$220,000; Income tax \$60,000 Total	280,000
6.	1982 Net income after deduction for dividends and income tax	320,000
7.	1982 IBF net income after deduction for dividends and income tax (15 percent of line 6)	48,000

January 1, 1983

8.	Total net worth \$1,250,000 + 320,000	1,570,000
9.	IBF net worth \$25,000 + 48,000	73,000
10.	Total net worth less IBF net worth	\$1,497,000

18:7-5.2 Entire net income; how computed

"Taxable income before net operating loss deduction and special deductions," hereinafter referred to as Federal taxable income, is the starting point in the computation of the entire net income. After determining Federal taxable income, it must be adjusted as follows:

(a) Add to Federal taxable income:

1.-12. (No change.)

(b) Deduct from Federal taxable income:

1.-6. (No change.)

7. Any banking corporation which is operating an international banking facility (IBF) as part of its business may exclude the eligible net income of the IBF, as herein described, from its entire net income, as follows:

i. Any deductions under this section can only be claimed to the extent that they are not deductible in determining Federal taxable income, or not deductible under N.J.S.A. 54:10A-4(k)(1) through (3).

ii. The eligible net income of an IBF is the amount of income remaining after subtracting the applicable expenses, as defined by iv. below.

iii. Eligible gross income is the gross income derived from an IBF. This will include gross income derived from the following:

(1) Making, arranging for, placing or carrying loans to foreign persons, provided, however, that in the case of a foreign person which is an individual, or which is a foreign branch of a domestic corporation (other than a bank), or which is a foreign corporation or foreign partnership which is controlled, by one or more domestic corporations (other than banks), domestic partnerships or resident individuals, all the proceeds of the loan are for use outside of the United States;

(2) Making or placing deposits with foreign persons which are banks or foreign branches of banks (including foreign subsidiaries) or foreign branches of the taxpayers or with other international banking facilities; or

(3) Entering into foreign exchange or hedging transactions relating to any transactions under (1) and (2) above or (4) below.

(4) Any other activities which an IBF may be, at any time, authorized to engage in by Federal or state law, the Board of Governors of the Federal Reserve, the Comptroller of the Currency, the New Jersey Banking Commission, or any other authority.

iv. Applicable expenses are any expenses or deductions which are directly or indirectly attributable to eligible gross income as defined in iii. above.

(See: Subchapter 16 regarding international banking facilities.)

18:7-8.16 Allocation: International Banking Facilities

Any banking corporation, having an international banking facility, which maintains a regular place of business (other than a statutory office) outside of New Jersey, which elects to take the exclusion from net worth provided by N.J.A.C. 18:7-4.1(c), or the deduction from entire net income provided by N.J.A.C. 18:7-5.2(b)7, shall complete the allocation factor under N.J.A.C. 18:7-8.1, et seq. in the usual way. For the purpose of allocation, however, all amounts attributable, directly or indirectly, to the production of the eligible net income of an international banking facility as defined in N.J.A.C. 18:7-16.1, shall be included in both the numerator and the denominator of the fractions described in N.J.A.C. 18:7-8.1, et seq., whether or not such international banking facility income amounts are otherwise attributable to New Jersey.

(See: Subchapter 16 regarding international banking facilities.)

SUBCHAPTER 16. INTERNATIONAL BANKING FACILITIES

18:7-16.1 Definitions

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

"Agreement Corporation" is defined under USCA Title 12, section 601, et seq. as a national banking association which, under regulation of the Federal Reserve Board of Governors, is authorized to establish foreign branches, or branches in United States dependencies or insular possessions, for the furtherance of United States foreign commerce, or to invest not over 10 percent of its capital in United States domestic corporations which are principally engaged, directly or through controlled institutions, in international or foreign banking or banking in United States dependencies or insular possessions; or to hold stock in banks organized under foreign

laws, or United States dependencies or insular possessions laws, which banks are not engaged in United States activity, except incidentally; and to extend credit to such foreign or United States dependencies banks. Agreement Corporations shall operate under an agreement with the Federal Reserve Board of Governors, and shall furnish information concerning their condition to the Comptroller of the Currency as well as to the Federal Reserve Board of Governors.

“Edge Corporation” is defined under USCA Title 12, section 611, et seq. as a corporation organized to engage in international or foreign banking or other financial operations, or to engage in such operations in United States dependencies or insular possessions, either directly or through local institutions. An Edge Corporation is operated under Federal supervision with sufficiently broad powers to be able to compete effectively with similar foreign-owned institutions, in the United States or abroad. The Federal Reserve Board of Governors shall issue regulations to assist an Edge Corporation in providing banking and financial services to foster international trade.

“International Banking Facility” means a separate, segregated set of asset and liability accounts, set apart on the books of a bank, a banking corporation or other depository institution, including a United States bank or agency or foreign bank; or an Edge or Agreement Corporation as defined below. The separate accounts may include only international banking facility time deposits, or international banking facility extensions of credit, as defined below.

If the United States enacts a law, or the Governors of the Federal Reserve System adopt a regulation changing the definitions of international banking facility, international banking facility time deposits or international banking facility extensions of credit set forth in this rule, the New Jersey Commissioner of Banking shall promptly adopt regulations conforming these definitions to the revised United States law or Federal Reserve regulations, and the Banking Commissioner’s regulations shall then, under P.L. 1983, c.422, provide the applicable definitions.

“International Banking Facility Extension of Credit” is a loan or deposit by an international banking facility to a deposit account, represented by a promissory note or other credit arrangement, extended only to a foreign office of another United States depository, or an Edge or Agreement Corporation or foreign office of a foreign bank, or another office of the international banking facility, another international banking facility, or an institution exempt from Federal interest rate limitations, or a foreign resident, or a foreign branch or affiliate controlled by a domestic corporation. The funds must be used only to finance the foreign operations of the borrower, or its foreign affiliates.

“International Banking Facility Time Deposit” is defined, in (United States Federal) 12 CFR 204.8(a)(2). It is a deposit or Federal obligation represented by a promissory note or other obligation or instrument, not in negotiable or bearer form. The deposit must remain in the depository at least over night, and be issued to either an office outside of the United States of another depository, or an office of an Edge or Agreement Corporation, or a foreign office of a foreign bank, or any office anywhere of the establishing international banking facility, or of another international banking facility, or an institution exempt from Federal interest rate limitations. The obligation must be payable no sooner than two business days later, and must represent funds deposited to the credit of a foreign resident, or a foreign branch or affiliate of a domestic corporation. The funds must be used for foreign opera-

tions of the depositor or its foreign affiliate, and deposits or withdrawals must be at least \$100,000.00, except when closing an account.

18:7-16.2 International Banking Facilities: computation of entire net worth

For computation of entire net worth, see N.J.A.C. 18:7-4.1(c).

18:7-16.3 International Banking Facilities: computation of entire net income

For computation of entire net income, see N.J.A.C. 18:7-5.2(b)7.

18:7-16.4 International Banking Facilities: business allocation factor

Regarding the business allocation factor, see N.J.A.C. 18:7-8.16.

18:7-16.5 Phasing in International Banking Facility tax changes

(a) The reduction in taxes payable by banking corporations maintaining international banking facilities shall be phased in over five years. To start this procedure, each banking corporation which elects to claim the deduction from entire net income for eligible net income as defined in N.J.S.A. 54:10A-4(k)4 for an international banking facility (as defined in N.J.A.C. 18:7-16.1), or the exclusion from net worth for international banking facilities, shall file an information return for the calendar year 1981, based on operations during 1981, regardless of the date of filing or payment, with its corporation business tax return for the first year in which it makes such election or elections.

(b) The 1981 information return of the banking corporation shall report the income and net worth attributable to its international banking facility activities, as defined in N.J.S.A. 54:10A-4(k)4, as if the taxpayer had an established international banking facility during the entire calendar year of 1981, and as if the adjustments pertaining to taxation of international banking facilities, contained in this subchapter, had been in effect during the entire year. The difference between the taxpayer’s corporate franchise tax liability for the 1981 accounting year, and the amount which it would have been liable for if these adjustments were in effect for all of the 1981 accounting year, shall be the taxpayer’s base international banking facilities tax liability.

(c) In each of the calendar years of 1982 through 1986 in which a banking corporation elects to claim the deduction from income of international banking facility generated income, or the exclusion from net worth of international banking facility assets, as authorized by this subchapter, the banking corporation shall pay, in addition to the total required by N.J.S.A. 54:10A-5, as effective on January 31, 1984, the following percentage of its base international banking facility tax liability:

1982	100%
1983	80
1984	60
1985	40
1986	20
1987 and thereafter	None

The years 1982 through 1987 refer to the taxpayer’s accounting period and not the year in which the tax was due.

OTHER AGENCIES

(a)

ELECTION LAW ENFORCEMENT COMMISSION

Establishment of Campaign Depository by Designated Continuing Political Committee

Adopted Amendment: N.J.A.C. 19:25-9.2

Proposed: August 20, 1984 at 16 N.J.R. 2256(a).

Adopted: September 19, 1984 by Election Law Enforcement Commission, Frederick M. Herrmann, Executive Director.

Filed: September 26, 1984 as R.1984 d.461, **without change.**

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

Effective Date: October 15, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): August 6, 1989.

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

Full text of the adoption follows.

19:25-9.2 Designation of joint campaign fund (Form SR-1)

(a) Where all of the contributions and expenditures on behalf of a candidate are received or expended by a political committee, which committee is required to file campaign reports under N.J.S.A. 19:44A-8(a), the candidate may authorize that committee to be his or her agent with respect to reporting those contributions and expenditures by filing with the commission a certification of that authorization on a form prescribed by the commission (Form SR-1).

(b) Upon the filing of the certification under (a) above, and until the authorization is revoked in writing, and filed, with the commission by the candidate, the political committee shall file the reports which the campaign treasurer of the candidate would otherwise be required to file.

(c) Where all of the contributions and expenditures on behalf of a candidate are received or expended by a continuing political committee, which committee is required to file quarterly reports pursuant to N.J.S.A. 19:44A-8(b), the candidate may authorize that continuing political committee to be his or her agent with respect to reporting those contributions and expenditures provided that:

1. The candidate files with the commission a certification of that authorization on a form prescribed by the commission (Form SR-1); and

2. The designated continuing political committee establishes a campaign depository pursuant to N.J.A.C. 19:25-5.3, which campaign depository shall be maintained separately from its organizational depository.

(d) A continuing political committee designated pursuant to (c) above shall file with the commission campaign reports pursuant to N.J.S.A. 19:44A-8(a) on behalf of its campaign depository in addition to quarterly reports on behalf of its organizational account.

(e) A certification filed under this section shall provide for designation by the candidate of the treasurer of the political committee, or continuing political committee, as the campaign treasurer of the candidate, and shall be signed by the candidate and the treasurer of the designated political committee, or treasurer of the continuing political committee.

(b)

ELECTION LAW ENFORCEMENT COMMISSION

Reporting By National Political Action Committees (PAC's)

Adopted Amendments: N.J.A.C. 19:25-11.4 and 12.4

Proposed: August 20, 1984 at 16 N.J.R. 2258(a).

Adopted: September 19, 1984 by Election Law Enforcement Commission, Frederick M. Herrmann, Executive Director.

Filed: September 26, 1984 as R.1984 d.460, **without change.**

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

Effective Date: October 15, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): August 5, 1985 for N.J.A.C. 19:25-11; August 6, 1989 for N.J.A.C. 19:25-12.

Summary of Public Comments and Agency Responses:

One letter was received from the Monsanto Citizenship Fund, St. Louis, Missouri, regarding the proposed amendments. Under regulations enacted by the Election Law Enforcement Commission (hereafter, the Commission) and published in the August 6, 1984 edition of the New Jersey Register, political action committees (hereafter, PAC's) which in any calendar year contribute or expect to contribute at least \$2,500 to aid or promote State or local New Jersey candidates or New Jersey public questions acquire reporting obligations as "continuing political committees" (hereafter, CPC). N.J.A.C. 19:25-1.7. PAC's that are contributing to Federal candidates are required to file reports under the Federal Election Campaign Act. 2 U.S.C.A. §441b. The Commission anticipates that in all likelihood almost all such PAC's filing reports under the Federal Election Campaign Act will, if they are also contributing to New Jersey candidates, be classified as peripheral CPC's. N.J.A.C. 19:25-4.5. This classification results because the total expenditures of such entities for New Jersey candidates or public questions will normally be less than 20 per cent of the PAC's total expenditure.

The adopted regulation requires that a peripheral CPC which is filing reports under the Federal Election Campaign Act must disclose in its New Jersey reports the name and address of New Jersey contributors whose contributions aggregate more than \$100.00 during the calendar year, and must disclose expenditures made to aid or promote candidates for public office in New Jersey or for the passage or defeat of a public question in New Jersey. The Monsanto Citizenship Fund suggested that the Commission delete as unnecessary the requirement of N.J.A.C. 19:25-11.4(e)(2) that contributions from New Jersey contributors which exceed \$100.00 be identified. The commentator noted that if a contribution is made to a PAC and specifically earmarked for use in New Jersey, the contributor must be identified. N.J.A.C. 19:25-11.4(e)(1). However, as to contributions received by a national PAC which are not specifically earmarked for use in New Jersey, no more than 20 per cent of the amount contributed will ultimately be used in New Jersey. The commentator believes that the requirement of reporting contributors by their state of residence imposes an administrative burden on many national PAC's whose records are not organized by the state of residence of the contributors.

In response, the Commission believes that the requirement of identifying New Jersey contributors making contributions exceeding \$100.00 protects the public interest in identifying substantial contributors to political committees generally. The Commission finds that its interest in non-New Jersey residents who make contributions to national PAC's is not sufficient to require reporting of such contributors when not more than 20 per cent of the total expenditures will be used for New Jersey candidates or public questions. However, the Commission continues to believe that the New Jersey residents who make substantial contributions to such PAC's should be identified in quarterly reports filed by the PAC's. The relationship between contributions from New Jersey residents to a national PAC and contributions by such a national PAC to candidates in New Jersey elections is not incidental. Additionally, the presence or absence of contributions which are in fact earmarked is far more readily verifiable should a question of such contributions arise.

The Monsanto Citizenship Fund also commented that the 48-hour notice required of national PAC's that are continuing political committees differs from the requirements imposed on national PAC's that are not continuing political committees. N.J.A.C. 19:25-11.4 relaxes the reporting obligation of national PAC's in regard to the 48-hour notice provisions of N.J.A.C. 19:25-10.6(b) because such 48-hour notice is required only of New Jersey contributors. There is no similar relaxation for national PAC's that are filing campaign reports as political committees. N.J.A.C. 19:25-9.8. The commentator recommended that the Commission modify the 48-hour notice requirement for expenditures in New Jersey. Alternatively, the commentator recommended that 48-hour notice be required only where a committee actually contributes in New Jersey within the relevant time period, and has received a single contribution that, when allocated according to the proportion of the committee's expenditures in New Jersey, exceeds \$250.00.

While this comment regarding 48-hour notice requirements is not relevant to the subject matter of N.J.A.C. 19:25-11.4, the Commission recognizes a difference in the 48-hour notice requirements as applied to federal PAC's reporting as CPC's, and those reporting as political committees. Therefore, the Commission will consider whether such a regulation affecting 48-hour notice reporting by political committees that are national PAC's is appropriate.

Full text of the adoption follows.

19:25-11.4 Computation of contributions: continuing political committees

(a) The computation of contributions to a continuing political committee shall include, without limitation, contributions, loans, rental, investment or other income or membership fees, assessments or dues made to the committee which relate to election activity as described in N.J.A.C. 19:25-1.7 and may be reportable depending on the nature of the continuing political committee to which the contribution is made.

(b) If the committee is a political party committee, the contributions are reportable in full, along with the name and address of contributors whose contributions aggregate more than \$100.00 during the calendar year.

(c) If the committee is a major purpose continuing political committee, the contributions are reportable in full, along with the name and address of contributors whose contributions aggregate more than \$100.00 during the calendar year.

(d) If the committee is a multi-purpose continuing political committee, the contributions are reportable in the same proportion as the activities of the committee are related to election activity, along with the name and address of contributors whose contributions allocated as outlined above aggregate more than \$100.00 during the calendar year.

(e) If the committee is a peripheral continuing political committee, contributions are not reportable, unless:

1. The contribution is earmarked for election-related activity, in which case it is reportable in full; or

2. The continuing political committee has filed or is required to file reports as a separate segregated fund pursuant to 2 U.S.C. § 441b (Federal Election Campaign Act Amendments of 1976, P.L. 94-283) in a calendar year, in which case contributions received from New Jersey contributors are reportable in full, along with the name and address of New Jersey contributors whose contributions aggregate more than \$100.00 during the calendar year.

19:25-12.4 Computation of expenditures by continuing political committees

(a) The calculation of expenditures by a continuing political committee shall include all expenditures as defined in the act and this chapter, and shall include all contributions including in-kind contributions made for election purposes.

(b) Expenditures shall be reported as follows:

1. If the committee is a political party committee as defined in this chapter, every expenditure is determined to be an expenditure for election related-activity as described in N.J.A.C. 19:25-12.1 and is reportable in full;

2. If the committee is a major purpose continuing political committee as defined in this chapter, every expenditure is determined to be an expenditure for election-related activity as described in N.J.A.C. 19:25-12.1 and is reportable in full;

3. If the committee is a multi-purpose continuing political committee as defined in this chapter, the following expenditures shall be reported:

i. All contributions, including in-kind contributions, made with respect to a candidate or public question; and

ii. All expenditures which are reasonably related to election activity for:

(1) Fund raising and solicitation expenses incurred in whole or in part for election-related activities; and,

(2) A prorated portion of general organizational and administration expenses incurred for election-related activity.

4. If the committee is a peripheral continuing political committee, no reporting shall be required with respect to

expenditures, including contributions and in-kind contributions, unless:

i. The committee is engaged in fund raising and solicitation expenses with respect to election-related activity; or,

ii. The amount of contributions by such committee for any calendar year exceeds \$10,000. In such cases, the activity is reportable in full; or,

iii. The continuing political committee has filed or is required to file reports as a separate segregated fund pursuant to 2 U.S.C. § 441b (Federal Election Campaign Act Amendment of 1976, P.L. 94-283) in a calendar year, in which case expenditures made to aid or promote candidates for public office in New Jersey or for the passage or defeat of a public question in New Jersey are reportable in full.

5. Nothing in 4 above shall be construed so as to permit the nonreporting of earmarked contributions, as described in N.J.A.C. 19:25-7.6, received or made by a continuing political committee.

6. Any group of two or more persons which is not required to file quarterly reports as a continuing political committee by virtue of the operation of the act or of this chapter may nevertheless have preelection and post-election reporting obligation as a political committee with respect to any election as to which it becomes:

i. An independent political committee contributing or expending more than \$1,000; or

ii. Is a political committee which is not independent contributing or expending any amount, by virtue of election-related activity including fund raising, with respect to a candidate or public question.

(a)

CASINO CONTROL COMMISSION

General Provisions

Readoption with Amendments: N.J.A.C. 19:40

Proposed: August 20, 1984 at 16 N.J.R. 2259(a).
Adopted: September 26, 1984 by Casino Control Commission, Walter N. Read, Chairman.
Filed: September 26, 1984 as R.1984 d.454, **without change.**

Authority: N.J.S.A. 5:12-69(a) and N.J.S.A. 52:14B-3(1).

Effective Date for Readoption: September 26, 1984.
Effective Date for Amendments: October 15, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): September 26, 1989.

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

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 19:40.

EMERGENCY

ADOPTIONS

HUMAN SERVICES

(a)

DIVISION OF PUBLIC WELFARE

Public Assistance Manual AFDC Amendments Required by the Deficit Reduction Act of 1984

Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 10:81-1.6, 3.8, 3.9, 3.12, 3.18, 3.35, 3.38, 4.10, 7.30, 7.32 and 8.22

Adopted Emergency Repeal and Concurrent Proposal: N.J.A.C. 10:81-3.37

Emergency Adopted: September 21, 1984 by George J. Albanese, Commissioner, Department of Human Services.

Gubernatorial Approval (N.J.S.A. 52:14B-4(c)): September 27, 1984.

Emergency Adoption Filed: September 28, 1984 as R.1984 d.464.

Authority: N.J.S.A. 44:7-6 and 44:10-3, the Deficit Reduction Act of 1984 (P.L. 98-369) and the Child Support Enforcement Amendments of 1984 (P.L. 98-378).

Emergency Amendment Effective Date: September 28, 1984.

Emergency Amendment Operative Date: October 1, 1984.

Emergency Amendment Expiration Date: November 27, 1984.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions and any inquiries about submissions and responses, should be addressed to:

Audrey Harris, Director
Division of Public Welfare
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 for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted rule becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

This proposal is known as PRN 1984-578.

The agency emergency adoption and concurrent proposal follows:

Summary

The Deficit Reduction Act (DEFRA) of 1984, P.L. 98-369 passed by Congress and signed into law on July 18, 1984, requires revision of rules affecting the Aid to Families with Dependent Children (AFDC) program. The majority of the provisions contained therein become effective October 1, 1984. Additionally, the Child Support Enforcement Amendments of 1984, Public Law 98-378, signed into law August 16, 1984, contain provisions with regard to extension of Medicaid benefits which are also effective October 1. This emergency adoption amends N.J.A.C. 10:81 in order to implement the necessary AFDC program changes required by the aforementioned public laws. Amendment of these rules is essential in order to maintain Federal financial participation in AFDC program expenditures.

Existing regulations provide safeguards which restrict the use or disclosure of information concerning AFDC applicants or recipients to purposes directly related to the administration of public assistance. The Act provides that such safeguards need not apply to the release of certain information to law enforcement officers concerning AFDC recipients who are fugitive felons. Amendments at N.J.A.C. 10:81-1.6, 7.30 and 7.32 allow county welfare agencies to release recipient address information to State and local law enforcement officers attempting to locate a fugitive felon under the specific conditions outlined in the revised rule.

Currently regulations at N.J.A.C. 10:81-3.8 and 3.9 do not require that all siblings be included in the eligible unit. Families may exclude from the unit certain family members who have income which might reduce the AFDC benefit, specifically excluded are children receiving Social Security benefits or children for whom child support payments are being received. This revision amends N.J.A.C. 10:81-3.8 and 3.9 to provide that the unit applying for or receiving assistance must include the parent(s) and all minor siblings living with the dependent child for whom assistance is sought. This requirement however is not applicable to stepbrothers and stepsisters or to Supplemental Security Income recipients.

Regulations now allow a parent-minor and child living with the parent-minor's parents to apply for assistance as a separate unit. Such minor's parents would be evaluated to establish capacity to support as legally responsible relatives (LRRs). DEFRA requires a new procedure with regard to determining eligibility and benefits for certain parent-minors. Amendments to N.J.A.C. 10:81-3.12 and 3.35 provide clarification and cross references to N.J.A.C. 10:82 (Assistance Standards Handbook) regarding the treatment of income of a parent-minor's parents. When the parent-minor maintains a separate home, the minor's parents continue to be evaluated as LRRs. When the parent-minor and child are living with the parent-minor's natural or adoptive parents or legal guardians, the income of the parents or legal guardians will be deemed available to the parent-minor in accordance with the new rule at N.J.A.C. 10:82-3.14 (adopted as an emergency rule in this Register) which parallels the procedure used to determine income available to an eligible unit from a stepparent.

Existing rules require pregnant women to register for work. The amendment at N.J.A.C. 10:81-3.18 provides that any

woman in the sixth month or later of pregnancy is exempt from the work registration requirement.

Currently, State rules provide that AFDC eligibility may be established pending disposal of a nonliquid resource, the equity value of which exceeds the resource eligibility limit of \$1,000. Subsequent to the enactment of the Omnibus Budget Reconciliation Act of 1981, the Department of Health and Human Services, through its Regional Office II, advised that all property, liquid or nonliquid, must be counted toward the resource limit and this Department's long-standing policy was in violation of the Social Security Act. DEFRA provides that eligibility for AFDC may be established pending the liquidation of real property. That Congress specifically addressed the issue of real property, sufficiently demonstrates that Congress concurs with the interpretation previously provided by the Department of Health and Human Services. Therefore, the Department is repealing N.J.A.C. 10:81-3.37 and amending the rule at N.J.A.C. 10:81-3.38 regarding AFDC resource eligibility to allow AFDC payments, pending liquidation of real property only, to the maximum extent authorized in DEFRA.

County welfare agencies (CWAs) are now required to make protective payments for cases in which a parent is disqualified from AFDC participation due to refusal or failure to cooperate with work registration requirements, refusal to accept employment, voluntary cessation of employment, or failure to cooperate with the child support requirements. The amendment at N.J.A.C. 10:81-4.10 permits the CWA to make AFDC payments to the disqualified parent(s) on behalf of the eligible child, if after all reasonable efforts have been made, the CWA is unable to locate a suitable protective payee, and prolonging the search may be detrimental to the well being of the child.

Regulations at N.J.A.C. 10:81-8.22 provide that an AFDC-C or -F family which loses eligibility for money payments due to increased earnings from or increased hours of employment is eligible for extended Medicaid benefits for a period of four months beginning with the month the family lost eligibility for an AFDC money payment. If a family lost eligibility for AFDC solely because of the four-month limitation on the \$30.00 and one-third disregard, it also lost eligibility for Medicaid. Amendments at N.J.A.C. 10:81-8.22, as required by DEFRA, provide that in any case where a family ceased to receive AFDC solely because of loss of either the one-third disregard or \$30.00 disregard the family is deemed, but only for purposes of extended Medicaid eligibility, to be receiving AFDC for a period of nine months. An additional optional six-month Medicaid extension (which the Department is electing) shall be provided to families which would be eligible for AFDC if the \$30.00 and one-third disregard were applied. This provision also applies, under certain conditions, to families which ceased to be eligible to receive AFDC between October 1, 1981 (the effective date of the Omnibus Budget Reconciliation Act of 1981) and October 1, 1984 due to loss of the \$30.00 and one-third disregard, if the family would have been continuously eligible had these disregards been applied.

An additional Medicaid extension is contained in the provisions of the Child Support Enforcement Amendments of 1984 (P.L. 98-378). Currently, a family losing eligibility for AFDC as a result of child or spousal support collections also loses eligibility for Medicaid. The law provides that if a family loses AFDC eligibility as a result (wholly or in part) of increased collection of support payments under the Title IV-D program, Medicaid eligibility is extended for a period of four calendar months beginning with the month in which ineligibility begins.

Social Impact

Release of current address information concerning AFDC recipients who are fugitive felons has no adverse social impact on the overall client population. Release of such information is expected to be uncommon, but in the best interests of effective law enforcement.

The exemption from work registration requirements for pregnant women, and the provision allowing protective payments to be made to a disqualified parent on behalf of the eligible children, result in no significant impact on the client population but rather aid the county agencies by reducing administrative requirements.

Regulations providing for two additional forms of Medicaid extension will have a significant positive impact on clients. Those families losing AFDC eligibility due to loss of disregards or increased support payments will retain Medicaid eligibility. These families, particularly those with extraordinary medical needs, frequently suffered a hardship due to the loss of medical coverage at the time AFDC benefits were terminated. The number of affected families is unidentifiable at this time but is not expected to be large.

The requirement that all eligible siblings be in the AFDC eligible unit will reduce or eliminate AFDC benefits for affected families. It will, however, contribute to increased program equity by treating families in like financial circumstances similarly. As many as 1,700 current recipient families could be affected by this provision.

Approximately 2,900 AFDC cases are headed by parent-minors. The Department is, however, unable to ascertain how many of these minors reside with financially able parents. Affected cases may experience a reduction in or loss of AFDC benefits.

The revision limiting the establishment of AFDC entitlement to families whose resources, with the exception of non-exempt real property, are otherwise within program limits will affect an unknown number of applicant families. The families will be required to avail themselves of resources which can be readily liquidated prior to benefit entitlement.

Economic Impact

Because of the diversity of the program revisions and unavailability of appropriate demographic and financial data, an accurate estimate of the net economic impact of this proposal is not possible.

The requirement that all siblings be included in the AFDC eligible unit will result in an estimated initial gross assistance reduction of \$1.9 million. Further reduction is possible contingent on caseload characteristics.

The deeming of parental income to parent-minors residing in the same household will, likewise, result in a reduction of assistance expenditures, but is not, at this time, measurable.

The exemption of certain pregnant women from work requirements and the modification to the safeguarding of information have no economic impact.

The revision limiting the payment of AFDC to families with excess resources to circumstances in which the excess resource is nonexempt real property is expected to have little net economic impact.

The two new forms of Medicaid extension will increase Medicaid expenditures contingent on the eligible population and program utilization.

Initially, these changes will result in a temporary increase in the workload of the Department and CWAs when certain provisions of these rules are implemented. Overall, these changes will not have a significant adverse impact on the Department and local agencies administering the AFDC program.

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

10:81-1.6 Confidential nature of information

(a) Information about applicants or recipients will be used or disclosed only for purposes directly connected with the administration of public assistance and related services which cannot be offered without such information.

1. Such safeguards shall not apply to the furnishing of recipient address information to State and local law enforcement officers attempting to locate a fugitive felon in accordance with the provisions at N.J.A.C. 10:81-7.32.

10:81-3.8 Applicant in all segments

(a) The eligible unit shall be comprised of those family members who apply for and are eligible to receive public assistance. It shall include one or more eligible children unless such child is a recipient of SSI.

1. The eligible unit shall include any blood-related or adoptive brothers and sisters living in the same household and who are otherwise eligible for AFDC. This requirement does not apply to stepbrothers or stepsisters.

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

10:81-3.9 Applicant in AFDC-C and -F

(a) AFDC-C: The term applicant in AFDC-C refers to the parent(s) or parent-person(s) who makes an affirmative decision to apply for financial assistance or, when the applicant is incapacitated or alleged incompetent, someone acting responsibly for [him/her] **him or her** (see N.J.A.C. [10:81-3.3(b)] **10:81-2.3(b)1**) in order to maintain and provide for one or more dependent children of eligible age who are in [his/her] **his or her** care and custody. It shall also include the stepparent when the natural or adoptive parent designates the stepparent as an individual whose presence in the home is essential to [his/her] **his or her** well being and elects that such person shall be included (see N.J.A.C. 10:82-2.9).

1. When the applicant applying for AFDC-C based on continued absence of a natural or adoptive parent is [him/herself] **himself or herself** a natural or adoptive parent, [he/she] **he or she** must apply for [him/herself] **himself or herself** and children of eligible age, unless such parent is an SSI recipient in which case [he/she] **he or she** may apply for the eligible children only (see N.J.A.C. 10:81-3.8). [A parent need not apply for all eligible children. (See section 8 of this subchapter.)]

2. When the applicant in AFDC-C is a parent-person, [he/she] **he or she** has the option of applying for [him/herself] **himself or herself** and [at least one child of eligible age] **the eligible children** or only for [one or more] **the eligible children** in [his/her] **his or her** care and custody.

3.-5. (No change.)

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

10:81-3.12 Parent-minor in AFDC-C, -F and -N

(a) **For purposes of this section the term [P]parent-minor refers to a parent under age 18. (Special income deeming rules apply to a parent under the age of 19 residing in the same home as his or her parent(s) or guardian(s); see N.J.A.C. 10:82-3.14.)** When application is made for AFDC-C by a parent who is under age 18 or for -F or -N where both parents are under age 18, the following action shall be taken in specific situations:

1. When a parent-minor who is maintaining or establishing a separate home for the child(ren), that is, in [his/her] **his or**

her own home or in the home of persons who would not qualify as parent-person, an application shall be accepted from such parent-minor. The parent-minor's parents shall be evaluated as legally responsible relatives (LRRs) for purposes of establishing capacity to support in accordance with the provisions of N.J.A.C. 10:82-3.10.

2. When a parent-minor and child(ren) are living in the home of one natural or adoptive parent of the parent-minor, or both natural or adoptive parents who are themselves eligible for AFDC-C or -F, or relatives who qualify as parent-persons of the parent-minor, there shall be a discussion with the parent-minor and the adult(s) as to whether it is desirable to have the parent-minor apply for assistance or whether the adult parent(s) should do so. The implications, options and consequences of each application shall be fully explored. The parent-minor shall make the decision. **Deeming of income of parents and guardians of parent-minors shall be in accordance with the provisions of N.J.A.C. 10:82-3.14.**

3. When the parent-minor and child(ren) are living in the home of both natural or adoptive parents (of the parent-minor) and the parents are not eligible for AFDC-C, then the application must be accepted from the parent-minor. This rule is made because in this situation the parent-minor, although perhaps a "needy child", is not a child "deprived of parental support or care"; hence, the parents cannot apply for AFDC for such a parent-minor. **Deeming of income of parents and guardians of parent-minors shall be in accordance with the provisions of N.J.A.C. 10:82-3.14.**

(b)-(f) (No change.)

10:81-3.18 Employment and training requirements

(a) (No change.)

(b) AFDC-C and -F segments (WIN Counties): County welfare agencies, as agents of the United States Department of Labor in those geographical areas designated as WIN counties, are responsible, through the income maintenance staff, for determining who is required to register for WIN by completing Form PA-401, WIN Case Review Document (see appendix C).

1. (No change.)

2. Those who are exempt include:

i. (No change.)

ii. Persons who are:

(1)-(9) (No change.)

(10) Pregnancy: A woman who is in the sixth month or later of pregnancy.

3. (No change.)

(c)-(l) (No change.)

10:81-3.35 Legally responsible relatives (LRRs)

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

(h) Parents and guardians of parent-minors: When a parent-minor (under the age of 19) lives in the same home as his or her own parent(s) or legal guardian(s), and the parent-minor applies for AFDC, the income of such parent(s) or legal guardian(s) shall be considered available to the eligible unit in accordance with the deeming provisions of N.J.A.C. 10:82-3.14.

10:81-3.37 [Resources and repayment; resources defined] (Reserved)

[(a) To the greatest extent possible, the resources of individuals and families will be used for their maintenance and support. The time and method of liquidation or disposal of such resources frequently influence the amount of public assistance necessary and are, therefore, subject to regulation.

(b) Resources are defined as follows.

1. Available resources are those which are in cash or in some other form which can be used to meet current needs of the eligible unit. They are treated as income. Treatment is covered in detail in N.J.A.C. 10:82-4.

2. Exempt resources are those which are not subject to any requirement for liquidation and are not considered in determining an assistance grant. Exempt resources are discussed in detail in N.J.A.C. 10:82-3.2.

3. Potential resources are those resources which are neither exempt nor available to meet the current needs of the eligible unit. The liquidation or conversion of potential resources is a joint responsibility of the CWA and the parent(s) or other payee of assistance granted to the eligible unit.]

10:81-3.38 Liquidation of [potential resources] **non-exempt real property, suits and claims** and transfer of resources

(a) Responsibilities regarding liquidation as required by N.J.A.C. 10:82-3.6 are as follows.

1. CWA responsibilities: The county welfare agency shall:

i. At time of application or when existence of [a resource] **nonexempt real property** becomes known to CWA, inform the parent(s) or other payee of assistance granted to the eligible unit of the obligations relative to [a potential resource,] the need for liquidation and repayment as applicable (see N.J.A.C. 10:81-3.40(c)).

ii. Develop with the parent(s) or other payee of assistance granted to the eligible unit a plan for liquidation [and use of the proceeds].

iii. (No change.)

2. Responsibilities of the eligible unit: Members of the eligible unit shall identify all resources and shall:

i. Develop with the agency a plan for the liquidation of [resources] **nonexempt real property** and repayment as applicable (see N.J.A.C. 10:81-3.40(c)).

ii. (No change.)

(b) Penalties are as follows:

1.-2. (No change.)

3. When [a resource] **nonexempt real property**, subject to liquidation, is disposed of at a price less than that authorized by N.J.A.C. 10:82-3.6 [and 3.7], the difference between the amount received and the authorized price shall be treated as if it was lump sum income in accordance with N.J.A.C. 10:82-4.15. If the disposed resource was applicable to a child, only the child will be ineligible for the period appropriate for an eligible unit of one.

(c) (No change.)

10:81-4.10 Selection of a protective payee

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

(e) **The CWA is required to make protective payments when a parent(s) is disqualified from participation in the AFDC program due to refusal or failure to cooperate with ES/WIN; refusal to accept employment, voluntary cessation of employment, or failure to cooperate with CSP, unless the following applies:**

1. **If, after all reasonable efforts have been made, the CWA is unable to locate a suitable protective payee and prolonging the search may be detrimental to the well being of the children, the CWA is permitted to make payments to the disqualified parent(s) on behalf of the eligible children.**

10:81-7.30 Federal policy for safeguarding information

(a) The Federal Social Security Act requires that a State must provide safeguards which restrict the use of disclosure of

information concerning applicants and recipients to purposes directly connected with the administration of public assistance.

1. Such safeguards shall not apply to the furnishing of recipient address information to State and local law enforcement officers attempting to locate a fugitive felon in accordance with the provisions at N.J.A.C 10:81-7.32.

10:81-7.32 Release of information for purposes other than the administration of public assistance

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

(c) **Release of information regarding fugitive felons: For the purposes of this section a felon is defined as an individual convicted of a crime punishable by death or imprisonment in excess of one year. This includes crimes in New Jersey of the first, second, third and fourth degree.**

1. **The CWA may furnish a State or local law enforcement officer, upon his or her request, with the current address of any recipient under the following conditions:**

i. **The officer furnishes the CWA with such recipient's name and social security number; and**

ii. **Satisfactorily demonstrates that such recipient is a fugitive felon; and**

iii. **That location or apprehension of such felon is within the officer's official duties; and**

iv. **That the request is made in the proper exercise of those duties.**

10:81-8.22 Persons eligible for medical assistance

(a) (No change.)

(b) **Extension of Medicaid benefits: Extended Medicaid benefits shall be provided former AFDC families in accordance with the provisions of this subsection.**

[(b)] 1. [Extension of Medicaid benefits:] When an AFDC-C or -F family loses eligibility for money payment due to increased earnings from or increased hours of employment, Medicaid eligibility continues for a period of four months beginning with the month in which the family is no longer eligible for an AFDC money payment if the following exist:

[1.] i. Such family was eligible for at least three of the six months immediately preceding the month in which the family lost eligibility for an AFDC money payment; and

[2.] ii. So long as a member of the family remains employed.

[Note:] iii. This extension also applies when increased earnings are due to new employment. New members added to the eligible unit during the four month extension period are not included under the extended coverage with the exception of a child born to the family during the four month extension period.

2. **When an AFDC-C family loses eligibility for a money payment as a result (wholly or in part) of the collection of child or spousal support through the Child Support and Paternity process, Medicaid eligibility continues for a period of four calendar months beginning with the month in which such ineligibility begins.**

i. **In order to qualify for this extension of Medicaid benefits, the family must have received and been eligible to receive AFDC-C in at least three of the six months immediately preceding the month in which ineligibility for a money payment begins.**

3. **When an AFDC-C or -F family loses eligibility for AFDC-C or -F because of the four-month limitation on the one-third disregard of earned income or because of the 12-month limitation on the \$30.00 disregard of earned income (see N.J.A.C. 10:82-2.8), Medicaid eligibility continues for a**

period of nine months beginning with the month in which the family is no longer eligible for an AFDC money payment. An additional six months' Medicaid extension shall be provided to families which would be eligible for AFDC if the \$30.00 and one-third disregard of earned income still applied.

i. Families which lost eligibility for AFDC-C or -F between October 1, 1981 and October 1, 1984 because of four-month limitation on the \$30.00 and one-third disregard of earned income are eligible for the nine month Medicaid extension and the additional six month extension from the date of application, provided such family meets the conditions below:

(1) Application for this Medicaid extension must be made by March 31, 1985.

(2) The family demonstrates to the satisfaction of the CWA that, had the \$30.00 and one-third disregard of earned income not been time-limited, that it would have been continuously eligible for AFDC from the time they became ineligible for AFDC.

(3) The family must fully disclose information about any health insurance coverage that the family may have.

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

(a)

DIVISION OF PUBLIC WELFARE

Assistance Standards Handbook AFDC Amendments Required by the Deficit Reduction Act of 1984

Adopted Emergency Amendments and Concurrent Proposal: N.J.A.C. 10:82-1.2, 1.3, 2.3, 2.6, 2.8, 2.13, 2.19, 3.2, 3.6, 3.7, 3.13, 4.1, 4.4, 4.7 and 4.15

Adopted Emergency New Rule and Concurrent Proposal: 10:82-3.14, 4.17, and 5.12

Adopted Emergency Repeal and Concurrent Proposal: 10:82-2.17, 3.3, 3.4 and 3.5

Emergency Adopted: September 21, 1984 by George J. Albanese, Commissioner, Department of Human Services.

Gubernatorial Approval (N.J.S.A. 52:14B-4(c)): September 27, 1984.

Emergency Adoption Filed: September 28, 1984 as R.1984 d.463.

Authority: N.J.S.A. 44:7-6 and 44:10-3 and the Deficit Reduction Act of 1984 (P.L. 98-369).

Emergency Amendment Effective Date: September 28, 1984.

Emergency Amendment Operative Date: October 1, 1984.

Emergency Amendment Expiration Date: November 27, 1984.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Audrey Harris, Director
Division of Public Welfare
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 for re-adoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The re-adopted rule becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

This proposal is known as PRN 1984-577.

The agency emergency adoption and concurrent proposal follows:

Summary

The Deficit Reduction Act (DEFRA) of 1984, P.L. 98-369 passed by Congress and signed into law on July 18, 1984, requires revision of program administration and eligibility rules affecting the Aid to Families with Dependent Children (AFDC) program. The majority of the provisions contained therein become effective October 1, 1984. This emergency adoption amends N.J.A.C. 10:82 in order to implement the necessary AFDC program changes required by the aforementioned public law. Amendment of these rules is essential in order to maintain Federal financial participation in AFDC program expenditures.

The maximum gross income limits at N.J.A.C. 10:82-1.2 and 2.13 are being increased from 150 percent to 185 percent of the need standard. The rules at N.J.A.C. 10:82-2.6 and 4.7 are also being amended to exclude the earned income of full-time students for up to six months in any one calendar year from consideration in the maximum gross income eligibility test. Currently, such income is counted toward this gross income test but is excluded in the benefit calculation. Additionally, DEFRA establishes a disregard of \$50.00 of monthly child support received by the family. This disregard at N.J.A.C. 10:82-4.17 applies in both the eligibility determination and benefit calculation. This first \$50.00 of child support will be passed through to AFDC recipients as disregarded child support (DCS) payments in accordance with the new rule at N.J.A.C. 10:82-5.12.

Currently, regulations at N.J.A.C. 10:82-1.3 and 2.17 do not require that all siblings be included in the eligible unit. Families may exclude from the unit certain family members who have income which might reduce the AFDC benefits, specifically children receiving Social Security benefits or children for whom child support payments are being received. The revision amends N.J.A.C. 10:82-1.3 to provide that the unit applying for or receiving assistance must include the parent(s) and all minor siblings living with the dependent child for whom assistance is sought. As a result of this change, the rule at N.J.A.C. 10:82-2.17 is being repealed as this option to exclude certain children is no longer permitted. This requirement, however, is not applicable to stepbrothers and stepsisters, or to recipients of Supplemental Security Income (SSI) benefits.

In accordance with provisions of the Act, modifications are being made to the earned income disregards. Under existing

rules, the standard work expense disregard for full-time employment is \$75.00, while the work expense disregard for part-time employment (employment of less than 120 hours per month) is \$50.00. The amended rule requires the \$75.00 standard work expense disregard be extended to both full-time and part-time workers. The \$30.00 plus one-third disregard of earnings is presently limited to four months. The amended rule provides that the \$30.00 disregard will be applied for eight additional months from the end of the four consecutive month period for a total of 12 months. This \$30.00 disregard will not be applied again until the wage earner has not been a recipient of AFDC benefits for a period of 12 months. These revisions are reflected in amendments to N.J.A.C. 10:82-2.3, 2.8, and 4.4.

Existing regulations require that all overpayments be recovered regardless of the amount of the overpayment or cost-effectiveness of the recovery. N.J.A.C. 10:82-2.19 is being amended to provide that except in cases of fraud, county welfare agencies (CWAs) may waive recovery of any non-fraud overpayment of less than \$35.00. Additionally, CWAs, while still required to attempt to collect nonfraud overpayments of \$35.00 or more, may elect not to pursue recovery when the cost of further recovery action would exceed the amount to be recovered.

N.J.A.C. 10:82-3.2 is amended to provide for the exclusion of burial plots (limited to one for each member of the eligible unit) and bona fide funeral arrangements, not to exceed \$1,500 equity value, from resources considered in determining AFDC eligibility.

Current rules at N.J.A.C. 10:82-3.3 through 3.7 provide that AFDC eligibility may be established pending disposal of a nonliquid resource, the equity value of which exceeds the resource eligibility limit of \$1,000. Subsequent to the enactment of the Omnibus Budget Reconciliation Act of 1981, the Department of Health and Human Services, through its Regional Office II, advised that all property, liquid or nonliquid, must be counted toward the resource limit and that this Department's long-standing policy was in violation of the Social Security Act. DEFRA provides that eligibility for AFDC may be established pending the liquidation of real property. That Congress specifically addressed the issue of real property, sufficiently demonstrates that Congress concurs with the interpretation previously provided by the Department of Health and Human Services. Therefore, this Department is amending the rules regarding AFDC resource eligibility to allow AFDC payments, pending liquidation of real property only, to the maximum extent authorized in DEFRA.

Under existing regulations at N.J.A.C. 10:82-3.13, legally admitted aliens applying for AFDC are deemed to have income and resources of their sponsors available for three years after the alien's entry into the United States. The deeming provision does not apply to aliens sponsored by agencies or organizations. DEFRA requires that an alien sponsored by a public or private agency is ineligible for public assistance for three years following entry into the country unless the sponsoring agency no longer exists or no longer has the financial ability to meet the alien's needs.

Regulations now allow a parent-minor and child living with the parent-minor's parents to apply for assistance as a separate unit. Such minor's parents would be financially evaluated to determine their capacity to support as legally responsible relatives. DEFRA requires the establishment of a new procedure with regard to the determination of eligibility and benefits for certain parent-minors. The new rule at N.J.A.C. 10:82-3.14 provides that when a parent-minor, living with his

or her parents applies for AFDC as the parent of a needy child, the income of the minor's parents or legal guardians shall be deemed available to the unit in the determination of eligibility and benefit level. This new rule provides necessary definitions and procedures for the deeming of income of parents and guardians of parent-minors. The rules utilized in determining the amount of income available, as prescribed by DEFRA, parallel those used to determine income available to an eligible unit from a stepparent.

Currently, certain working individuals who have children are eligible for earned income credits which can be received as advance payments as part of their paycheck or with the Federal income tax refund at the end of the year. Regulations now require that earned income credits be counted as monthly earned income for AFDC purposes whether or not the recipient has applied for or received such advance payments, if it has been determined that the individual is eligible to receive earned income credits in the tax year. The amendment at N.J.A.C. 10:82-4.1 requires that earned income credits shall only be counted when actually received.

Existing regulations at N.J.A.C. 10:82-4.15 provide that when an eligible unit receives lump-sum income which equals or exceeds the monthly need standard, the lump-sum income is divided by the need standard and the family is ineligible for the number of months resulting from this calculation. The period of ineligibility may only be shortened by a life-threatening circumstance. The rule is being amended to allow that the period of ineligibility may be shortened under the following circumstances: 1) when there is an increase in AFDC standards; 2) if the lump-sum income becomes unavailable for reasons beyond the control of the family members; or 3) if the family incurs, becomes responsible for, and pays medical expenses which offset the amount of the lump-sum income.

Social Impact

In general, most of the AFDC amendments serve to expand benefits to some degree, revise certain program changes instituted by the Omnibus Budget Reconciliation Act of 1981, and promote more efficient administration of the program by giving additional discretion to the State.

As a result of modifications to the gross income test, the earned income disregards, counting of earned income credits (EIC) only when actually received, the time-limited exclusion of earned income of a full-time student from consideration in the maximum income eligibility test, and the disregard of up to the first \$50.00 of monthly child support received on behalf of a child in both the eligibility and benefit calculations, some increase in caseload is anticipated. The increased and expanded disregards will, contingent upon individual family circumstances, generally produce a net increase in the monthly assistance grant for employed persons.

The Department estimates that up to 3,700 cases may be impacted by the \$75.00 standard work expense disregard. Provisions pertaining to the gross income limit, student income and counting of EIC are not expected to have a significant impact on the caseload. Estimates of the number of cases affected by continuation of the \$30.00 disregard are unavailable as this provision will apply to cases losing eligibility for the one-third disregard after October 1, 1984. It is anticipated that the first \$50.00 monthly disregard of child support will result in some increase in caseload. Additionally, the disregarded child support collected on behalf of a family receiving AFDC will be passed through to the family in the form of disregarded child support (DCS) payments, included in the assistance grant.

The area of resource eligibility is being liberalized by providing for additional resource exemptions for burial plots and funeral agreements. DEFRA further stipulates that eligibility for AFDC may be established pending liquidation of non-exempt real property if the family makes a good faith effort to sell and agrees to repay AFDC benefits received pending the liquidation.

Existing Federal policy precludes AFDC eligibility if countable resources exceed the \$1,000 limit, regardless of whether the resource could readily be converted to an expendable form to meet the needs of the family.

The revision limiting the establishment of AFDC entitlement to families whose resources, with the exception of non-exempt real property, are otherwise within program limits will affect an unknown number of applicant families. These families will be required to avail themselves of resources which can be readily liquidated prior to benefit entitlement.

While this rule does not address all circumstances of ownership of excess nonliquid resources, real property is commonly recognized as being time consuming to liquidate. Other non-liquid resources, such as motor vehicles, can generally be liquidated in a matter of days.

It is expected that the incidence of ownership of a motor vehicle, the equity value of which exceeds program standards, is considerably more common than ownership of nonexempt real property. Families in such a circumstance will be ineligible for program participation until such time as their resources are within allowable limits. It is not unreasonable to expect families to avail themselves of accessible resources which can be readily liquidated.

Certain provisions provide for more equitable treatment of individuals under the law; these include the counting of earned income credits only when actually received, requiring that aliens, sponsored by agencies or organizations who were previously exempt from deeming of sponsor's income, are ineligible for three years after entry into the country unless the sponsoring agency no longer exists or no longer has the financial ability to meet the alien's needs, and providing for more flexibility with regard to the circumstances under which a period of ineligibility, due to receipt of lump-sum income, may be shortened. Amendments permitting recovery of non-fraud overpayments of less than \$35.00 be waived, as well as nonfraud overpayments of over \$35.00 when not cost-effective, will reduce the administrative workload of the county agencies and promote more efficient administration of the program.

The requirement that all eligible siblings be in the AFDC eligible unit will reduce or eliminate AFDC benefits for affected families. It will, however, contribute to greater program equity by treating families in like financial circumstances similarly. As many as 1,700 currently eligible families could be affected by this provision.

Approximately 2,900 AFDC cases are headed by parent-minors. The Department is, however, unable to ascertain how many of these minors reside with parents with sufficient income to affect the eligibility or benefit levels of such parent-minors. Affected cases may experience a reduction in or loss of AFDC.

Economic Impact

Because of the diversity of the program revisions and unavailability of appropriate demographic and financial data, an accurate estimate of the net economic impact of this proposal is not possible.

The requirement that all siblings be included in the AFDC eligible unit will result in an estimated initial gross assistance reduction of \$1.9 million. Further reduction is possible contingent on caseload characteristics.

The deeming of parental income to parent-minors residing in the same household will, likewise, result in a reduction of assistance expenditures, but is not, at this time, measurable.

The revision limiting the payment of AFDC to families with excess resources to circumstances in which the excess resource is non-exempt real property, is expected to have little net economic impact.

The increase in the gross income test is estimated to have a maximum caseload impact of 360 new cases. The estimated cost to the State and counties is \$355,000 and \$118,000, respectively, for new cases potentially eligible for AFDC benefits.

The cost of the increased disregard for part-time employment is anticipated to be \$420,000 State share, and \$140,000 county share. Continuation of the \$30.00 disregard is currently estimated to cost the State and county \$410,000 and \$140,000 respectively. These costs reflect the increase in benefits for recipients potentially eligible for these disregards.

The new child support disregard of up to \$50.00 per month per family, which will be passed through to recipients, will have a significant positive economic impact on clients eligible for this disregard and payment. Since the \$50.00 disregard will not be included for purposes of Federal incentive payments, loss of State and county funds is estimated to be \$5,928,000.

Amendments concerning aliens sponsored by agencies, treatment of earned income credits, counting of student income and the recalculation of lump-sum income will have little net economic impact on State and county governments.

Provisions permitting CWAs to waive recovery of nonfraud overpayments when not cost effective will have little net economic impact. Any loss of AFDC assistance recovery should be offset by corresponding savings in administrative costs.

Initially, these changes will result in a temporary increase in the workload of the Department and CWAs when provision of these rules are implemented. Overall, these changes will not have a significant adverse impact on the Department and local agencies administering the AFDC program.

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

10:82-1.2 Schedules of allowances

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

(d) AFDC eligibility shall not exist for any month if the total income of the eligible unit exceeds the amount indicated in Schedule III for the appropriate eligible unit size and program segment. For this purpose, total income shall include all income of the eligible unit (without benefit of the disregards in N.J.A.C. 10:82-4.4 or 4.5) including the income of stepparents and alien sponsors determined available to the eligible unit in [the] N.J.A.C. 10:82-2.9 and 3.13. Total income includes the earned income of the AFDC children **except for earnings disregarded by provisions of N.J.A.C. 10:82-4.7(g)**. Child support payments, **except for the first \$50.00 monthly current child support received on behalf of the eligible unit**, whether received directly by the household or collected through the CSP process, shall be counted in the determination of income. [(s)See N.J.A.C. 10:82-2.13(f) for companion cases]].

1-2. (No change.)

Schedule III
Maximum Income Levels

AFDC-C AFDC-F	Number in Eligible Unit	AFDC-N
\$[221] 272	1	[\$147] 181
[438] 540	2	[293] 361
[578] 712	3	[386] 475
[665] 820	4	[443] 546
[752] 927	5	[501] 618
[839] 1034	6	[560] 690
[926] 1141	7	[617] 760
[1013] 1249	8	[675] 833
[1100] 1356	9	[734] 905
[1187] 1463	10	[791] 975
Add \$[87]107 each person	more than 10	Add \$[58]72 each person

10:82-1.3 Eligible unit; all segments

(a) The eligible unit shall be comprised of those family members who apply for and are eligible to receive public assistance. It shall include one or more eligible children unless such child is a recipient of SSI benefits.

1. The eligible unit shall include any blood-related or adoptive brothers and sisters living in the same household and who are otherwise eligible for AFDC. This requirement does not apply to stepbrothers and stepsisters.

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

10:82-2.3 Noneligible persons in the household

(a) (No change.)

(b) When the natural or adoptive parent is not included in the eligible unit and has earned or unearned income of his [/] or her own, such income, less the parent's per capita share of the allowance standard for the eligible unit with the parent included, shall be applied to the needs of the eligible children, except when such parent is an SSI recipient.

1. For earned income, the net amount to be considered available to the eligible unit shall be determined by deducting only the first \$75.00 [(\$50.00 for part-time employment)] of such income and the actual expenses of child care or care for an incapacitated individual that does not exceed \$160.00 (\$110.00 for part-time employment) per child or individual.

10:82-2.6 Initial eligibility

(a) On all new applications, reapplications, or reopened applications, initial financial eligibility must be established before a determination of the amount of the monthly grant can be made. (For -N segment cases, see N.J.A.C. 10:82-2.11.) For AFDC-C and -F cases, the earned income disregards (see N.J.A.C. 10:82-2.8) apply, except that the disregard of the first \$30.00 of the remaining income plus one-third of the remainder does not apply. If total income equals or exceeds the public assistance allowance, the family is ineligible for assistance.

1. The earned income of a full-time student shall be disregarded in determining initial financial eligibility to the same extent as provided in N.J.A.C. 10:82-4.7(g). The income of a part-time student is not disregarded in determining initial eligibility.

10:82-2.8 Determination of calculated earned income: AFDC-C and -F procedures

(a) From the total gross earnings of each person in the AFDC-C and -F segments, deduct the cost of producing income if self-employed (see N.J.A.C. 10:82-4.3), and proceed as follows:

1. From gross earnings deduct the first \$75.00 [\$50.00 for part-time employment] of such earnings for each employed individual in the eligible unit.

2.-3. (No change.)

4. For a period not exceeding eight months from the end of the four consecutive months of the \$30.00 plus one-third of the remainder disregard, a deduction of the first \$30.00 of the remaining income shall be applied.

i. Upon expiration of the eight-month period, this deduction shall not be applied again so long as the wage earner is a recipient of AFDC-C or -F benefits. This deduction will again be applied after the eight-month period only after the wage earner has not been a recipient of AFDC-C or -F benefits for a period of 12 consecutive months.

[4.] 5. (No change in text.)

10:82-2.13 Companion cases

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

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

Maximum Income Level-Per Capita Table
Number in -C or -F Segment

Total Eligible Unit	1	2	3	4	5	6	7	8	9
2	[219]270								
3	[193]237	[385]475							
4	[166]205	[333]410	[499]615						
5	[150]185	[301]371	[451]556	[602]742					
6	[140]172	[280]345	[419]517	[559]689	[699]862				
7	[132]163	[265]326	[397]489	[529]652	[661]815	[794]978			
8	[127]156	[253]312	[380]468	[507]625	[633]781	[760]937	[886]1093		
9	[122]151	[244]301	[367]452	[489]603	[611]753	[733]904	[856]1055	[978]1205	
10	[119]146	[237]293	[356]439	[475]585	[594]732	[712]878	[831]1024	[950]1170	[1078]1317

Number in -N Segment

Total Eligible Unit	1	2	3	4	5	6	7	8	9
2	[147]181								
3	[129]158	[257]317							
4	[111]137	[222]273	[332]401						
5	[100]124	[200]247	[301]371	[401]494					
6	[93]115	[187]230	[280]345	[373]460	[467]575				
7	[88]109	[176]217	[264]326	[353]434	[441]543	[529]651			
8	[84]104	[169]208	[253]312	[338]417	[422]521	[506]625	[591]729		
9	[82]101	[163]201	[245]302	[326]402	[408]503	[489]603	[571]704	[652]804	
10	[79]98	[158]195	[237]293	[316]390	[396]488	[475]585	[554]683	[633]780	[712]878

10:82-2.17 [Income legally designated for a specific individual] (Reserved)

[(a) Monies legally designated for the exclusive use and benefit of a specific individual in the eligible unit, currently identified as only Social Security benefits received on behalf of a child, or court ordered support payments, shall normally be recognized as income to that individual only.]

(b) Such child has the following options, the advantages and disadvantages of which should be thoroughly discussed with his/her parent(s), and the parent's decision accepted.

EMERGENCY ADOPTIONS

HUMAN SERVICES

The parent may choose that:

1. The child be included as a member of the eligible unit, with all income recognized as income to the eligible unit and with eligibility for Medicaid; or

2. The child be excluded from the eligible unit. Under this option, he/she is not eligible for either assistance or Medicaid. However, this child must be considered as an LRR to his/her parent(s).]

10:82-2.19 Overpayments and underpayments

(a) Upon discovery of an overpayment, the CWA shall take action as outlined in (a) of this section. The CWA shall seek recovery of all overpayments regardless of fault including overpayments caused by administrative action or inaction.

1.-2. (No change.)

3. In the circumstances of an overpayment to an eligible unit which is currently receiving assistance (**including recipients whose overpayment occurred during a prior period of eligibility**), the amount may be repaid by the eligible unit or the grant shall be reduced by an amount which is equal to 10 percent of the appropriate allowance standard for the family size. The AFDC grant shall be reduced by this amount until such time as the full amount of the overpayment is recovered. If the grant is reduced to zero because of recovery, the eligible unit will continue to be considered in receipt of AFDC benefits. If the amount payable because of recovery is less than \$10.00, the AFDC check shall be issued in that lesser amount.

i. (No change.)

4.-6. See proposal at 16 N.J.R. 2055(a).

7.-9. (No change.)

10. The CWA may waive recovery of overpayments if the eligible unit is no longer receiving AFDC and the amount overpaid is less than \$35.00. When the amount of the overpayment to an eligible unit no longer receiving AFDC is \$35.00 or more, the CWA may waive the recovery of the overpayment, if after a reasonable effort to recover the overpayment, the CWA determines it is no longer cost-effective to continue recovery efforts. Recovery of overpayments due to fraud may not be waived regardless of the amount of overpayment.

i. Reasonable efforts to recover an overpayment include, at a minimum, written notification of the amount of and reason for the overpayment and that repayment is required.

ii. All circumstances concerning a waiver of recovery must be fully documented in the case record.

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

10:82-3.2 Exempt resources

(a) (No change.)

(b) The exempt resources are as follows[.]:

1.-10. See proposal at 16 N.J.R. 486(a).

11. Burial plots and funeral agreements: Burial plots (limited to one for each member of the eligible unit) and bona fide funeral agreements to the extent that the equity value of any agreement does not exceed \$1,500 for each member of the eligible unit.

i. Burial plots are conventional gravesites, crypts, mausoleums, urns or other repositories which are customarily and traditionally used for the remains of deceased persons.

ii. Funeral agreements are contractual arrangements to provide for the costs connected with burial, cremation, or other funeral arrangements.

10:82-3.3 [Potential resources defined] (Reserved)

[Potential resources are resources which are neither exempt nor currently available for expendable use.]

10:82-3.4 [Principles affecting potential resources] (Reserved)

[(a) When total countable equity value of all nonliquid resources exceeds \$1,000, eligibility for AFDC is contingent on the development and fulfillment of a plan of liquidation of potential resources. Liquidation or conversion of potential resources shall be undertaken and completed as promptly as the nature of the resource and the circumstances permit. Such liquidation or conversion to an expendable form creates available income as defined in N.J.A.C. 10:82-4.1(a), and the agency shall take prompt and appropriate action to redetermine eligibility or adjust the payment as indicated.

(b) If a member of an eligible unit willfully fails or refuses, within a period of 30 days after being requested in writing, to consent to or to take any action necessary in connection with a plan for liquidation, ineligibility shall be determined in accordance with N.J.A.C. 10:81-3.38(b).]

10:82-3.5 [Responsibilities regarding potential resources] (Reserved)

[(a) The county welfare agency shall:

1. Inform the member(s) of the eligible unit at the time of application or as promptly thereafter as possible that all potential resources must be liquidated;

2. Develop with the member(s) of the eligible unit a plan for the liquidation of resources and for the use of the proceeds; and

3. Assist in carrying out the plan.

(b) Members of the eligible unit shall:

1. Develop with the agency a plan for the liquidation of resources and for the use of the proceeds; and

2. Consent to and cooperate in carrying out the plan.]

10:82-3.6 Liquidation of nonexempt real property

[(a) The eligible unit shall be required to offer real property, other than that which is exempt, for sale at an asking price named by the unit but not lower than the price set by an independent appraisal paid for by the CWA.

(b) The eligible unit shall be required to sell such property within a period of six months at the highest offer, provided such offer is not less than the independent appraisal.

(c) Whenever the eligible unit presents evidence that such property cannot be sold, or that all efforts have failed to provide a buyer who is willing to buy the property at the appraisal price, the property must be reevaluated.

(d) If the eligible unit has used reasonable diligence in seeking a purchaser and is unable to sell the property at any price, such property may be evaluated as having no present substantive value, pending any change which might give value to the property.

(e) If encumbrances against the property, plus the cost of sale, equal or exceed the price at which it can be sold, the property need not be considered as a potential resource.]

(a) If the eligible unit owns nonexempt real property, the equity value of which causes resource ineligibility, AFDC may be payable pending its liquidation.

(b) Liquidation of the real property shall be undertaken and completed promptly and in no event may it exceed a nine-month period. If the liquidation has not occurred within nine months, the case is ineligible until such time as equity value of resources are within allowable limits.

(c) In accordance with N.J.A.C. 10:81-3.40(c), the CWA shall require that an Agreement to Repay (Form PA-10D) be signed. Net proceeds from the sale of the real property shall be used to reimburse the CWA for assistance paid during the disposal period. The amount to be repaid shall be the amount

of assistance granted or the amount by which the net proceeds (together with all other countable resources) exceed the resource limit, whichever is less. Any proceeds remaining following reimbursement to the CWA shall be considered a resource.

(d) AFDC payments during a period of ineligibility are contingent upon a good faith effort to liquidate the property. If a member of an eligible unit willfully fails or refuses, within a period of 30 days after being requested in writing, to consent to or to take any action necessary in connection with a plan for liquidation, the family is ineligible for assistance.

(e) If the family becomes ineligible for AFDC during the period of liquidation or if liquidation does not occur within the nine-month period, all assistance paid during the period are overpayments and must be recovered in accordance with N.J.A.C. 10:82-2.19.

(f) The county welfare agency shall:

1. Inform the member(s) of the eligible unit at the time of application or as promptly thereafter as possible that the nonexempt real property must be liquidated;

2. Develop with the member(s) of the eligible unit a plan for the liquidation of the real property; and,

3. Assist in carrying out the plan.

(g) Members of the eligible unit shall:

1. Develop with the agency a plan for the liquidation of the real property;

2. Consent to and cooperate in carrying out the plan; and,

3. Offer the real property for sale at an asking price named by the eligible unit but not lower than the price set by an independent appraisal paid for by the CWA.

(h) Whenever the eligible unit presents evidence that such property cannot be sold, or that all efforts have failed to locate a buyer who is willing to buy the property at the appraisal price, the property must be reevaluated.

10:82-3.7 [Liquidation of personal property] Suits and Claims

[(a) Liquidation of personal property which is not exempt shall be handled in such a way as to assure the highest net revenue. The CWA and the eligible unit may use such methods as are appropriate and mutually agreeable in determining an acceptable sale price. These include but are not necessarily limited to: professional appraisal, competitive bids and public auction.

1. Automobiles subject to liquidation shall be sold at or above the higher of two or more bids from reputable buyers.

2. Securities, stocks and bonds can usually be liquidated through reputable local brokers at market prices. The holding of such securities in the hope of a higher price is speculation and is not an appropriate activity for either the agency or its clients.

3. Mortgages, notes receivable and other less liquid securities shall be sold as quickly and advantageously as possible.]

[4.] (a) [Suits and claims:] Where a member of the eligible unit is, at time of application, or subsequently becomes, the owner of an interest in a suit or claim arising out of an accident, inheritance or legacy, insurance on the lives of relatives or others, statutory benefits or pensions, unfulfilled contracts or obligations, and so forth, such interests constitute personal property and are [potential resources which must be recognized] subject to the rules governing agreement to repay at N.J.A.C. 10:81-3.40, 3.41, and 3.46.

Renumber i.-iii. as 1.-3. (No change in text.)

10:82-3.13 Deeming of sponsor's income and resources to a sponsored alien

(a) The income and resources of an alien's sponsor shall be deemed to be unearned income and resources of an alien applying for AFDC for the first time after September 30, 1981 for a period of three years following the alien's entry into the United States. For purposes of this section, a sponsor is an individual, [(not an organization)] a public or private agency or organization who executed an affidavit of support or similar agreement on behalf of an alien (who is not the sponsor's dependent child or spouse) as a condition of the alien's entry into the United States. No income or resources shall be deemed from a sponsor who is (or whose spouse is) receiving AFDC or SSI.

1. (No change.)

2. Any alien subject to these deeming provisions who was sponsored by a public or private agency or organization shall be ineligible for public assistance for a period of three years following his or her entry into the United States unless the agency no longer exists or has been declared bankrupt by a court of appropriate jurisdiction.

(b)-(f) (No change.)

(g) Any individual sponsor of an alien, and the alien, shall be jointly and severally, liable for any overpayment of AFDC made to the alien during the three years after the alien's entry into the United States that was caused by the sponsor's failure to provide correct information under the provisions of this section, except where the sponsor was without fault or where good cause existed.

1. (No change.)

10:82-3.14 Deeming income of parents and guardians of parent-minors

(a) A parent-minor is an individual under the age of 19 and who is himself or herself a parent of a dependent child.

(b) When a parent-minor lives in the same home as his or her own parent(s) or legal guardian(s), the income of such parent(s) or legal guardian(s) shall be considered available to the eligible unit in accordance with the following procedures. These rules do not apply if the parent(s) or guardian(s) receive(s) SSI or AFDC. For the purposes of this section, the term parent shall include legal guardian.

1. Reduce the gross earned income (and net income from self-employment) of each employed parent by \$75.00 (\$50.00 for part-time employment).

2. Add the result to the unearned income of the parent(s).

3. Further reduce the remaining income by the appropriate amount in Schedule I (N.J.A.C. 10:82-1.2) for the parent(s) and any other individuals residing in the household who are or could be claimed by the stepparent as dependents for Federal personal income tax liability and who are not recipients of AFDC-C or -F.

4. The remaining income shall be further reduced by amounts paid by the parent(s) to individuals not living in the household who are or could be claimed by him or her as dependents for purposes of determining his or her Federal personal income tax liability.

5. Any income remaining shall be reduced by any amounts paid by the parent(s) as alimony or child support to individuals not living in the household.

6. All income remaining shall be counted as unearned income available to the eligible unit and shall be counted toward total income (N.J.A.C. 10:82-1.2(d)) and in the determination of grant amount.

(c) If the parent-minor does not live in the same home as his or her parents, the legally responsible relative provisions of N.J.A.C. 10:82-3.8 apply.

10:82-4.1 General provisions

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

(c) Earned income shall include the amount of Earned Income Credit [advance] payment which an individual receives [or is entitled to receive].

1. If an individual applying for or receiving AFDC has on file with [his/her] **his or her** employer an Earned Income Advance Payment Certificate (Form W-5) for the current tax year, and is in fact receiving the advance payments, the CWA shall include that amount as earned income of the individual in the month received.

2. When an individual who is eligible to receive advance payments of earned income tax credit has made all possible efforts to receive the advance payments but does not receive them, because of the refusal of the employer to issue them, the CWA shall not count the amount as earned income.

3. If an individual applying for or receiving AFDC has earned income but has not filed with his/her employer a Form W-5, the CWA shall include as earned income the advance payment that would be payable upon filing the certificate. The CWA, in order to count the advance payment not actually received, must be reasonably certain that the individual will be eligible to claim the earned income credit on his/her Federal income tax return for that taxable year. That determination shall be made in accordance with the criteria contained in IRS Publication 15 (Circular E; Employers Tax Guide). The amount of earned income credit to be counted shall be determined by consulting the tables in that publication and making any adjustments under which an employer may reduce the amount of advance payment.]

[4.] 2. (No change in text.)

[5.] 3. (No change in text.)

10:82-4.4 Disregard of earned income in AFDC-C and -F segments

(a) The CWA shall disregard from the earned income of each employed individual, the first \$75.00 [(\$50.00 for part-time employment)] of such earnings.

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

(d) For a period not exceeding eight months from the end of the four consecutive months of the \$30.00 plus one-third of the remainder disregard, a deduction of the first \$30.00 of the remaining income shall be applied.

1. **Upon expiration of the eight-month period this deduction shall not be applied again so long as the wage earner is a recipient of AFDC-C or -F benefits. This deduction will again be applied after the eight-month period only after the wage earner has not been a recipient of AFDC-C or -F benefits for a period of 12 consecutive months.**

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

10:82-4.7 Earned income of a child who is a full or part-time student

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

(f) The exemption of **earned income of part-time students** under this section does not apply in determining maximum income eligibility in N.J.A.C. 10:82-1.2.

(g) The earned income of a full-time student shall be disregarded in the determination of maximum income eligibility (N.J.A.C. 10:82-1.2) for a total of six months in any one calendar year.

10:82-4.15 Irregular or nonrecurring lump sum income

(a) When a recipient receives nonrecurring income (e.g., retroactive RSDI payments, income tax refunds), that income will be added together with all other income received that month by the eligible unit after application of the disregards in N.J.A.C. 10:82-2.8 and 2.12 and the exemption of income in N.J.A.C. 10:82-4.7. When this total exceeds the AFDC allowance standards in Tables I or II as appropriate, the family will be ineligible for AFDC for the number of full months derived by dividing this total income by the allowance standard applicable to the eligible unit. Any remaining income from this calculation is treated as if it is unearned income received in the first month following the period of ineligibility and is considered available for use at that time.

1.-4. (No change.)

5. [The period of ineligibility may be reduced only when it is found that a life-threatening circumstance exists. The basis for a determination to shorten the period of ineligibility shall be thoroughly documented in the case record. The period of ineligibility shall not be shortened unless the following criteria are met:

i. Until the onset of the life-threatening circumstance, the lump sum income must have been used to meet essential family needs; and

ii. The eligible unit must have no other income or resources sufficient to meet the life-threatening circumstance.]

Once established, the period of ineligibility may be reduced only in the circumstances below. It is the responsibility of the former eligible unit to provide all necessary information and documentation required to make a determination to shorten the period of ineligibility. The basis for a determination to shorten the period of ineligibility shall be thoroughly documented in the case record.

i. **The period of ineligibility may be recalculated when AFDC allowance standards are increased. Upon request of a former AFDC eligible unit, the period of ineligibility will be reduced as follows:**

(1) **The number of months of ineligibility already elapsed shall be multiplied by the allowance standard used to compute the original period of ineligibility;**

(2) **The result shall be subtracted from the original lump sum amount; and;**

(3) **The remaining amount shall be divided by the new AFDC allowance standard and the result will be the number of months of ineligibility remaining.**

ii. **The period of ineligibility may be recalculated if the income used to determine such period becomes unavailable to the eligible unit for reasons beyond the control of the unit members. Acceptable reasons are limited to those below:**

(1) **Loss or theft of the income: The former eligible unit shall thoroughly substantiate an allegation of loss or theft of part or all of the lump sum income and must provide the CWA with evidence that a police report of an incident of theft has been filed. Upon receipt of credible evidence of loss or theft of the income the CWA shall reduce the amount of the original lump sum by the amount of the loss or theft. Loss of the income, for the purposes of this section, shall include circumstances where a member of the former eligible unit has absconded with the funds.**

(2) **Fire, flood, or other natural disaster: When the former eligible unit incurs and pays verifiable expenses due to an emergent situation, for which, had the family been eligible, emergency assistance would have been authorized under N.J.A.C. 10:82-5.10, those expenses shall reduce the amount of the original lump sum.**

iii. The period of ineligibility may be reduced if the family incurs and pays medical expenses. In such cases the original income used to compute the period of ineligibility shall be offset by verified medical expenditures. For this purpose, allowable medical expenses are as follows:

(1) **Medical and dental care:** Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by State law or other qualified health professional;

(2) **Hospitalization:** Hospitalization or outpatient treatment, nursing care, and nursing home care, including payments by the household for an individual who was an eligible unit member immediately prior to entering a hospital or nursing home, provided by a facility recognized by the State;

(3) **Prescription drugs:** Prescription drugs when prescribed by a licensed practitioner authorized under State law and other over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional; in addition, costs of medical supplies, sick-room equipment (including rental) or other prescribed equipment;

(4) **Health and hospital insurance:** Health and hospitalization insurance policy premiums;

(5) **Medicare premiums:** Medicare premiums related to coverage under Title XVIII of the Social Security Act;

(6) **Dentures, hearing aids, and prosthetics:** Dentures, hearing aids, and prosthetics;

(7) **Seeing eye or hearing dog:** Securing and maintaining a seeing eye or hearing dog including the cost of dog food and veterinarian bills;

(8) **Eye glasses:** Eye glasses prescribed by a physician skilled in eye disease or by an optometrist;

(9) **Transportation and lodging:** Reasonable cost of transportation and lodging to obtain medical treatment or services; and,

(10) **Attendant care:** Maintaining an attendant, homemaker, home health aide, housekeeper, or child care services, necessary because of age, infirmity, or illness.

(b) (No change.)

10:82-4.17 Child support received by the eligible unit

The first \$50.00 of any child support payments received on behalf of a dependent child or children by any family applying for or receiving AFDC shall be disregarded (including disregarded child support (DCS) payments paid the family through the child support and paternity process). These monies are disregarded in determination of maximum income eligibility, initial eligibility, and the grant computation.

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

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

(a)

DIVISION OF PUBLIC WELFARE

Food Stamp Program Revised Income Deductions, Utility Allowances, Uniform Telephone Allowance and Maximum Coupon Allotments

Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 10:87-12.1 and 12.2

Emergency Amendment Adopted: September 21, 1984, by George J. Albanese, Commissioner, Department of Human Services.

Gubernatorial Approval (N.J.S.A. 52:14B-4(c)): September 24, 1984.

Emergency Adoption Filed: September 28, 1984 as R.1984 d.465.

Authority: N.J.S.A. 30:4B-2; the Food Stamp Act of 1977 as amended; 7 CFR 273.9(d)(6), (7), and (8); and 7 CFR 273.10(e)(4).

Emergency Amendment Effective Date: September 28, 1984.

Emergency Amendment Operative Date: October 1, 1984.

Emergency Amendment Expiration Date: November 27, 1984.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Audrey Harris, Director
Division of Public Welfare
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 for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted rule becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

This proposal is known as PRN 1984-579.

EMERGENCY ADOPTIONS

HUMAN SERVICES

The agency emergency adoption and concurrent proposal follows:

Summary

The Department of Human Services is required by the Food Stamp Act of 1977, as amended and Federal regulations to revise maximum coupon allotments (7 CFR 273.10(e)(4)) and increase the standard deduction (7 CFR 273.9(d)(7)) and dependent care/shelter deduction (7 CFR 273.9(d)(8)) to reflect the annual Federal adjustment of these amounts which takes into account changes in the cost of living. Additionally, the Department is updating the uniform telephone allowance to \$9.89 and adjusting the utility allowances (7 CFR 273.9(d)(6)) to reflect increases in the cost of services, fuel and utilities. The heating utility allowance (HUA), which can be utilized by households who are responsible for their heating costs, is \$191.00. The standard utility allowance (SUA), which is for use by households that are not responsible for their heating costs but who are responsible for a major utility expense, is \$114.00. These are annualized amounts and will be effective through September 1985.

Social Impact

The increase in the standard deduction, dependent care/shelter deduction, uniform telephone allowance, utility standards and increase in maximum coupon allotments will result in an increase in the amount of Food Stamp benefits households are entitled to receive.

Both the annualized SUA and HUA are being amended to reflect increases in the cost of fuels and utilities. It should be noted that households having utility expenses in excess of the SUA or HUA may elect to have actual expenses used in the eligibility and benefit computation.

Economic Impact

The net effect of the increase in the standard deduction, dependent care/shelter deduction, uniform telephone allowance, utility standards and maximum coupon allotments will be an increase in benefits for Food Stamp recipients.

These changes will not have a significant adverse impact on the Department and local agencies administering the program but may bring some additional Federal funds into the State for those households participating in this federally funded program.

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

10:87-12.1 Income deduction table

TABLE I

Income Deductions

Standard Deduction	[\$ 89.00] \$ 95.00
Dependent Care/Shelter Deduction	[\$125.00] \$134.00
Uniform Telephone Allowance	[\$ 8.51] \$ 9.89
Standard Utility Allowance	[\$102.00] \$114.00
Heating Utility Allowance	[\$172.00] \$191.00

10:87-12.2 Maximum coupon allotment table

TABLE II

Maximum Coupon Allotment (MCA)

Household Size	MCA
1	\$ [76] 78
2	[139] 143
3	[199] 206
4	[253] 261
5	[301] 310
6	[361] 373
7	[399] 412
8	[457] 471
9	[514] 530
10	[571] 589
Each Additional Member	[+ 57] + 59

(a)

DIVISION OF PUBLIC WELFARE

Medicaid Only Program Eligibility Computation Amounts

Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 10:94-5.5 and 5.6

Emergency Amendment Adopted: September 21, 1984 by George J. Albanese, Commissioner, Department of Human Services.
 Gubernatorial Approval (N.J.S.A. 52:14B-4(c)): September 24, 1984.
 Emergency Adoption Filed: September 28, 1984 as R.1984 d.467.

Authority: N.J.S.A. 44:7-87 and Section 1902(a) of the Social Security Act.

Emergency Amendment Effective Date: September 28, 1984.
 Emergency Amendment Operative Date: October 1, 1984.
 Emergency Amendment Expiration Date: November 27, 1984.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November

HUMAN SERVICES

14, 1984. These submissions and any inquiries about submissions and responses, should be addressed to:

Audrey Harris, Director
 Division of Public Welfare
 CN 716
 Trenton, NJ 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 for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted rule becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

This proposal is known as PRN 1984-581.

The agency emergency adoption and concurrent proposal follows:

Summary

These amendments align certain dollar amounts used to determine program eligibility for the Medicaid Only program for the aged, blind, and disabled with those, effective October 1, 1984, applicable to the Supplemental Security Income (SSI) program. Section 1902(a) of the Social Security Act requires that Medicaid Only eligibility criteria be determined by the same criteria as applies in the SSI program. This revision must be implemented, effective October 1, 1984, to maintain compliance with Federal law.

Social Impact

The small increase in standards and income computation amounts used in the eligibility process theoretically expands the population of potentially eligible persons. However, based on past experience, little increase in caseload because of this revision is anticipated.

Economic Impact

Past experience with such increases in standards have evidenced little economic impact. This change will not impact significantly on administrative functions of the Department or the county welfare agencies administering the program. Recipients eligible under this program will benefit from the increased amounts.

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

10:94-5.5 Deeming of income

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

(d) A table for deeming computation amounts follows:

TABLE A
 Deeming Computation Amounts

1. Living allowance for each ineligible child	\$158.00	
2. Remaining income amount	Head of Household \$157.00	Receiving Support and Maintenance \$104.67
3. Spouse to Spouse Deeming-Eligibility Levels		
a. Residential Health Care Facility	[619.97]	622.05

EMERGENCY ADOPTIONS

b. Eligible individual living alone with ineligible spouse	\$[652.28]	654.36
c. Living alone or with others	\$[501.17]	503.25
d. Living in household of another	\$[356.90]	358.98
4. Parental Allowance—Deeming to Child(ren)		
Remaining income is:	1 Parent	Parent & Spouse of Parent
a. Earned only	\$628.00	\$944.00
b. Unearned only	\$314.00	\$472.00
c. Both earned and unearned	\$314.00	\$472.00

10:94-5.6 Income eligibility standards

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

(c) (No change.)

1.-4. (No change.)

5. Table B follows:

TABLE B

Variations in Living Arrangements	Medicaid Eligibility Income Standards	
	Individual	Couple
I. Residential Health Care Facility	\$[461.97] 464.05	\$[907.28] 909.36
II. Living Alone or with Others	[343.17] 345.25	[495.28] 497.36
III. Living Alone with Ineligible Spouse	[495.28] 497.36	
IV. Living in Household of Another	[251.57] 253.65	[405.68] 407.76
V. Title XIX Approved Facility: Includes persons in acute general hospitals, skilled nursing facilities, intermediate care facilities (level A, B, and ICFMR) and licensed special hospitals (Class A, B, C) and Title XIX psychiatric hospitals (for persons under age 21 and age 65 and over) or a combination of such facilities for a full calendar month.	882.00†	

†Gross income (that is, income prior to any income exclusions) is applied to this Medicaid "Cap".

(a)

DIVISION OF PUBLIC WELFARE

Service Programs for Aged, Blind or Disabled Supplemental Security Income Payment Levels

Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 10:100, Appendix A

Emergency Amendment Adopted: September 21, 1984 by George J. Albanese, Commissioner, Department of Human Services.

Gubernatorial Approval (N.J.S.A. 52:14B-4(c)): September 24, 1984.

Emergency Adoption Filed: September 28, 1984 as R.1984 d.466.

EMERGENCY ADOPTIONS

HUMAN SERVICES

Authority: N.J.S.A. 44:7-87.

Emergency Amendment Effective Date: September 28, 1984.

Emergency Amendment Operative Date: October 1, 1984.

Emergency Amendment Expiration Date: November 27, 1984.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before November 14, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Audrey Harris, Director
 Division of Public Welfare
 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 for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted rule becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

This proposal is known as PRN 1984-580.

The agency emergency adoption and concurrent proposal follows:

Summary

The Supplemental Security Income (SSI) payment levels are being amended to reflect the increase in the annual Lifeline benefit amount pursuant to the adoption of the New Jersey Appropriations Act for Fiscal Year 1985. The annual Lifeline benefit amount has been increased from \$200.00 to \$225.00 per household. This increase is being reflected in the special State supplement included in the SSI payment levels, effective October 1, 1984.

Social Impact

The New Jersey Lifeline program provides for the inclusion of a special State utility supplement to recipients of SSI benefits. The supplement, estimated to affect 79,250 households, is intended to help low-income elderly and disabled citizens deal with the rising cost of utilities.

Economic Impact

The increase in State expenditures over existing levels is estimated to be \$1.98 million. This rule will not impact significantly on the Department or county governments as the Supplemental Security Income program is administered by the Social Security Administration. The households eligible to

participate in the Lifeline program will benefit from the increased amount.

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

10:100, Appendix A

The New Jersey Supplemental Security
 Income Payment Levels

Living Arrangement Categories	Payment Level	
	[1/1/84]	10/1/84
Eligible Couple		
Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence	\$50/472.00†	
Residential Health Care Facilities and certain residential facilities for children and adults	[\$907.28]	\$909.36
Living Alone or with Others	[\$495.28]	\$497.36
Living in Household of Another, Receiving Support and Maintenance	[\$405.68]	\$407.76
Eligible Individual		
Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence of 16 or less	\$25/314.00†	
Residential Health Care Facilities and certain residential facilities for children and adults	[\$461.97]	\$464.05
Living Alone or with Others	[\$343.17]	\$345.25
Living with Ineligible Spouse (No other individuals in household)	[\$495.28]	\$497.36
Living in Household of Another, Receiving Support and Maintenance	[\$251.57]	\$253.65

† 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.

MISCELLANEOUS NOTICES**ENVIRONMENTAL PROTECTION****HEALTH****(a)****HAZARDOUS WASTE FACILITIES
SITING COMMISSION****New Jersey Hazardous Waste Facilities Plan****Public Hearings**

Take notice that pursuant to the "Major Hazardous Waste Facilities Siting Act", N.J.S.A. 13:1E-49 et seq., the New Jersey Hazardous Waste Facilities Siting Commission will hold public hearings as follows:

Monday, October 22, 1984
10:00 A.M. - 2:00 P.M.
Hughes Justice Complex, 4th Floor-West Wing
Conference Room A
Market Street, Trenton, New Jersey

Tuesday, October 23, 1984
7:00 P.M. - 11:00 P.M.
Woodbury High School, Auditorium
25 North Broad Street
Woodbury, New Jersey

Thursday, October 25, 1984
7:00 P.M. - 11:00 P.M.
Union County College, Main Auditorium
1033 Springfield Avenue, Cranford, New Jersey

The purpose of the hearings will be to receive public comments on the Commission's Draft Hazardous Waste Facilities Plan. The purpose of the Plan is to define the State's need for commercial treatment, storage, and disposal facilities for the next three to five years. The Plan represents a comprehensive analysis of New Jersey's waste management practices. Waste generation patterns and expected growth of New Jersey's industrial base were examined along with the existing and anticipated capacity and capabilities of commercial facilities. The Plan compares forecasts of future manifested waste relative to the anticipated available facility capacity to determine the number and types of facilities New Jersey will need to insure proper hazardous waste management.

Copies of the Plan are available at all County Planning Board Offices, libraries in the State depository system, or from the Commission at 28 West State Street, Room 614, Trenton, New Jersey. For additional information on hearing confirmations, please call (609) 292-1459.

(b)**HOSPITAL REIMBURSEMENT****N.J.A.C. 8:31B-3.19, Patient Care Cost
Findings: Direct Costs per Case, Physician
and Non-physician
Implementation Date Change
Footnote for RIM Methodology for Nursing
Cost Allocation**

Authorized By: J. Richard Goldstein, M.D., Commissioner, Department of Health (with the approval of the Health Care Administration Board).

Authority: N.J.S.A. 26:2H-1, et seq., specifically at 26:2H-5b and 26:2H-18d.

Take notice that N.J.A.C. 8:31B-3.19, footnotes 1 and 2 are amended to read as follows:

¹ Patient days will be employed as the Measures of Resource Use to allocate MSA, PED, PSA, and OBS nursing costs until [1985] **1986**, at which time Relative Intensity Measures (RIMs) for Case-mix Nursing Performance Study will be used. A RIM is a Measure of Resource Use which is derived from nursing activity, and is used to distribute reported general nursing costs based upon the relationship between nursing activity and costs. While patient days are used, the MSA, PED, PSA, OBS centers will be combined into ACU and ICU, CCU and BCU will be combined into ICU. All other routine centers will remain as above. Effective [1985] **1986**, patients that are cared for in the ICU, CCU, or NNI will have the Special Care Unit Days used as the cost calculation for Measure of Resource Use for the Length of Stay (LOS) in the Special Care Unit and the appropriate Relative Intensity Measure (RIM) equation will be utilized for all additional days.

² Effective [1985] **1986**, Patient Specific Attributes, as identified in Appendix X will replace the total LOS statistics. These characteristics captured from Uniform Bills-Patient Summaries include clinical characteristics and Length of Stay which have been demonstrated by research to account for variations in the consumption of nursing activity.

³ Inpatient clinic visits shall be treated as separate outpatient clinic visits.

The date of implementation change for the Relative Intensity Measures (RIMs) Methodology is in response to the industry's need for additional time to make appropriate changes in the patient billing procedure, charge structure and other modifications that may be necessary.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF MOTOR VEHICLES

Bulk Commodities Application

Public Notice

Take notice that Clifford W. Snedeker, Director, Division of Motor Vehicles pursuant to the authority of N.J.S.A. 39:5E.11, hereby lists the name and address of the applicant who has filed an application for a contract carrier's Certificate of Public Convenience and Necessity.

CONTRACT CARRIER
(NON-GRANDFATHER)
Gary's Trucking
1 Fifth Avenue
Avenel, New Jersey 07001

Protests in writing and verified under oath may be presented by interested parties to the Director of Motor Vehicles within 20 days following the publication date of this application.

PUBLIC UTILITIES

(b)

OFFICE OF CABLE TELEVISION

Common Tariff Rate Schedule Pursuant to N.J.A.C. 14:17-18.1

On September 11, 1984, the Board of Public Utilities adopted a new schedule of cable television common tariff rates pursuant to its previous order of September 19, 1983, in Docket No. 832C-6969 and N.J.A.C. 14:17-18. The schedule may be implemented by eligible cable television systems beginning January 1, 1985, provided the 60 day notice and other requirements of N.J.A.C. 14:17-18.1 through 18.5 have been met.

Certain provisions of the Common Tariff rules are rendered superfluous by the Board's order, for example, definitions under 14:17-18.1 and N.J.A.C. 14:17-18.2(a)(1) and (2), and 14:17-18.3(a)(1) and (2). The Board has suspended enforcement such provisions pending amendment of the rule.

The Office of Cable Television shall regularly hold a service hearing each month in a different location for subscriber input regarding rates and services. Any interested person or agency may participate. For further information contact:

Bernard R. Morris, Director
Office of Cable Television
1100 Raymond Blvd.
Newark, NJ 07102
(201) 648-2670

The following schedule, terms and conditions shall be an Appendix to the common tariff rules (see N.J.A.C. 14:17-18).

The following schedule replaces Appendix I in the New Jersey Administrative Code.

Under the schedule adopted herein, the common tariff maximum rates shall be:

Service Level	First Year	Second Year	Third Year
Level I 12 or less channels	\$8.00	\$8.25	\$8.50
Level II More than 12 channels	\$9.25	\$9.50	\$9.75
Level III Maximum for each discretionary channel beyond FCC must carries	25¢ each until LEVEL IV	25¢ each until LEVEL IV	25¢ each until LEVEL IV
Level IV Maximum total for all basic channels	\$11.50	\$12.25	\$13.00
Additional TV, VCR, FM outlets, or other ancillary equipment	2.75	3.00	3.25
Additional Converters	1.00	1.00	1.00
VCR and other Ancillary Equipment (no external splitting of signal)	N/C	N/C	N/C

The following charges, shall apply to all levels:

1. The maximum charges for ancillary services shall be:

Installation/Relocation

Residential (Standard only) \$40.00, installation or relocation of primary set; \$5.00 FM/Additional outlets, etc. on same order; \$15.00 VCR or ancillary equipment on same call. Primary set charge is \$20.00 for installation only if there is pre-existing drop wiring.

Commercial Time and material as established in approved tariff, filed in accordance with the rules of the OCTV; prorated on basis of actual time spent.

Reconnection and/or \$30.00 Primary Set; \$5.00

Subsequent Installation FM/Additional Outlets etc.

Unnecessary trip charge \$20.00 as defined below

2. Basic monthly service to commercial establishments shall be charged at the same rate as residential primary service for each set. Installation shall be based on pro-rated time cost of loaded labor and material, as filed in accordance with the rules of the Office of Cable Television. Hotel/Motel rates shall be the subject of separately filed tariffs.

3. Converter rentals are included in the schedule of maximum rates for the first set in levels I-IV. Converters for additional sets may be rented at no more than \$1.00 per additional set. However, converters are not mandatory for additional outlets per FCC policy.

4. Must carry channels are those broadcast stations whose signal a given system is required to carry pursuant to 47 C.F.R. 76.51 et seq. (Subpart D), as amended.

5. Level III rates apply to both imported distant broadcast signal and satellite cable channels which are offered as part of the system's basic service package. Access and local origination channels required in the franchise are not includable. A jointly used channel combining different programming services may be counted only once. It does not apply to unused channels, and leased channels, and alpha numeric channels.

6. A tariffed unnecessary trip charge shall be allowable for all unnecessary service calls as defined herein. An unnecessary service call is one where the problem is not due to the facilities or services provided by the company. There shall be no charge imposed for the first such call to each subscriber, unless the call is related to failure caused by subscriber installed ancillary equipment or defective subscriber owned ancillary equipment. If the company advises the subscriber in writing that a service call is an unnecessary call, and if the subscriber makes an additional call for service within 1 year of the first service call and if the company again finds that the service call is an unnecessary service call, then the company shall be entitled to charge a maximum of \$20.00 for the additional unnecessary service call.

OTHER AGENCIES

(a)

INTERSTATE SANITATION COMMISSION

Water Quality Regulations

Adopted: September 19, 1984 by Interstate Sanitation Commission.

Filed: October 3, 1984 as R.1984 d.485.

Authority: Tri-State Compact, N.J.S.A. 32:18-1 et seq.

Effective Date: July 1, 1986.

Full text of the adoption follows.

Additions to Sec. 2.05(b) in boldface **thus**:

Sec. 2.05(b). Fecal coliform content shall not exceed 200 per 100 ml on a 30 consecutive day average; 400 per 100 ml on a 7 consecutive day average; and 800 per 100 ml on a 6 consecutive hour average but no sample may contain more than 2400 per 100 ml. **The only portion of the Interstate Sanitation District to which this provision shall not apply at all times is that referred to in Section 3.01(a)(2) hereof. For the aforementioned portion of the District, these disinfection requirements shall apply when disinfection is required to protect the best intended uses of the waters in question. For example, in the case of discharge into waters used primarily for bathing, this bacterial standard need not be required except during the bathing season.**

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

(The research supplement to the New Jersey Administrative Code)

The new Register Index of Rule Proposals and Adoptions combines the original Index of Proposed Rules and Index of Adopted Rules into a single listing published in every Register. In addition to simplifying research of State agency rulemaking, this important step refines the index in substance and form. *Rule adoptions promulgated in this issue already appear in the Index, and all adoptions in subsequent Registers will appear in the Index of the Register of promulgation.* Formerly, adoptions were not entered in the index listing until the month following adoption. This new feature will facilitate rule research by showing you at a glance all adopted rule changes in any rulemaking area since the most recent update to the Administrative Code.

Further improvements in the Index include the definition of key terms and abbreviations and the addition of an N.J.R. Citation Locator. The locator quickly leads you to the text of a proposal or adoption by converting an N.J.R. citation into the date of the Register in which the rule was published.

HOW THE INDEX WORKS

The Register Index of Rule Proposals and Adoptions is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule changes proposed in this issue will be entered in the Index of the next Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule 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 to a given rule, scan the citations above and below that rule to find any entries which might contain related rule adoptions, including the one you are researching.

At the bottom of the index listing for each Administrative Code Title is the date of the latest update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the September 4, 1984 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to timely adopt a proposed rule requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq., as amended and supplemented), implemented through the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(d).

Terms and abbreviations:

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.1984 d.300 means the three hundredth rule adopted in 1984.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A number and date verifying the currency of rules found in each Title of the New Jersey Administrative Code: rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. CITATION LOCATOR

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
15 N.J.R. 1705 and 1784	October 17, 1983	16 N.J.R. 941 and 1130	May 7, 1984
15 N.J.R. 1785 and 1908	November 7, 1983	16 N.J.R. 1131 and 1294	May 21, 1984
15 N.J.R. 1909 and 1972	November 21, 1983	16 N.J.R. 1295 and 1406	June 4, 1984
15 N.J.R. 1973 and 2084	December 5, 1983	16 N.J.R. 1407 and 1634	June 18, 1984
15 N.J.R. 2085 and 2184	December 19, 1983	16 N.J.R. 1635 and 1832	July 2, 1984
16 N.J.R. 1 and 92	January 3, 1984	16 N.J.R. 1833 and 2026	July 16, 1984
16 N.J.R. 93 and 172	January 17, 1984	16 N.J.R. 2027 and 2184	August 6, 1984
16 N.J.R. 173 and 292	February 6, 1984	16 N.J.R. 2185 and 2318	August 20, 1984
16 N.J.R. 293 and 404	February 21, 1984	16 N.J.R. 2319 and 2390	September 4, 1984
16 N.J.R. 405 and 470	March 5, 1984	16 N.J.R. 2391 and 2474	September 17, 1984
16 N.J.R. 471 and 576	March 19, 1984	16 N.J.R. 2475 and 2708	October 1, 1984
16 N.J.R. 577 and 778	April 2, 1984	16 N.J.R. 2709 and 2863	October 15, 1984
16 N.J.R. 779 and 904	April 16, 1984		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:1-1.3	Reaching the merits	15 N.J.R. 1398(a)	Expired	
1:1-2.2	Jurisdiction of OAL	16 N.J.R. 1636(a)	R.1984 d.445	16 N.J.R. 2518(a)
1:1-3.3	Transcripts at public expense for use on appeal	16 N.J.R. 1834(a)	R.1984 d.446	16 N.J.R. 2518(b)
1:1-3.7, 3.12, 3.13	Lay representation in contested cases	16 N.J.R. 1408(a)	R.1984 d.476	16 N.J.R. 2777(a)
1:1-5.2	Notification of second jurisdictional claims	16 N.J.R. 2320(a)		
1:1-12.6	Correction: Standards for participation			16 N.J.R. 2518(c)
1:1-14	Consolidation and predominant interest motions: timing of decision	16 N.J.R. 1413(a)	R.1984 d.386	16 N.J.R. 2354(a)
1:1-17.1	Approving the settlement	15 N.J.R. 1401(a)	Expired	
1:2-2.10	Lay representation in contested cases	16 N.J.R. 1408(a)	R.1984 d.476	16 N.J.R. 2777(a)
1:2-3.4	Motor vehicle surcharge cases: failure to appear at in-person hearing	16 N.J.R. 2186(a)	R.1984 d.462	16 N.J.R. 2780(a)
1:6A-3.1	Special education hearings: emergency relief applications	16 N.J.R. 780(a)		
1:6A-4.2	Lay representation in contested cases	16 N.J.R. 1408(a)	R.1984 d.476	16 N.J.R. 2777(a)
1:6A-5.3	Special education hearings: transfer of record	16 N.J.R. 408(a)		
1:10-17.1	Division of Public Welfare cases	16 N.J.R. 945(a)		

(TRANSMITTAL 6, dated July 16, 1984)

AGRICULTURE—TITLE 2				
2:5-4	Area quarantine for avian influenza (with Emergency Adoption)	15 N.J.R. 2176(a)		
2:52-2.1, 2.2, 3.1, 3.2	Changes in milk suppliers: notice requirements	16 N.J.R. 2028(a)		
2:52-6.1, 6.2, 6.3	Determining the cost of milk and milk products	16 N.J.R. 2030(a)		
2:53-3.2	Determining the cost of milk and milk products	16 N.J.R. 2030(a)		
2:53-4.1, 4.2	Changes in milk suppliers: notice requirements	16 N.J.R. 2028(a)		
2:76-5	Cost-sharing for soil and water conservation projects	16 N.J.R. 1637(a)	R.1984 d.419	16 N.J.R. 2426(a)
2:76-6	Acquisition of development easements	16 N.J.R. 1639(a)	R.1984 d.418	16 N.J.R. 2427(a)
2:90-2	Eligible projects for soil and water conservation cost sharing	16 N.J.R. 1416(a)	R.1984 d.452	16 N.J.R. 2781(a)

(TRANSMITTAL 23, dated July 16, 1984)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
BANKING—TITLE 3				
3:1-1.2	Readopted rules concerning Interest on Other Loans	16 N.J.R. 1642(a)	R.1984 d.397	16 N.J.R. 2356(a)
(TRANSMITTAL 23, dated August 20, 1984)				
CIVIL SERVICE—TITLE 4				
4:1-1.1-1.10	Purpose and application of rules	16 N.J.R. 1132(a)		
4:1-2.1	Words and phrases defined	16 N.J.R. 2187(a)		
4:1-5.5	Awarding back pay	16 N.J.R. 97(a)	R.1984 d.435	16 N.J.R. 2519(a)
4:1-10.2, 13.9, 13.10	Working test period; seniority and promotions	16 N.J.R. 1296(a)	R.1984 d.433	16 N.J.R. 2520(a)
4:1-14.6	Interim appointments and return to permanent titles	16 N.J.R. 1134(a)		
4:1-14.7	Emergency appointments	16 N.J.R. 2191(a)		
4:1-18.3	Compensation for holidays	16 N.J.R. 1421(a)		
4:2-8.1	Seniority and promotions	16 N.J.R. 1296(a)	R.1984 d.433	16 N.J.R. 2520(a)
4:2-14.1	Interim appointments and return to permanent titles	16 N.J.R. 1134(a)		
4:2-18.1, 18.2, 18.3	Compensation for holidays	16 N.J.R. 1421(a)		
4:3-6.5	Repealed: Special police officer to police officer	16 N.J.R. 1136(a)	R.1984 d.377	16 N.J.R. 2356(b)
4:3-6.8	Repealed: Unclassified appointments by assignment judges	16 N.J.R. 1137(a)	R.1984 d.378	16 N.J.R. 2356(c)
4:3-8.3	Seniority and promotions	16 N.J.R. 1296(a)	R.1984 d.433	16 N.J.R. 2520(a)
4:3-14.2	Interim appointments and return to permanent titles	16 N.J.R. 1134(a)		
(TRANSMITTAL 19, dated June 18, 1984)				
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5:22	Readopt tax exemption rules for improvements to residential dwellings	16 N.J.R. 2191(b)		
5:23-1.6	UCC: inspection of public school facilities	16 N.J.R. 1812(a)	R.1984 d.382	16 N.J.R. 2356(d)
5:23-4.12	Uniform Construction Code: private enforcing agencies	16 N.J.R. 2321(a)		
5:23-4.12, 4.22, 4.25	UCC: private enforcing agencies; premanufactured construction	16 N.J.R. 2031(a)		
5:23-5.4	Uniform Construction Code: inspector trainees	16 N.J.R. 1643(a)		
5:23-5.5	Uniform Construction Code: engineer and architect licensure; fire service experience	16 N.J.R. 1644(a)	R.1984 d.425	16 N.J.R. 2520(b)
5:26-1.1, 1.3, 1.4, 3.1, 4.3, 9.3, 11.3	Planned real estate full disclosure	16 N.J.R. 2032(a)	R.1984 d.434	16 N.J.R. 2522(a)
5:27-5.3	Fire safety in rooming and boarding houses	16 N.J.R. 299(a)		
5:30-10.1, 10.2	Local finance: municipal port authorities	15 N.J.R. 1304(a)	R.1984 d.381	16 N.J.R. 2357(a)
5:31	Local Finance Board: local authorities	16 N.J.R. 1835(a)		
5:80-6	Housing and Mortgage Finance Agency projects: Tenant Selection Standards	16 N.J.R. 954(a)		
5:80-7	Housing and Mortgage Finance Agency: housing sponsor's role	16 N.J.R. 2178(a)		
(TRANSMITTAL 21, dated August 20, 1984)				
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6:11-1-8	Teacher Preparation and Certification	16 N.J.R. 1646(a)	R.1984 d.469	16 N.J.R. 2788(a)
6:11-12	Readopt Supplement to Standards for State Approval of Teacher Education	16 N.J.R. 1841(a)	R.1984 d.432	16 N.J.R. 2523(a)
6:20-4	Tuition for private schools for handicapped	16 N.J.R. 1298(a)	R.1984 d.398	16 N.J.R. 2358(a)
6:20-4.4	Correction: Tuition for private schools for handicapped			16 N.J.R. 2530(a)
6:20-5	Business services: readopt State Aid rules	16 N.J.R. 2392(a)		
6:20-7	Business services: readopt Contracting Qualification and Debarment rules	16 N.J.R. 2394(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
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6:39-1	Evaluation: readopt Statewide Assessment rules	16 N.J.R. 1852(a)		
(TRANSMITTAL 22, dated July 16, 1984)				
ENVIRONMENTAL PROTECTION—TITLE 7				
7:1G-1.2, 6	Worker and Community Right to Know: Trade Secrets (see also 8:59-3)	16 N.J.R. 1854(a)	R.1984 d.437	16 N.J.R. 2530(b)
7:1G-2.1	Worker and Community Right to Know: designation of hazardous substances	16 N.J.R. 1861(a)	R.1984 d.416	16 N.J.R. 2432(a)
7:10-14	Community drinking-water systems: interim testing schedule for hazardous contaminants	16 N.J.R. 1301(a)	R.1984 d.400	16 N.J.R. 2362(a)
7:10-14.7	Interim safe drinking water periodic testing requirements	16 N.J.R. 2396(a)		
7:13-1.4, 4.7, 5.2, 5.4	Flood hazard area control	16 N.J.R. 2193(a)		
7:13-1.4, 4.7, 5.2, 5.4	Flood hazard area control: public hearing	16 N.J.R. 2476(a)		
7:13-1.11(c)27	Floodways along Pequest River in Sussex and Warren counties	16 N.J.R. 1306(a)		
7:13-1.11(d)49	Floodway delineations in Union County	16 N.J.R. 1146(a)		
7:13-1.11(d)51	Floodways along North Branch Raritan (Project U)	16 N.J.R. 1307(a)		
7:13-7.1(c)30	Floodway delineation along Paulins Kill	16 N.J.R. 2397(a)		
7:13-7.1(c)31	Project MR floodway delineations in Warren, Hunterdon, Sussex and Morris counties	16 N.J.R. 1863(a)		
7:13-7.1(d)42	Floodway delineation along Green Brook in Somerset and Union counties	16 N.J.R. 1864(a)	R.1984 d.438	16 N.J.R. 2543(a)
7:13-7.1(d)47	Floodway delineation along Bear Brook in Park Ridge, Bergen County	16 N.J.R. 1865(a)	R.1984 d.404	16 N.J.R. 2432(b)
7:13-7.1(d)50	Floodway delineation along North Branch Foulerton's Brook	16 N.J.R. 2398(a)		
7:13-7.1(d)52	Supplemental Project I floodway delineations in the Passaic River Basin	16 N.J.R. 1865(b)		
7:14A-4.4, 6.1, 6.15	Correction: Hazardous waste land disposal	15 N.J.R. 1997(a)	R.1984 d.198	16 N.J.R. 2433(a)
7:19-5	Small water company takeover	16 N.J.R. 563(a)		
7:19-6	Water Supply Management Act Rules	16 N.J.R. 2399(a)		
7:19A	Emergency Water Supply Allocation Plan rules	16 N.J.R. 308(a)		
7:19B	Emergency Water Surcharge Schedule	16 N.J.R. 314(a)		
7:20	Dam Safety Standards	16 N.J.R. 790(a)		
7:25-2	Readopt rules on Use of Land and Water Areas under DEP control	16 N.J.R. 1309(a)		
7:25-4.19	Endangered and Nongame Species Advisory Committee	16 N.J.R. 2033(a)		
7:25-5.29	1984 shotgun deer season permit quotas	16 N.J.R. 2195(a)	R.1984 d.471	16 N.J.R. 2804(a)
7:25-6	1985-86 Fish Code	16 N.J.R. 2034(a)		
7:25-7.13	Crab dredging in Atlantic Coast section	16 N.J.R. 2476(b)		
7:25-16.1	Readopt freshwater fishing license lines	16 N.J.R. 2044(a)		
7:25-18.2	Ocean and bay pound nets	16 N.J.R. 1866(a)	R.1984 d.439	16 N.J.R. 2543(b)
7:25-18.4	Spearfishing in Atlantic	16 N.J.R. 2478(a)		
7:25-22.2	Purse seine fishing of menhaden	16 N.J.R. 1668(a)		
7:25-22.2	Purse seine fishing of menhaden	16 N.J.R. 2171(a)	R.1984 d.473	16 N.J.R. 2805(a)
7:26	Solid and hazardous waste collector-haulers: Disclosure Statement Forms	16 N.J.R. 1425(a)		
7:26-1.4, 2.6, 2.10, 2.13, 3.5	Disposal of asbestos waste	16 N.J.R. 440(a)		
7:26-1.7	Solid waste disposal: exemption from registration	16 N.J.R. 1100(a)	R.1984 d.399	16 N.J.R. 2367(a)
7:26-6.5	Interdistrict and intradistrict solid waste flow	16 N.J.R. 1000(a)	R.1984 d.474	16 N.J.R. 2806(a)
7:26-6.5	Interdistrict and intradistrict solid waste flow	16 N.J.R. 1149(a)	R.1984 d.475	16 N.J.R. 2808(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:26-7.3-7.6	Hazardous waste: national uniform manifest system	16 N.J.R. 2044(b)	R.1984 d.472	16 N.J.R. 2811(a)
7:26-9.6	Correction: Hazardous waste management, Phase II authorization	_____	_____	16 N.J.R. 2119(a)
7:26-10.6, 10.8, 11.3, 12.2	Correction: Hazardous waste land disposal	15 N.J.R. 1997(a)	R.1984 d.198	16 N.J.R. 2433(a)
7:26-10.7	Hazardous waste incinerators	16 N.J.R. 2046(a)		
7:26-12.2	Hazardous waste rules: permit application	16 N.J.R. 2478(b)		
7:26-16.3, 16.6, 16.13	Solid and hazardous waste industry licensing	16 N.J.R. 2480(a)		
7:27	Air quality standards: State Implementation Plan for lead	16 N.J.R. 1669(a)		
7:27-8	Air pollution control: permits and Certificates	16 N.J.R. 1671(a)		
7:27-13.1, 13.2, 13.5-13.8	Ambient air quality standards	16 N.J.R. 1676(a)		
7:27-18.1, 18.2, 18.3, 18.4, 18.7	Air pollution control: emission offset rules	16 N.J.R. 1679(a)		
7:29-1.1-1.5	Noise control	16 N.J.R. 1682(a)		
7:29-1.1-1.5	Noise control: extension of comment period	16 N.J.R. 2405(a)		
7:36	Green Acres Program	16 N.J.R. 2405(b)		

(TRANSMITTAL 22, dated August 20, 1984)

HEALTH—TITLE 8

8:21A-2.55	Drug manufacturing: medical gas lot or control numbers	16 N.J.R. 1685(a)		
8:31-30.1	Health care facilities: computing plan review fee	16 N.J.R. 2047(a)		
8:31A-7	SHARE: Rate Review Guidelines	16 N.J.R. 1002(a)	R.1984 d.440	16 N.J.R. 2545(a)
8:31B-3	Hospital reimbursement: procedure and methodology	16 N.J.R. 2321(b)		
8:31B-3.23, 3.24, 3.43, 3.75	Hospital rate setting; outpatient dialysis reimbursement hospital-based physician costs	16 N.J.R. 669(a)		
8:31B-4.6, 4.65	Hospital reimbursement: financial elements and reporting	16 N.J.R. 2326(a)		
8:33E-2.1-2.5, 2.10, 2.12, 2.13	Cardiac surgical centers: need review	16 N.J.R. 2196(a)		
8:33H-2.1, 3.1-3.6	Long term care facilities and services: need review	16 N.J.R. 2200(a)		
8:33I	Megavoltage oncology services: 1984 batching cycle deadline	_____	_____	16 N.J.R. 2310(b)
8:33I-1	Megavoltage radiation oncology services: need review	16 N.J.R. 2205(a)		
8:35	Repeal (see 8:43B-8)	16 N.J.R. 188(a)		
8:43A	Ambulatory Care Facilities: readopt standards for licensure	16 N.J.R. 2208(a)		
8:43B-8	Hospital licensure: obstetric and newborn services	16 N.J.R. 188(a)		
8:59	Worker and Community Right to Know Act	16 N.J.R. 1869(a)	R.1984 d.441	16 N.J.R. 2555(a)
8:59-3	Worker and Community Right to Know: Trade Secrets (see also 7:1G-6)	16 N.J.R. 1924(a)	R.1984 d.441	16 N.J.R. 2555(a)
8:65-2	Readopt Security Requirements over Controlled Dangerous Substances	16 N.J.R. 1311(a)		
8:65-7	Prescription requirements for controlled dangerous substances	16 N.J.R. 2327(a)		
8:65-10.1	Controlled dangerous substances, Schedule I: Alfentanil	16 N.J.R. 2332(a)		
8:71	Generic drug list additions (see 16 N.J.R. 142(b), 1093(a))	15 N.J.R. 1819(a)	R.1984 d.427	16 N.J.R. 2672(a)
8:71	Additions to generic drug list (see 16 N.J.R. 1092(a), 1595(a), 1994(a))	16 N.J.R. 202(a)	R.1984 d.430	16 N.J.R. 2673(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
8:71	Generic drug list additions	16 N.J.R. 1436(a)	R.1984 d.429	16 N.J.R. 2672(b)
8:71	Generic drug list additions	16 N.J.R. 2483(a)		

(TRANSMITTAL 20, dated August 20, 1984)

HIGHER EDUCATION—TITLE 9

9:2-1, 2, 3, 8, 9	Repeal (See 9:6)	16 N.J.R. 2209(a)		
9:2-4, 5, 6, 7, 12, 13	Readopt Administrative Policies for colleges and universities	16 N.J.R. 2216(a)		
9:2-11	Recodify as 9:7-7	16 N.J.R. 2218(a)		
9:2-14	Monitoring of violence and hazing on campus	16 N.J.R. 1930(a)		
9:5-2	Tuition-free job training courses	16 N.J.R. 1931(a)		
9:6	State College: policies and standards	16 N.J.R. 2209(a)		
9:7-3.1	Tuition Aid Grant Award Table, 1984-85	16 N.J.R. 2308(a)		
9:7-7	Readopt Veteran's Tuition Credit Program	16 N.J.R. 2218(a)		
9:9-1.16	Defaulted student loans: interest liability	16 N.J.R. 1012(a)		
9:9-9.2	PLUS Program: direct loan prerequisites	16 N.J.R. 1012(b)		
9:11-1.7	Educational Opportunity Fund: undergraduate grants	16 N.J.R. 1932(a)		

(TRANSMITTAL 22, dated August 20, 1984)

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10:49-1.1	Medicaid eligibility	16 N.J.R. 2219(a)		
10:49-1.7	Administration Manual: utilization of insurance benefits	16 N.J.R. 1933(a)		
10:49-1.27	Long-term care facilities: completion of field audit	16 N.J.R. 2413(a)		
10:52-1.2, 1.3	Covered and non-covered inpatient hospital services	16 N.J.R. 483(a)		
10:53-1.2, 1.3	Covered and non-covered inpatient hospital services	16 N.J.R. 483(a)		
10:54-1.3	Progress notes for mental health providers	16 N.J.R. 2333(a)		
10:54-3	Preproposal: radioimmunoassay laboratory fees	16 N.J.R. 677(a)		
10:54-3	Procedure Code Manual revisions	16 N.J.R. 1685(b)	R.1984 d.457	16 N.J.R. 2813(a)
10:56-1.11	Dental Services: utilization of insurance benefits	16 N.J.R. 1933(a)		
10:59-1	Readopted Medical Supplies and Equipment rules	16 N.J.R. 1442(a)	R.1984 d.385	16 N.J.R. 2368(a)
10:59-1.2, 1.4, 1.9, 1.12	Medical Supplier Manual: recycling of durable medical equipment	16 N.J.R. 2048(a)		
10:63-1.6	Changes in level of long-term care	16 N.J.R. 2049(a)		
10:63-1.22	Long-term care facilities: completion of field audit	16 N.J.R. 2413(a)		
10:63-1.23	Long-term care: final audited rate calculation	16 N.J.R. 2335(a)		
10:63-3	Long-term care: readopt Cost and Rate Guideline rules	16 N.J.R. 2484(a)		
10:65-2	Medical Day Care Manual: readopt Billing Procedures	16 N.J.R. 2336(a)		
10:66-1.9	Progress notes for mental health providers	16 N.J.R. 2333(a)		
10:67-1.6	Progress notes for mental health providers	16 N.J.R. 2333(a)		
10:69A-6.9	PAAD: authorization to release prescription information	16 N.J.R. 2050(a)		
10:69A-7.1	Pharmaceutical assistance: recovery of benefits correctly made	16 N.J.R. 2051(a)		
10:80	Organization of Division of Public Welfare Organizational		R.1984 d.409	16 N.J.R. 2434(a)
10:81-1, 4, 5	PAM: readopted Assistance in New Jersey; Methods of Payment; continuing Eligibility in AFDC	16 N.J.R. 1446(a)	R.1984 d.405	16 N.J.R. 2437(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10:81-1.6, -3, 4.10, 7.30, 7.32, 8.22	PAM: Federally-required AFDC revisions	Emergency	R.1984 d.464	16 N.J.R. 2813(a)
10:81-3.17	PAM: Continued absence of parent	16 N.J.R. 825(a)	R.1984 d.415	16 N.J.R. 2440(a)
10:81-3.34	PAM: Temporary absence of children from home	15 N.J.R. 2134(a)		
10:81-6	PAM: complaints, hearings and administrative reviews	16 N.J.R. 2051(b)	R.1984 d.468	16 N.J.R. 2816(a)
10:82-1.2, 1.3, -2, -3, -4	ASH: Federally-required AFDC revisions	Emergency	R.1984 d.463	16 N.J.R. 2817(a)
10:82-2.19	ASH: recovery of overpayments	16 N.J.R. 2055(a)		
10:82-3.1-3.7	ASH: resource eligibility in AFDC	16 N.J.R. 486(a)		
10:82-4	ASH: readopt Income rules	16 N.J.R. 2336(b)		
10:85-3.2, 4.6	GAM: nonresident eligibility; travel grants	16 N.J.R. 2219(a)		
10:85-3.3	GAM: unearned income	16 N.J.R. 2056(a)		
10:85-3.3	GAM: maternity home care	16 N.J.R. 683(a)	R.1984 d.403	16 N.J.R. 2441(a)
10:85-5.3	GAM: outpatient facility services	16 N.J.R. 2488(a)		
10:85-7	GAM: readopt Notices and Hearings rules	16 N.J.R. 2221(a)		
10:87-4.1	Food Stamp Program: resource eligibility	16 N.J.R. 1934(a)	R.1984 d.414	16 N.J.R. 2441(b)
10:87-12.1, 12.2	Food Stamps: income deductions; coupon allotments	Emergency	R.1984 d.465	16 N.J.R. 2844(a)
10:87-12.3, 12.4 12.7	Food Stamp Program: maximum allowable income	16 N.J.R. 1935(a)	R.1984 d.413	16 N.J.R. 2442(a)
10:94-5.5, 5.6	Medicaid Only: eligibility computation amounts	Emergency	R.1984 d.467	16 N.J.R. 2845(a)
10:95-1	Organization of Commission for Blind and Visually Impaired	Organizational	R.1984 d.406	16 N.J.R. 2442(b)
10:99	Commodities and Services Council: Rehabilitation Facilities	16 N.J.R. 2338(a)		
10:100-App. A	Supplemental Security Income payment levels	Emergency	R.1984 d.466	16 N.J.R. 2846(a)
10:122B	Readopt Family Day Care Standards	16 N.J.R. 1936(a)	R.1984 d.428	16 N.J.R. 2674(a)
10:123-2	Youth and Family Services: readopted Boarding Home rules	16 N.J.R. 1450(a)	R.1984 d.417	16 N.J.R. 2444(a)
10:128	Residential Child Care rules	16 N.J.R. 10(b)		
10:129	Readopt rules on Child Abuse and Neglect Cases	16 N.J.R. 2224(a)		
10:133	Aversive conditioning of autistic patients	15 N.J.R. 1432(a)	Expired	

(TRANSMITTAL 20, dated August 20, 1984)

CORRECTIONS—TITLE 10A

(TRANSMITTAL 8, dated July 16, 1984)

INSURANCE—TITLE 11

11:1-2.5	Public Advocate, Division of Rate Counsel: address change	_____	_____	16 N.J.R. 1813(b)
11:1-5	90-day waiver of expiration of N.J.A.C. 11:1-5—FAIR Plan, fire and casualty policy cancellation, other declarations	16 N.J.R. 1451(a)	_____	_____
11:1-5	Readopt Administrative Orders and Declarations (FAIR Plan, cancellation of fire-casualty coverage, fire insurance premium tax)	16 N.J.R. 1689(a)	R.1984 d.426	16 N.J.R. 2677(a)
11:1-5.5	Recertification to Legislature of Notice Requirement for Cancellation and Nonrenewal of fire and casualty coverage	_____	_____	16 N.J.R. 2018(a)
11:1-15	Petitions for rulemaking	16 N.J.R. 2224(b)		
11:2-1.1	Required courses for licensees in property and casualty field	16 N.J.R. 1940(a)		
11:2-1.3	Required courses for licensees in life and health field	16 N.J.R. 1943(a)		
11:2-18, Exh. B	Readable policies: Affidavit of Compliance	16 N.J.R. 1945(a)		
11:3-7	Automobile Reparation Reform Act rules: 90-day waiver of expiration	16 N.J.R. 2414(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
11:3-7.8, 7.9	PIP premium on additional automobiles	16 N.J.R. 488(a)		
11:3-8	Nonrenewal of auto insurance policies	16 N.J.R. 120(a)		
11:3-14.3, 14.4, 14.5	Auto insurance: Personal Injury Protection (PIP) options	16 N.J.R. 1692(a)		
11:3-15.6	Auto insurance: Buyer's Guide and Written Notice requirements for PIP deductibles	16 N.J.R. 1693(a)		
11:4-6	Reserve standards for individual health insurance policies	16 N.J.R. 2225(a)		
11:4-22	Individual life insurance: Use of Gender Blended Mortality Tables	16 N.J.R. 1452(a)		
11:4-22	Correction: Gender Blended Mortality Tables	16 N.J.R. 1946(a)		
11:5-1.19	Real estate branch offices	16 N.J.R. 2228(a)		
11:5-1.24	Closing or transfer of real estate brokerage	16 N.J.R. 2228(b)		
11:10-1	Dental plan organizations	16 N.J.R. 2230(a)		
11:14-1.3, 2.1, 2.4, 3.1, 3.3, 4.1, 4.2	Auto body repair facilities	16 N.J.R. 2235(a)		
11:15-2	Joint insurance funds for local government units	16 N.J.R. 1164(a)		

(TRANSMITTAL 21, dated July 16, 1984)

LABOR—TITLE 12

12:15-1.1	Unemployment Compensation: contributions, records and reports	16 N.J.R. 2488(b)		
12:15-1.2	Unemployment benefit payments	16 N.J.R. 2237(a)		
12:15-1.3	Unemployment Compensation and Disability: 1985 benefit rates	16 N.J.R. 2343(a)		
12:15-1.4	Unemployment Compensation: 1985 taxable wage base	16 N.J.R. 2344(a)		
12:15-1.4	Correction: 1985 Unemployment Compensation Taxable Wage Base	16 N.J.R. 2465(a)		
12:15-1.5	Unemployment Compensations: 1985 Contribution rates for governmental entities	16 N.J.R. 2344(b)		
12:15-1.6	Base week for Unemployment Compensation and Disability	16 N.J.R. 2345(a)		
12:15-1.7	Eligibility for Unemployment Compensation and Disability: alternate earnings test	16 N.J.R. 2345(b)		
12:16	Contributions, records, reports	16 N.J.R. 2488(b)		
12:16-10	Hearings concerning unemployment and temporary disability insurance	16 N.J.R. 2240(a)	1984 d.459	16 N.J.R. 2821(a)
12:17-1.2-1.6, 3.1, 4.1, 4.2, 5.1, 11.2, 12	Unemployment benefit payments	16 N.J.R. 2237(a)		
12:17-2.1, 2.2, 2.3	Income Security: registration for work and claims for benefits	16 N.J.R. 1456(a)	1984 d.458	16 N.J.R. 2822(a)
12:17-5.1	Claim for partial unemployment benefits	15 N.J.R. 1435(b)	Expired	
12:19	Contributions, records, reports	16 N.J.R. 2488(b)		
12:20-3.2	Unemployment benefit payments	16 N.J.R. 2237(a)		
12:90	Boilers, pressure vessels and refrigeration systems: safe operation	16 N.J.R. 1172(a)		
12:100	Safety and health standards for public employees	16 N.J.R. 2057(a)		
12:235-1.5	1985 Workers' Compensation Benefit Rates	16 N.J.R. 2346(a)		
12:235-1.5	Correction: 1985 Workers' Compensation Benefit Rates	16 N.J.R. 2465(b)		

(TRANSMITTAL 16, dated January 3, 1984)

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

12A	Departmental rules; small business set-aside contracts (see also 17:12-6).	16 N.J.R. 1955(a)	R.1984 d.421	16 N.J.R. 2683(a)
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N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
LAW AND PUBLIC SAFETY—TITLE 13				
13:13	Discrimination against handicapped persons	16 N.J.R. 838(a)		
13:19-4	Motor Vehicles: readopted Cardiovascular Disorders rules	16 N.J.R. 1694(a)	R.1984 d.407	16 N.J.R. 2445(a)
13:19-10	Point System and Driving During Suspension: 25-day waiver of expiration of rules	16 N.J.R. 502(a)		
13:20-2.3	Commercial motor vehicles: maximum width computation	15 N.J.R. 1559(a)	Expired	
13:20-12	Motor Vehicles: readopt Accident Prevention Clinic rules	16 N.J.R. 2347(a)		
13:20-28	New car inspection	16 N.J.R. 2500(a)		
13:20-37	Motor vehicles with modified chassis height	16 N.J.R. 2501(a)		
13:21-5	Motor Vehicles: readopted Registration rules	16 N.J.R. 1695(a)	R.1984 d.408	16 N.J.R. 2445(b)
13:21-8	Motor Vehicles: readopted Driver License rules	16 N.J.R. 1955(a)	R.1984 d.411	16 N.J.R. 2445(c)
13:21-15	Readopt rules for Licensed Motor Vehicle Dealers	16 N.J.R. 2060(a)	R.1984 d.443	16 N.J.R. 2679(a)
13:22	Motor vehicle race tracks	16 N.J.R. 2503(a)		
13:24-2	Motor Vehicles: readopt Emergency Vehicle Equipment rules	16 N.J.R. 2347(b)		
13:24-4	Motor Vehicles: readopt rules for Flashing Amber Light Permit	16 N.J.R. 2061(a)	R.1984 d.442	16 N.J.R. 2679(b)
13:33-1.28, 1.41, 2.1, 2.2	Ophthalmic dispensers and technicians: minimum optical equipment	16 N.J.R. 2062(a)		
13:33-4.1	Readopt Dispensing of Contact Lenses rule	16 N.J.R. 2513(a)		
13:35-2.13	Graduate physician pending licensure: privileges and conditions	16 N.J.R. 216(a)		
13:35-4.2	Termination of pregnancy	16 N.J.R. 2064(a)	R.1984 d.470	16 N.J.R. 2823(a)
13:35-6.6	Requirement for issuing prescriptions	16 N.J.R. 2415(a)		
13:35-6.14	Therapeutic treatment by unlicensed Medical aides	16 N.J.R. 2065(a)		
13:35-7.1	Chiropractic practice: standards and scope	16 N.J.R. 686(a)		
13:36-9	Funeral industry practices	16 N.J.R. 1315(a)		
13:37-13.1, 13.2	Nurse anesthetist qualification	16 N.J.R. 2067(a)		
13:40-3.1	Engineers and land surveyors: prohibited acts	16 N.J.R. 1321(a)		
13:40-5.1	Preparation of land surveys	15 N.J.R. 1834(a)	R.1984 d.401	16 N.J.R. 2369(a)
13:40-5.1	Correction: Preparation of land surveys	15 N.J.R. 1834(a)	R.1984 d.401	16 N.J.R. 2824(a)
13:40-8	Engineers and land surveyors: release of project records	16 N.J.R. 1027(a)		
13:40-9	Supervision of engineering and land surveying projects	16 N.J.R. 2067(b)		
13:45A-6	Readopt rules on deceptive practices in auto sales	16 N.J.R. 2349(a)		
13:45A-7	Readopt rules on deceptive practices in auto repair and advertising	16 N.J.R. 2350(a)		
13:45A-21.3, 21.4	Sale of Kosher food	16 N.J.R. 1696(a)	R.1984 d.402	16 N.J.R. 2371(a)
13:46	Boxing rules	16 N.J.R. 2241(a)		
13:46-18.15	Scheduling of boxing programs	16 N.J.R. 1030(a)		
13:46-8.19, 10.7	Scoring of boxing contest; announcement of decision	16 N.J.R. 1956(a)		
13:47A-12	Limited registration for securities broker-dealers and agents	15 N.J.R. 2146(a)		
13:58	Plan of operations for donations of Federal surplus property	16 N.J.R. 2010(a)	R.1984 d.420	16 N.J.R. 2446(a)
13:70-9.18	Jockey fees for place and show	16 N.J.R. 2068(a)	R.1984 d.444	16 N.J.R. 2680(a)
13:70-12.4	Harness racing: claimed horse	16 N.J.R. 2348(a)		
13:70-14A.13, 14A.15	Thoroughbred rules: breathalyzer tests for jockeys and track personnel; urine tests	16 N.J.R. 1457(a)		
13:71-18.2	Harness racing: urine tests for drivers	16 N.J.R. 1459(a)	R.1984 d.412	16 N.J.R. 2453(a)

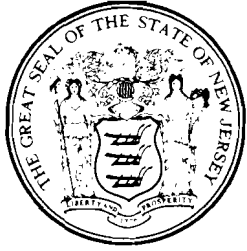
(TRANSMITTAL 23, dated August 20, 1984)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
PUBLIC UTILITIES—TITLE 14				
14:3-4.7	Adjustment of charges for inaccurate billings	16 N.J.R. 511(a)		
14:3-7.11A	Correction: expiration date for Budget Billing Plans	15 N.J.R. 1235(a)	R.1983 d.651	16 N.J.R. 1807(b)
14:3-8.1, 8.2	Suggested formulae for extension of utility service	16 N.J.R. 1460(a)		
14:18-1.2, 3.9	CATV: credit for service outages	15 N.J.R. 1447(a)	Expired	
14:18-11.21	CATV: renewal of municipal consents	16 N.J.R. 348(a)	R.1984 d.436	16 N.J.R. 2680(b)
14:18-14	Pre-proposal: landlord compensation for installation of cable TV	16 N.J.R. 2069(a)		
(TRANSMITTAL 20, dated August 20, 1984)				
ENERGY—TITLE 14A				
14A:8-1	Readopt Energy Facility Review Board rules	16 N.J.R. 2253(a)	R.1984 d.450	16 N.J.R. 2824(b)
14A:11-2	Readopt reporting rules for Suppliers of Home Heating Oil	16 N.J.R. 2254(a)	R.1984 d.449	16 N.J.R. 2824(c)
14A:11-3	Reporting of Energy Information: readopted Bulk Terminal Operating Companies	16 N.J.R. 1697(a)	R.1984 d.393	16 N.J.R. 2372(a)
14A:12-1	School boards and shared-savings contracts	16 N.J.R. 2255(a)	R.1984 d.451	16 N.J.R. 2825(a)
14A:22-6.1, 6.3, 6.4	Commercial and Apartment Conservation Service Program: auditor qualification	16 N.J.R. 1698(a)	R.1984 d.394	16 N.J.R. 2372(b)
(TRANSMITTAL 12, dated August 20, 1984)				
STATE—TITLE 15				
(TRANSMITTAL 14, dated January 3, 1984)				
PUBLIC ADVOCATE—TITLE 15A				
(TRANSMITTAL 1, dated March 20, 1978)				
TRANSPORTATION—TITLE 16				
16:20A, 20B	1984 Trust Fund Authority Act: county and municipal aid Emergency		R.1984 d.423	16 N.J.R. 2456(a)
16:28-1.57, 1.77	Speed rates on US 30 in Galloway and Route 29 in Hopewell	16 N.J.R. 1699(a)	R.1984 d.390	16 N.J.R. 2373(a)
16:28A-1.6, 1.7, 1.19	Parking on Route 7 in Belleville, US 9 in Cape May County and Route 28 in Roselle Park	16 N.J.R. 1700(a)	R.1984 d.391	16 N.J.R. 2374(a)
16:28A-1.16	Parking on Route 24 in Morristown	16 N.J.R. 1702(a)	R.1984 d.410	16 N.J.R. 2454(a)
16:28A-1.19, 1.26	Parking on Routes 28 in Middlesex and 36 in Union Beach	16 N.J.R. 2513(b)		
16:28A-1.25	Parking on Route 35 in Ocean Twp, Monmouth County	16 N.J.R. 2070(a)		
16:28A-1.25	Trolley stops on Route 35, Ocean County	Emergency	R.1984 d.448	16 N.J.R. 2691(a)
16:28A-1.32, 1.69	Parking on US 46 in Netcong and Route 124 in Springfield	16 N.J.R. 1703(a)	R.1984 d.388	16 N.J.R. 2375(a)
16:28A-1.55	Parking on US 202 in Morristown	16 N.J.R. 1704(a)	R.1984 d.387	16 N.J.R. 2376(a)
16:28A-1.99	Parking on Interstate and Defense System	16 N.J.R. 1323(b)	R.1984 d.392	16 N.J.R. 2377(a)
16:30-2.9	Yield intersections along US 130, North Brunswick	16 N.J.R. 2070(b)		
16:30-10.3, 11	Crosswalk on Route 53, Morris Plains; traffic control, I-295 Rest Area, Carney's Point	16 N.J.R. 1707(a)	R.1984 d.389	16 N.J.R. 2378(a)
16:31-1.22	Turns on US 130 in North Brunswick	16 N.J.R. 2071(a)		
16:32-2	Trucks exempted from Federal bridge formula	16 N.J.R. 2072(a)		
16:41B	Newspaper dispensers on State highways	16 N.J.R. 225(a)		
16:41B	Public hearing: Newspaper dispensers on State highways	16 N.J.R. 1957(a)		
16:44-3.2	Distribution and sale of construction plans and specifications	16 N.J.R. 2515(a)		
16:49	Transportation of hazardous materials	16 N.J.R. 513(a)		
16:62	Air safety and hazardous zoning	16 N.J.R. 860(b)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
16:77	Use of occupancy of NJ TRANSIT-owned property	16 N.J.R. 2415(b)		
(TRANSMITTAL 21, dated August 20, 1984)				
TREASURY-GENERAL—TITLE 17				
17:1-1.17	Administrative expenses prorated	16 N.J.R. 2420(a)		
17:1-2.3	Alternate Benefit Program: salary reduction and deduction	16 N.J.R. 2350(b)		
17:1-8.12	Social Security late filing penalties	16 N.J.R. 2421(a)		
17:2	Readopt Public Employees' Retirement System rules	16 N.J.R. 2515(b)		
17:9-2.3	State Health Benefits Program: annual enrollment period	16 N.J.R. 2422(a)		
17:9-2.8, 2.12, 3.4, 3.7	State Health Benefits Program: coverage; dependents	16 N.J.R. 2422(b)		
17:12-6	Small business set-aside contracts	16 N.J.R. 1958(a)	R.1984 d.421	16 N.J.R. 2683(a)
17:16-42	State Investment Council: readopted Covered Call Options	16 N.J.R. 1708(a)	R.1984 d.383	16 N.J.R. 2378(b)
17:16-43	State Investment Council: readopted Mortgage-Backed Securities	16 N.J.R. 1709(a)	R.1984 d.384	16 N.J.R. 2379(a)
17:20-6.3	Deposit of lottery moneys	16 N.J.R. 2074(a)	R.1984 d.455	16 N.J.R. 2826(a)
17:20-9	Lottery Commission Rules: civil penalties and sanctions	16 N.J.R. 1709(b)	R.1984 d.456	16 N.J.R. 2826(b)
(TRANSMITTAL 22, dated August 20, 1984)				
TREASURY-TAXATION—TITLE 18				
18:7-1.17, 11.15	Casino consolidated tax return	16 N.J.R. 2423(a)		
18:7-3.17, 4.17, 15.1-15.5	Corporation business tax and urban enterprise zones	16 N.J.R. 1325(a)		
18:7-4.1, 5.2, 8.16, 16.1- 16.5	Corporation business tax and international banking facilities	16 N.J.R. 1327(a)	R.1984 d.453	16 N.J.R. 2827(a)
18:12-6A.1, 6A.2	Local property tax exemptions	16 N.J.R. 2424(a)		
18:12-7.12	Homestead Rebate: filing extension for claims (with Emergency Adoption)	16 N.J.R. 252(b)		
18:23A-1.27	Filing of municipal tax maps	16 N.J.R. 1465(a)	R.1984 d.379	16 N.J.R. 2379(b)
18:24-7.12	Sales tax and towing of motor vehicles	16 N.J.R. 1466(a)	R.1984 d.380	16 N.J.R. 2379(c)
18:24-7.19	Sales tax and rentals in mobile home parks	16 N.J.R. 1965(a)	R.1984 d.431	16 N.J.R. 2689(a)
18:24-31.1-31.9	Sales tax and urban enterprise zones	16 N.J.R. 1332(a)		
(TRANSMITTAL 20, dated August 20, 1984)				
TITLE 19 SUBTITLES A-L—OTHER AGENCIES (Except Casino Control Commission)				
19:4-5.6, 5.6A, 6.28	Zoning changes	16 N.J.R. 2351(a)		
19:8-1.8	Garden State Parkway: parking for handicapped	16 N.J.R. 1466(b)	R.1984 d.395	16 N.J.R. 2380(a)
19:8-1.8	Correction: Parking for handicapped	16 N.J.R. 1466(b)	R.1984 d.395	16 N.J.R. 2445(a)
19:9-1.9	Traffic control	16 N.J.R. 2517(a)		
19:9-2.7	Submission of proof of bidder qualification	16 N.J.R. 2075(a)	R.1984 d.447	16 N.J.R. 2689(b)
19:25-9.2	Establishment of campaign depository by designated continuing political committee	16 N.J.R. 2256(a)	R.1984 d.461	16 N.J.R. 2830(a)
19:25-11.4, 12.4	Reporting by national political action committees	16 N.J.R. 2258(a)	R.1984 d.460	16 N.J.R. 2830(b)
19:61-5.5	State government positions with casino responsibility	16 N.J.R. 517(a)		
19:75-2.1, 2.3	Rules of operation	16 N.J.R. 1194(a)	R.1984 d.396	16 N.J.R. 2380(b)
(TRANSMITTAL 21, dated August 20, 1984)				

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
TITLE 19 SUBTITLE K-CASINO CONTROL COMMISSION				
19:40-1, 3	Readopt Practices and Procedures and Confidential Information rules	16 N.J.R. 2259(a)	R.1984 d.454	16 N.J.R. 2832(a)
19:44-8.3, 9.4, 15.4	Gaming schools	16 N.J.R. 2352(a)		
19:45-1.1, 1.11, 1.25-1.29, 1.45, 1.47, 1.48	Casino Credit practices	15 N.J.R. 1743(a)		
19:45-1.1, 1.35, 1.46	Redemption of bus coupons	16 N.J.R. 2075(b)		
19:45-1.11,1.19 1.25-1.29	Accounting and internal controls: patron credit; tips	16 N.J.R. 2076(a)		
19:45-1.24	Patrons' cash deposits	16 N.J.R. 1710(a)		
19:46-1.5, 1.6	Use and handling of gaming tokens	16 N.J.R. 41(a)		
19:46-1.20	Inspection of gaming equipment	16 N.J.R. 1467(a)		
19:46-1.27	Gaming equipment: slot stools	15 N.J.R. 1465(a)	R.1984 d.422	16 N.J.R. 2689(c)
19:54-2	Investment obligations and investment alternative tax	15 N.J.R. 1931(a)		

(TRANSMITTAL 8, dated August 20, 1984)



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