

# NEW JERSEY REGISTER



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**REGISTER INDEX OF RULE PROPOSALS  
AND ADOPTIONS\*, PAGE 1212.**

**VOLUME 18 NUMBER 11**  
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(Includes rules filed through May 12, 1986)

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NEXT UPDATE WILL BE DATED APRIL 21, 1986.

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(Continued on Back Cover)

# RULE PROPOSALS

Interested persons may submit, in writing, information or arguments concerning any of the following proposals until **July 2, 1986**. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal or group of proposals.

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

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-4.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice.

## COMMUNITY AFFAIRS

### (a)

#### DIVISION OF HOUSING AND DEVELOPMENT

##### Uniform Construction Code Barrier-Free Subcode

##### Notice of Public Hearing

**Take notice** that a public hearing to receive comments on the Barrier-Free Subcode, which was published in the April 21, 1986 Register at 18 N.J.R. 757(a), will be held at 10:00 A.M. on Friday, June 20, 1986, at the offices of the Bureau of Construction Code Enforcement, 1333 Brunswick Circle, Trenton, New Jersey. The Bureau requests that any specific code language changes or recommendations be made available at the hearing or be mailed to the Bureau of Construction Code Enforcement at CN 805, Trenton, New Jersey 08625 (Attention: Mrs. Amy F. Frank) prior to the hearing date.

**Take notice** that the deadline for public comments on the Barrier-Free Subcode, proposed at 18 N.J.R. 757(a), has been extended to June 20, 1986.

### (b)

#### NEW JERSEY COUNCIL ON AFFORDABLE HOUSING

##### Substantive Rules

##### Proposed New Rules: N.J.A.C. 5:92

Authorized By: Arthur R. Kondrup, Chairman, Council on Affordable Housing.

Authority: N.J.S.A. 52:27D-301 et seq., specifically 52:27D-307.

Proposal Number: PRN 1986-220.

**Public hearings** concerning this proposal will be held on:

June 19, 1986, 1:30 P.M. to 4:30 P.M.

Bergen County Court House

Administration Building

Main Street

Hackensack, New Jersey

June 23, 1986, 1:30 P.M. to 4:30 P.M.

Somerset County College

Route 28

Welpe Theatre

North Branch, New Jersey

June 26, 1986, 1:30 P.M. to 4:30 P.M.

Cherry Hill Inn

Route 38 and Haddonfield Road

Cherry Hill, New Jersey

Submit comments by July 2, 1986 to:

Douglas V. Opalski, Executive Director

New Jersey Council on Affordable Housing

375 West State Street

Trenton, New Jersey 08618

The agency proposal follows:

##### Summary

The Fair Housing Act, N.J.S.A. 52:27D-301 et seq., enacted by the New Jersey Legislature in 1985, establishes a nine member Council on Affordable Housing. The Council is directed to prepare a comprehensive planning and implementation response to the constitutional obligation to provide, through municipal land use regulations, a realistic opportunity for a fair share of regional present and prospective needs for housing for low and moderate income households. The law specifies that the Council will estimate state and regional fair share and establish guidelines and criteria.

Officials at the municipal level shall determine fair share need and prepare a municipal housing element that incorporates that need. The Council is directed to review the local fair share need and housing element and is empowered to certify the housing element.

The proposed new rules implement the intent of the legislature to provide for timely achievement of an appropriate fair share of the regional need for low and moderate income housing.

The Council has assembled various background studies and data that are provided in a Technical Appendix to this rule. These studies and data are illustrative of the rule and are published as a matter of public information.

The Technical Appendix includes the following:

A. Approach: 1987-1993 Low and Moderate Income Housing Need Estimates;

B. Exhibit 1—Base Data, Municipal Determination of Pre-Credited Need; Exhibit 2—Base Data by Housing Region;

C. Growth Area Allocation Index Totals;

D. Section 8 Income Limits;

E. Average Cost of Replacing Major Systems for Housing Rehabilitation;

F. County Review Checklists.

## NEW JERSEY REGISTER

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

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**Economic Impact**

Creation of housing units affordable to low and moderate income households will provide them access to sound shelter within their means. Location of such housing at many sites may, with the option to reserve such housing for local employees who are nonresidents, reduce commuting distances. Reduced distances will lower individuals' commuting cost and help conserve the State's costly and scarce highway network including many roads reaching or exceeding design capacity. In-fill housing and rehabilitation may reduce expenditures on sewer and water extensions by utilizing existing systems with excess capacity.

**Social Impact**

The public will benefit since the rules will be the basis for creation of additional housing affordable to low and moderate income households. The existence of a variety of housing types in all municipalities will increase consumer choice. Hardship conditions due to high housing costs or housing unavailability in some areas will be lessened. Residents in deficient housing will particularly benefit from increased housing choice. This may exacerbate long-term trends of urban out-migration and decline. However, Regional Contribution Agreements (RCAs) are possible. RCAs are intended to provide municipalities that exhibit extensive deficient housing and limited financial resources with additional means to upgrade or otherwise provide sound housing opportunities within their existing neighborhoods and community.

**Environmental Impact**

The environmental impact of higher density inclusionary developments affordable to low and moderate income households will be less if located under a comprehensive and consistent local housing element and master plan, and, if located with reference to applicable county, regional and State plans. The regulations provide for consistency with applicable policies, plans and/or programs of the New Jersey Department of Environmental Protection including Green Acres, Coastal Zone Management, the Pinelands Commission and the Hackensack Meadowlands.

Full text of the proposed new rules follows:

CHAPTER 92  
SUBSTANTIVE RULES OF THE NEW JERSEY  
COUNCIL ON AFFORDABLE HOUSING

## SUBCHAPTER 1. GENERAL PROVISIONS

## 5:92-1.1 Short title

The provisions of this chapter will be known as "the substantive rules and regulations of the New Jersey Council on Affordable Housing."

## 5:92-1.2 Severability clause

If any part of this chapter shall be held invalid, the holding shall not affect the validity of remaining parts of these rules. If a part of these rules is held invalid in one or more of their applications, the rules shall remain in effect in all valid applications that are severable from the invalid application.

## 5:92-1.3 Definitions

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

"Act" means the Fair Housing Act of 1985, L.1985, c.222 (C.52:27D-301 et seq.).

"Adjustment" means a reduction and/or deferral of the municipal low and moderate income housing obligation.

"Agency" means the New Jersey Housing and Mortgage Finance Agency established by L.1983, c.530 (C.55:14K-1 et seq.).

"Affordable" means a sales price or rent within the means of a low or moderate income household as defined in Subchapter 12, Controls on Affordability.

"Alternative living arrangement" means a structure in which households maintain private rooms yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangement includes but is not limited to Class C boarding houses as regulated by the New Jersey Department of Community Affairs, residential health care facilities as regulated by the New Jersey Department of Health, and congregate living arrangements.

"Approvable site" means a site that may be developed for low and moderate income housing in a manner consistent with the regulations of all agencies with jurisdiction over the site. A site may be approvable although not currently zoned for low and moderate income housing.

"Available site" means a site with clear title, free of encumbrances which preclude development for low and moderate income housing, upon which the owner has expressed a willingness to build low and moderate income housing, or to convey the land for this purpose, at a reasonable price, in keeping with comparable land sales in the area.

"Census subregion" means a geographic subdivision of the State by the United States Bureau of the Census.

"Conversion" means the conversion of existing commercial, industrial or residential structures for low and moderate income housing purposes where a substantial percentage of the housing units is provided for a reasonable income range of low and moderate income households.

"Council" means the New Jersey Council on Affordable Housing established under the Act and which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning considerations in this State.

"Covered employment" means those employees covered by the New Jersey Unemployment Compensation Law, P.L.1936, c.270, as amended, (C.43; 21-1, et seq.), and as further described in *New Jersey Covered Employment Trends*, December 1985, New Jersey Department of Labor, Division of Planning and Research, Office of Demographic and Economic Analysis.

"Covered employment change" means the yearly change in covered employment from 1977 through 1984 as measured by a linear regression equation.

"Deficient unit" means a housing unit that is not decent, safe or sanitary as further determined through census surrogates or on-site inspection and does not comply with local codes or other housing standards and is determined pursuant to the method described in N.J.A.C. 5:92-5.2.

"Developable site" means a site that has access to appropriate water and sewer infrastructure, and has received water consistency approvals from the New Jersey Department of Environmental Protection or its designated agent authorized by law to issue such approvals.

"Fair Share Plan" means that plan or proposal, which is in a form that may readily be converted into an ordinance, by which a municipality proposes to satisfy its obligation to create a realistic opportunity to meet its fair share of low and moderate income housing needs of its region and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of low and moderate income housing, as provided in sections 9 and 14 of the Act.

"Gross density" means the total number of dwelling units existing or permitted on a housing site divided by the total area of the tract. The result is expressed as dwelling units per acre.

"Growth area" means the lands so designated by the 1980 State Development Guide Plan as updated by the State Development and Re-development Plan. "Growth area" shall also refer to lands designated as Regional Growth Areas and Pinelands Towns by the Pinelands Commission and areas designated as Development Regions and Extension Regions (including Central Corridor Barrier Islands) by the Division of Coastal Resources.

"Household" means the person or persons occupying a housing unit.

"Housing element" means that portion of a municipality's master plan consisting of reports, statements, proposals, maps, diagrams and text designed to meet the municipality's fair share of its region's present and prospective housing needs, particularly with regard to low and moderate income housing and which contains at least those items identified in section 10 of the Act.

"Housing Region" means a geographic area, determined by the Council, of no less than two nor more than four contiguous, whole counties which exhibit significant social, economic and income similarities and which constitute, to the greatest extent practicable, the Primary Metropolitan Statistical Areas (PMSA) as last defined by the United States Census Bureau prior to July 2, 1985.

"Inclusionary development" means a residential housing development in which a substantial percentage of the housing units is provided for a reasonable income range of low and moderate income households.

"Indigenous need" means deficient housing units occupied by low and moderate income households within a municipality and is a component of present need. Municipal indigenous need, as a percentage of the total 1987 occupied housing stock, shall not exceed the percentage derived from dividing the deficient housing units occupied by low and moderate income households by the total 1987 occupied housing stock for the housing region in which the municipality is located.

"Inventory" means that calculation undertaken by a municipality in developing its housing element which accounts for its housing stock by age, condition, purchase or rental value, occupancy characteristics and type, including the number of units affordable to low and moderate income households in substandard housing capable of being rehabilitated, as provided for in section 10a of the Act.

"Low income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to 50 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located, and is subject to affordability controls.

"Moderate income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to or more than 50 percent but less than 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located, and is subject to affordability controls.

"Multifamily unit" means a structure containing two or more dwelling units.

"Municipal present need" means the sum of indigenous need and the municipal share of reallocated present need.

"Net density" means the total number of dwelling units within a designated portion of a tract divided by the total land area of the designated portion of the tract, including the open-space, roadways, parking areas and common facilities devoted exclusively to that portion of the tract. The result is expressed as dwelling units per acre.

"Open-space" means any parcel or area of water or land essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space: provided that such areas may be improved with only those buildings, structures, streets and offstreet parking and other improvements that are designed to be incidental to the natural openness of the land.

"Petition for Substantive Certification" means that petition which a municipality files, or is deemed to have filed, which engages the Council's mediation and review process.

"Present need" means the total number of deficient housing units occupied by low or moderate income households as of July 1, 1987. "Present need" is the sum of indigenous need and reallocated present need.

"Prospective need" means a projection of low and moderate housing needs based on development and growth which is reasonably likely to occur in a region or a municipality, as the case may be, as determined and further described in Subchapter 4, Estimated Present and Prospective Need, and Subchapter 5, Municipal Determination of Present and Prospective Need. In determining prospective need, consideration shall be given to approvals of development applications, real property transfers and economic projections prepared by the State Planning Commission established by P.L.1985, c.398 (N.J.S.A. 52:18A-196 et seq.).

"Reallocated present need" means that portion of a housing region's present need that is redistributed to designated growth areas.

"Receiving municipality" means, for purposes of a RCA, a municipality which agrees to assume a portion of another municipality's fair share obligation.

"Rehabilitated unit" means a previously deficient housing unit which has undergone significant renovation to meet municipal or other applicable housing code standards as further described in Subchapter 11, Regional Contribution Agreements (RCAs).

"Resolution of Participation" means a resolution adopted by a municipality in which the municipality chooses to prepare a fair share plan and housing element in accordance with the Act.

"Section 8 Income Limits" means a schedule of income limits that define 50 percent and 80 percent median income by household size. When used herein, Section 8 income limits shall refer to the "uncapped" schedule as contained in the Technical Appendix.

"Sending municipality" means for purposes of a RCA, a municipality which transfers a portion of its fair share obligation to another willing municipality.

"Set-aside" means the percentage of housing units devoted to low and moderate income households within an inclusionary development.

"State Development Guide Plan (SDGP)" means the officially recognized State plan for development, dated 1980, and promulgated by the New Jersey Department of Community Affairs pursuant to P.L.1961 c.47 (C.13:1B-15.52).

"State Development/Redevelopment Plan (SDRP)" means the State plan for development promulgated by the State Planning Commission pursuant to P.L. 1985 c. 398 (C.52:18A-196 et seq.).

"Statement of Intent" means a resolution adopted by a municipal governing body expressing an intent to enter into a RCA.

"Substantive certification" means a determination by the Council approving a municipality's housing element and fair share plan in accordance with the provisions of the Act and the rules and criteria as set forth herein. A grant of substantive certification shall be valid for a period of six years in accordance with the terms and conditions contained therein.

"Suitable site" means a site that is adjacent to compatible land uses, has access to appropriate streets and is consistent with the environmental policies delineated in Subchapter 8, Municipal Adjustments.

"Surrogate" means a census indicator of deficient housing used in the calculation of present need as defined in Subchapter 5, Municipal Determination of Present and Prospective Need.

"Survey" means that independent determination of need undertaken by a municipality in preparing its housing element, which is developed and produced in a manner and in such form as is acceptable to the Council.

"Vacant land" means:

1. Undeveloped and unused land area;
2. Any non-residential areas with significant amounts of land not covered by impervious surfaces on site, as determined by the Council;
3. Land suitable for redevelopment or infill at higher densities; and
4. Residential areas with lot sizes in excess of two acres where environmental factors permit higher densities.

#### 5:92-1.4 Housing element

(a) A municipality's housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low and moderate income housing, and shall contain at least:

1. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics and type, including the number of units affordable to low and moderate income households and substandard housing capable of being rehabilitated;
2. A projection of the municipality's housing stock, including the probable future construction of low and moderate income housing, for the next six years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
3. An analysis of the municipality's demographic characteristics, including but not limited to, household size, income level and age;
4. An analysis of the existing and probable future employment characteristics of the municipality;
5. A determination of the municipality's present and prospective fair share for low and moderate income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low and moderate income housing;
6. A consideration of the lands that are most appropriate for construction of low and moderate income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low and moderate income housing, including consideration of lands of developers who have expressed a commitment to provide low and moderate income housing;
7. The location and capacities of existing and proposed water and sewer lines and facilities relevant to the designated sites;
8. Copies of necessary applications for sewer service and water quality management plans submitted pursuant to Sections 201 and 208 of the Federal Clean Water Act, 33 U.S.C. §1251, et seq.
9. A copy of the most recently adopted municipal master plan and the immediately preceding, adopted master plan;
10. A copy of appropriate National Wetlands Inventory maps provided by U.S. Fish and Wildlife Service for designated sites;
11. A copy of appropriate U.S.G.S. Topographic Quadrangles for designated sites; and
12. Any other documentation as may be required by the Council.

#### 5:92-1.5 Substantive certification

Any grant of substantive certification may contain such conditions and terms as the Council considers necessary and which makes the achievement of a municipality's fair share obligation realistically possible.

**SUBCHAPTER 2. HOUSING REGIONS**

**5:92-2.1 Regions defined**

The housing regions of the State shall be composed of the following counties:

Region	Constituent Counties
1. Northeast	Bergen; Hudson; Passaic
2. Northwest	Essex; Morris; Sussex; Union
3. West Central	Hunterdon; Middlesex; Somerset; Warren
4. East Central	Monmouth; Ocean
5. Southwest	Burlington; Camden; Gloucester; Mercer
6. South-Southwest	Atlantic; Cape May; Cumberland; Salem

**5:92-2.2 Uses of regions**

(a) The housing regions as set forth in N.J.A.C. 5:92-2.1 provide a definitive geographic base for the following uses:

1. The regions provide a housing market framework for determining population and household estimates and projections, as set forth in N.J.A.C. 5:92-3; and
2. The regions provide a framework within which estimates of the present and prospective need for low and moderate income housing may be made, as set forth in N.J.A.C. 5:92-4; and
3. The regions provide a structure for the allocation of fair share to the municipal level, as set forth in N.J.A.C. 5:92-5; and
4. The regions provide a basis for the negotiation of RCAs, as set forth in N.J.A.C. 5:92-11; and
5. The regions provide a framework for the appropriation of State funds made available under section 20 of the Act.

**SUBCHAPTER 3. POPULATION AND HOUSEHOLDS**

**5:92-3.1 Purpose**

This subchapter establishes population and household projections for the State and housing regions. These projections are drawn from the historical migration model, New Jersey Department of Labor, Division of Planning and Research, Office of Demographic and Economic Analysis, "Population Projections for New Jersey and Counties: 1990 to 2020, Volume 1, November 1985." See: Technical Appendix.

**5:92-3.2 Population and household estimates and projections**

The Council establishes the following population and household estimates and projections for the State and housing regions:

Region	Population		
	April 1 1980	July 1 1987	July 1 1993
1. Northeast	1,849,900	1,845,841	1,820,525
2. Northwest	1,879,100	1,880,134	1,880,199
3. West Central	971,700	1,021,999	1,057,058
4. East Central	849,400	945,499	1,046,059
5. Southwest	1,342,000	1,418,557	1,484,565
6. South-Southwest	473,900	507,749	542,858
New Jersey	7,366,000	7,619,779	7,831,264

Region	Households		
	April 1 1980	July 1 1987	July 1 1993
1. Northeast	663,080	693,661	704,281
2. Northwest	647,760	679,679	703,785
3. West Central	323,880	366,051	397,744
4. East Central	299,360	356,037	412,151
5. Southwest	454,280	510,636	555,293
6. South-Southwest	172,960	193,974	214,628
New Jersey	2,560,320	2,800,038	2,987,882

Source: The April 1, 1980 population and household estimates have been aggregated from the 1980 New Jersey Public Use Sample, U.S. Census Bureau.

**SUBCHAPTER 4. ESTIMATED PRESENT AND PROSPECTIVE NEED**

**5:92-4.1 Need**

The Council establishes the following estimation of present and prospective need for low and moderate income housing at the State and regional levels:

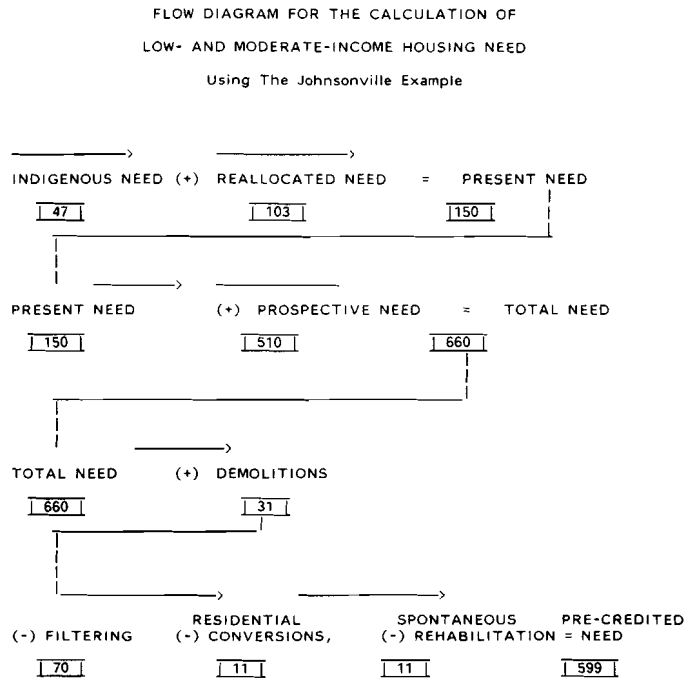
**1987-1993 Present and Prospective Need (Statewide and by Region)**

Region	Need
1. Northeast	42,534
2. Northwest	28,773
3. West Central	14,720
4. East Central	23,247
5. Southwest	21,884
6. South-Southwest	14,549
New Jersey	145,707

**SUBCHAPTER 5. MUNICIPAL DETERMINATION OF PRESENT AND PROSPECTIVE NEED**

**5:92-5.1 General**

(a) Municipal present and prospective need shall be calculated by summing municipal indigenous need and the municipal share of the appropriate housing region's reallocated present need and prospective need. The resulting total shall be modified for secondary sources of supply/demand as described in this subchapter (see Technical Appendix). The result of this process is the determination of municipal pre-credited need. This is the figure municipalities shall address in their housing elements. An example for Johnsonville is provided to illustrate each of the specified calculations. The following flow diagram summarizes the sequence of calculations enroute to the determination of pre-credited need.



(b) Exhibit 1 in the Technical Appendix provides municipal-specific base data that may be employed to determine municipal present and prospective need. Data for a hypothetical municipality, "Johnsonville," precedes the municipal base data for illustrative purposes. Exhibit 2 in the Technical Appendix duplicates the base data for each housing region that is presented in Columns A through I in this subchapter.

(c) The data contained in Exhibit 1 shall be used by parties appearing before the Council unless it can be shown that more appropriate data exist that justify a substitution. The Council shall determine, based on the documentation presented, which data shall be used to determine municipal present and prospective need.

(d) Selected municipalities receiving state aid (urban aid cities) pursuant to P.L.1978, c.14 (N.J.S.A. 52:27D-178 et seq.) as defined in N.J.A.C. 5:92-5.3(b) shall calculate municipal pre-credited need as per the procedures delineated in N.J.A.C. 5:92-5.13.

(e) Filtering, residential conversions and spontaneous rehabilitation estimates by housing region as expressed in this subchapter differ slightly from those presented in the Technical Appendix. This is because a municipality's total pre-credited need cannot be reduced below zero. Therefore, if the reduction to pre-credited need due to filtering, residential con-

versions and/or spontaneous rehabilitation reduces municipal pre-credited need to less than zero, the need for this municipality is maintained at zero.

5:92-5.2 Indigenous need (as of 1987)

(a) Indigenous need in a municipality is actual or capped deficient housing occupied by low and moderate income households as further defined in 5:92-1.3. Municipal indigenous need shall be determined from the total of deficient housing units occupied by low and moderate income households for the census subregion in which the municipality is located. The data, derived from a multiple-index approach, are not available at the municipal level. To determine the municipal share of need from the census subregion total, it is necessary to use a single-index approach using surrogates of deficient housing available at both the municipal and census subregion level. To calculate municipal indigenous need:

1. Locate the appropriate municipality in Exhibit 1 in the Technical Appendix. Example: Johnsonville in Region 5 (Southwest).

2. Divide Column 2 (municipal single-index need) by Column 3 (subregional single-index need). The resulting percentage yields the municipal share of the census subregion's total of deficient housing units occupied by low and moderate income households. Example:

$$\frac{\text{Johnsonville single index need}}{\text{Subregional single index need}} = 144/984 = .146.$$

3. Multiply the result of the quotient obtained in (2. above) by the number in Column 1 (subregional multiple index need). Example:

Subregional Multiple Index Need		Municipal Share of Need		=	47
323	x	.146			

This is the count of actual low and moderate income deficient units in a municipality.

4. Column A, below, displays the percentage for each housing region that is obtained by dividing the actual deficient housing units occupied by low and moderate income households in the region by the estimated total of 1987 occupied housing units in the region.

COLUMN A  
1987 Regional Average  
Percent Deficiency

Region	Percent Deficiency
1. Northeast	.075
2. Northwest	.047
3. West Central	.025
4. East Central	.015
5. Southwest	.026
6. South-Southwest	.042

Multiply this percentage by the municipal projection of 1987 occupied housing stock in Exhibit 1, Column 4. Example:

Johnsonville Total Occupied Housing Estimate		Region 5 Percentage of Low and Moderate Income Deficiency		=	232
8,992	x	.026			

5. Municipal indigenous need shall be the smaller number resulting from the calculations in 3 and 4 above. Example: Johnsonville's indigenous need = 47.

6. If the calculation in 3 above is larger than 4 above, the difference between the two shall be distributed throughout the housing region as reallocated present need as per N.J.A.C. 5:92-5.3 and 5:92-5.4. The results of this calculation are displayed for each housing region in Column B.

(b) Municipal indigenous need may also be determined through a survey of the municipality's housing stock when such survey is deemed adequate and accepted by the Council for identifying deficient housing units occupied by low or moderate income households.

5:92-5.3 Distribution of need

(a) The distribution of each housing region's reallocated present need and prospective need shall be accomplished through use of economic and land use factors expressed as a percentage representing the municipal share of the housing region's total for each factor, as displayed in Exhibit 1 of the Technical Appendix. The factors employed to distribute the housing region's need are growth area (Column 5), covered employment (Column 6), aggregate per capita income (Column 7) and covered employment change (Column 8). All but covered employment change are summed, averaged and displayed in Column 9. This is the average of the

present need allocation factors. All four economic and land use factors are summed, averaged and displayed in Column 10. This is the average of the prospective need allocation factors.

(b) Reallocated present need and prospective need shall be distributed to municipalities designated in whole or in part as growth areas unless the municipality receives state aid pursuant to P.L.1978, c.14 (C.52:27D-178 et. seq.) at the time of substantive certification and exhibits one of the following (see attachment in Appendix A, Technical Appendix, for a listing of current selected urban aid cities that meet the following):

1. A percentage of actual housing deficiency to total occupied housing stock in excess of the same percentage for the region in which the municipality is located; or

2. A population density in excess of 10,000 persons per square mile; or

3. A density of 6,000 to 10,000 per square mile and less than five percent of vacant, non-farm municipal land as measured by the average percentage of vacant land valuation and parcels in the 1984 Statement and Financial Condition of Counties and Municipalities (Trenton, N.J.: New Jersey Department of Community Affairs, 1985).

(c) Only those municipalities designated herein to receive reallocated present need and prospective need shall be included in the housing region totals of growth area, covered employment, per capita aggregate income and covered employment change for purposes of distributing need.

5:92-5.4 Reallocated present need

(a) Reallocated present need is the share of excess deficient housing which must be distributed to municipalities designated in whole or in part as growth area as delineated in N.J.A.C. 5:92-5.3. The following Column B displays the reallocated present need by housing region.

COLUMN B  
1987 Regional Pool of  
Excess Deficient Housing Units

Region	Excess Deficient Housing Units
1. Northeast	17,676
2. Northwest	8,829
3. West Central	1,631
4. East Central	750
5. Southwest	4,060
6. South-Southwest New Jersey	1,465 34,411

(b) Divide the municipal number in Column 9, Exhibit 1 in the Technical Appendix, by 100 and multiply the resulting quotient by the total reallocated present need for the housing region in which the municipality is located to yield municipal reallocated present need. Example:

Regional Pool of Excess Deficient Units (Region 5)	x	Average of Johnsonville's Present Need Allocation Factors (column 9)		=	103
4,060	x	$\frac{2,549}{100}$			

5:92-5.5 Present needs (as of 1987)

Present need is the sum of indigenous need and reallocated present need. To determine municipal present need add indigenous need (as calculated in N.J.A.C. 5:92-5.2) and reallocated present need (as calculated in N.J.A.C. 5:92-5.4). Example: Johnsonville's present need = indigenous need (47) + reallocated present need (103) = 150.

5:92-5.6 Prospective need: 1987-1993

(a) Prospective need is the share of future households that are low and moderate income and as such require affordable housing (see Technical Appendix). Prospective need for each housing region is projected in the following Column C.

COLUMN C  
1993 Prospective Need

Region	Prospective Need
1. Northeast	5,509
2. Northwest	9,759
3. West Central	13,661
4. East Central	23,752
5. Southwest	18,179
6. South-Southwest New Jersey	9,561 80,421

(b) To calculate municipal prospective need, divide the municipal number in Column 10, Exhibit 1 in the Technical Appendix, by 100 and multiply the resulting quotient by the prospective need for the housing region in which the municipality is located to yield municipal prospective need. Example:

$$\begin{array}{rcl} \text{1993 Prospective Need} & \times & \text{Average of} \\ \text{(Region 5)} & & \text{Johnsonville's Prospective} \\ 18,179 & \times & \text{Need Allocation Factors} \\ & & \text{(Column 10)} \\ & & \frac{2,806}{100} \\ & & = 510 \end{array}$$

5:92-5.7 Total need

Total need is the sum of present and prospective need. To determine municipal total need, add present need (as calculated in N.J.A.C. 5:92-5.5) and prospective need (as calculated in N.J.A.C. 5:92-5.6). Example:

Johnsonville's total need = present need (150) + prospective need (510) = 660

5:92-5.8 Demolitions

(a) Demolition is a factor that eliminates housing opportunities for low and moderate income households. Therefore, a number representing demolitions affecting low and moderate income households shall be added to total need (see Technical Appendix.) To determine this number:

1. Average 1983 and 1984 municipal demolitions as reported *New Jersey Residential Building Permits (1984 Summary)*. Example:

Johnsonville averaged 15 demolitions.

2. Multiply the average by six to project 1987-1993 demolitions. Example:

$$\begin{array}{rcl} \text{Johnsonville Average} & \times & \text{Number of Years} \\ \text{Demolitions} & & \text{Projected} \\ 15 & \times & 6 \\ & & = 90 \end{array}$$

3. To determine the percentage of demolitions affecting low and moderate income households, divide the percentage of low and moderate income households living in the census subregion in which the municipality is located (displayed in Exhibit 1, Column 11 in the Technical Appendix) by 100 and multiply the resulting quotient by 1.5. The percentage of demolitions affecting low and moderate income households shall be the result of this product or 95 percent, whichever is lower. Example:

$$\begin{array}{rcl} \text{Subregional Low and Moderate} & & \\ \text{Income Percentage} & & \\ \frac{23.3}{100} & \times 1.5 = & .3495 \end{array}$$

4. Multiply the percentage of demolitions affecting low and moderate income households (calculated in 3 above) by the projected municipal demolitions (calculated in 2 above). The resulting number shall be added to total need. Example:

$$\begin{array}{rcl} \text{Percentage Demolition's} & & \\ \text{Impacting Low and} & \times & \text{Johnsonville's Projected} \\ \text{Moderate Income Households} & & \text{Demolitions} \\ .3495 & \times & 90 \\ & & = 31 \end{array}$$

5:92-5.9 Filtering

(a) Filtering causes a reduction in total need based on the recognition that the housing needs of low and moderate income households are partially met by sound housing units formerly occupied by higher income sectors of the housing market (see Technical Appendix). Filtering is highly correlated with the presence of multi-family housing units. The following Column D displays regional filtering projections. The following Column E displays the total number of multifamily housing units in each region in 1980.

Region	COLUMN D 1987-1993 Filtering Projection	COLUMN E 1980 Multifamily Unit Totals
1. Northeast	12,202	410,972
2. Northwest	12,678	334,839
3. West Central	7,222	104,428
4. East Central	6,706	73,799
5. Southwest	9,587	121,352
6. South-Southwest	3,494	57,287
New Jersey	51,889	1,102,677

(b) To determine the impact of filtering on municipal total need:

1. Determine the municipal number of year-round multifamily units in 1980 as reported in the U.S. Census of Housing (Detailed Housing Characteristics Part 32—New Jersey). Example:

Johnsonville had 892 multifamily units.

2. Divide this number by the total of year-round multifamily units for the region (Column E) in which the municipality is located. This yields the municipality's share of multifamily housing units in the housing region. Example:

$$\begin{array}{rcl} \text{Johnsonville's} & & \text{Total Multifamily} & & \text{Johnsonville's} \\ \text{Multifamily} & & \text{Units in 1980} & & \text{Share of} \\ \text{Units, 1980} & \div & \text{(Region 5)} & = & \text{Multifamily Units} \\ 892 & \div & 121,352 & = & .00735 \end{array}$$

3. Multiply this percentage by the filtering estimates in Column D for the region in which the municipality is located to yield the reduction to municipal total need due to filtering. Example:

$$\begin{array}{rcl} \text{Johnsonville's Share of} & & \text{Filtering Projection} \\ \text{Region 5 Multifamily Units} & \times & \text{Region 5} \\ .00735 & \times & 9,587 \\ & & = 70 \end{array}$$

5:92-5.10 Residential conversion

(a) Residential conversion is the creation of dwelling units from already existing residential structures. Residential conversion is a significant source of housing supply to low and moderate income households and it shall cause a reduction to municipal total need (see Technical Appendix). Residential conversion is highly correlated with the projections of conversions for each housing region. The following Column G displays the total of two-to-four-family housing units in each housing region in 1980.

Region	COLUMN F 1987-1993 Conversion Estimates	COLUMN G 1980 2-4 Family Unit Totals
1. Northeast	5,138	224,294
2. Northwest	3,257	165,631
3. West Central	1,048	50,697
4. East Central	662	29,269
5. Southwest	1,478	42,692
6. South-Southwest	1,174	27,873
New Jersey	12,757	540,456

(b) To determine the impact of conversions on municipal total need:

1. Determine the municipal number of year-round two-to-four-family housing units in 1980 as reported in the U.S. Census of Housing (Detailed Housing Characteristics Part 32—New Jersey). Example: Johnsonville had 308 two-to-four-family units.

2. Divide this number by the year-round total two-to-four-family housing units for the region in which the municipality is located to obtain the municipal share of two-to-four-family housing units in the housing region. Example:

$$\begin{array}{rcl} \text{Johnsonville's Total} & & \text{Total} & & \text{Johnsonville's Share} \\ \text{2-4 Family} & & \text{2-4 Family Housing} & & \text{of 2-4 Family} \\ \text{Housing Units} & \div & \text{Units (Region 5)} & = & \text{Housing Units} \\ 308 & \div & 42,692 & = & .00721 \end{array}$$

3. Multiply this percentage by the conversion projection in Column F for the region in which the municipality is located to yield the reduction to municipal total need due to conversion. Example:

$$\begin{array}{rcl} \text{Johnsonville's Share of} & & \text{1987-1993 Conversion} \\ \text{2-4 Family Housing Units} & \times & \text{Projections (Region 5)} \\ .00721 & \times & 1,478 \\ & & = 11 \end{array}$$

5:92-5.11 Spontaneous rehabilitation

(a) Spontaneous rehabilitation measures the private market's ability to rehabilitate deficient low and moderate income housing units up to code standard; and shall cause a reduction to municipal total need (see Technical Appendix). Spontaneous rehabilitation is highly correlated with aggregate per capita income. The following Column H displays spontaneous rehabilitation projections by housing region. The following Column I displays total 1983/1984 per capita regional aggregate income for each housing region. Per capita regional aggregate income for 1983/1984 is obtained by multiplying 1983 regional per capita income estimates by 1984 estimated population in the housing region (see Technical Appendix).

Region	COLUMN H 1987-1993 Spontaneous Rehabilitation Estimates	COLUMN I 1983/1984 Aggregate Per Capita Income
1. Northeast	1,884	21,112,820,558
2. Northwest	1,194	22,029,857,240
3. West Central	384	12,235,480,836
4. East Central	243	9,830,614,791
5. Southwest	542	14,201,442,966
6. South-Southwest New Jersey	431 4,678	4,592,475,839 84,002,692,230

(b) To determine the impact of spontaneous rehabilitation on municipal total need:

1. Determine the municipal estimate of per capita income in 1983 from the 1986 *New Jersey Legislative District Data Book* (published by the Rutgers University Bureau of Government Research, April 1986). Example: Johnsonville's 1983 per capita income was \$12,975.

2. Multiply this number by the estimated municipal population as of 1984 as published in the 1984 *Population Estimates for New Jersey* (published by the New Jersey Department of Labor, September 1985). This yields municipal 1983/1984 aggregate per capita income. Example: Johnsonville's estimated population was 21,453. Calculation:

$$\$12,975 \times 21,453 = \$278,352,675$$

3. Divide 1983/1984 municipal aggregate per capita income by the 1983/1984 aggregate per capita income for the housing region in which the municipality is located (see Column I) to obtain the municipal share of aggregate per capita income.

Example:

Johnsonville's 1983/1984 Aggregate Per Capita Income \$278,352,675	÷	Region 5 1984 Aggregate Per Capita Income (Column I) \$14,201,442,966	=	Johnsonville's Share of Aggregate Per Capita Income .01960
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4. Multiply the share of regional aggregate per capita income by the spontaneous rehabilitation projections for the housing region in which the municipality is located (see Column H in (a) above) to yield the reduction to municipal total need due to spontaneous rehabilitation. Example:

Johnsonville's Share of 1983/1984 Aggregate Per Capita Income .01960	x	1987-1993 Region 5 Spontaneous Rehabilitation Estimate 542	=	11
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5:92-5.12 Pre-credited need

Municipal pre-credited need is the sum of total need and demolitions minus reductions for filtering, conversion and spontaneous rehabilitation (see Technical Appendix). Example:

$$\text{Total Need + Demolitions -} \\ (\text{Filtering + Residential Conversion + Spontaneous Rehabilitation}) \\ 660 + 31 - (70 + 11 + 11) = 599$$

5:92-5.13 Calculation of indigenous need: selected urban aid cities

(a) Selected municipalities receiving state aid (urban aid cities) pursuant to P.L.1978, c.14 (N.J.A.C. 52:27D-178 et seq.) that are exempt from the distribution of reallocated present need and prospective need as described in N.J.A.C. 5:92-5.3 (see Appendix A to Technical Appendix) shall determine their indigenous needs as indicated below:

1. Follow the procedures delineated in N.J.A.C. 5:92-5.2(a)1 through 3. These calculations yield the count of actual low and moderate income deficient units in the selected urban aid city. This estimate of low and moderate income deficient units may also be determined through a survey of the municipality's housing stock when such survey is deemed adequate and accepted by the Council for identifying deficient housing units occupied by low or moderate income households.

2. Modify the number calculated in 1. above as instructed in N.J.A.C. 5:92-5.8, 5.9, 5.10, and 5.11 (demolitions, filtering, residential conversions and spontaneous rehabilitation).

3. Perform the calculation required in N.J.A.C. 5:94-5.2(a)4.

4. Municipal indigenous need shall be the smaller number resulting from the calculations in 2. and 3. above.

5. If the calculation in 2. above is larger than 3. above, the difference between the two shall be distributed throughout the housing region as reallocated present need (see Technical Appendix).

6. This calculation of indigenous need for selected urban aid cities performed in 4. above is also the pre-credited need for these cities. No additional calculations need be made by these cities.

5:92-5.14 Low and moderate income split

Municipal pre-credited final need obligation shall be divided equally between low and moderate income households. Example:

Johnsonville's total obligation includes 299 low income units and 300 moderate income units.

SUBCHAPTER 6. CREDITS

5:92-6.1 Credits

(a) Municipal present and prospective fair share shall be determined after crediting, on a one to one basis, those housing units created or rehabilitated after April 1, 1980. Credits are applicable when a unit's occupancy is restricted to low or moderate income households and when the municipality has implemented adequate assurances for continued affordability consistent with Subchapter 12, Controls on Affordability.

(b) Low and moderate income housing units created within a municipality in excess of the municipal 1987-1993 present and prospective fair share, as calculated in subchapter 5, shall be credited on a one to one basis against its future fair share. This credit shall take place upon request during the substantive certification process, provided that such units have been restricted to low or moderate income households and the municipality has implemented adequate assurances for continued affordability consistent with Subchapter 12, Controls on Affordability.

SUBCHAPTER 7. DRASTIC ALTERATION OF THE ESTABLISHED PATTERN OF DEVELOPMENT

5:92-7.1 Drastic alteration

After receiving the crediting provided in Subchapter 6, Credits, where a municipality's present and prospective fair share exceeds 20 percent of its total occupied housing stock as estimated as of July 1, 1987, the municipality may adjust its fair share to 20 percent of its estimated 1987 occupied housing stock.

SUBCHAPTER 8. MUNICIPAL ADJUSTMENTS

5:92-8.1 General

This subchapter provides the criteria by which a municipal fair share may be adjusted. Adjustments shall be made to eliminate specific parcels of vacant land from consideration as sites for low and moderate income housing. Adjustments shall yield vacant, suitable, developable, available and approvable land within each municipality requesting and demonstrating that such adjustments to its fair share are in keeping with these criteria. Adjustments shall be made to municipal fair share when the Council determines that such adjustments are required due to available land capacity, public facilities or infrastructure. All municipalities requesting adjustments of present and prospective need shall submit an existing land use map at an appropriate scale to display the land uses of each parcel within the municipality. Such map shall display the following land uses: single family, two- to four-family, other multifamily, commercial, industrial, agricultural, parkland, other public uses, semipublic uses and vacant land. Municipalities seeking an adjustment based on historic sites, agricultural lands or environmentally sensitive areas shall submit transparent overlays drawn to the same scale as the existing land use map depicting eligible sites as delineated herein.

5:92-8.2 Adjustment process

(a) The Council shall only adjust reallocated present and prospective need which the municipality proposes to address through inclusionary developments.

(b) The Council shall determine the amount and location of vacant and undeveloped land within a municipality. Specific parcels of vacant and developable lands shall be excluded as potential sites for low and moderate income housing based on the following criteria:

1. Historic and architecturally important sites shall be excluded if listed on the State Register of Historic Places prior to substantive certification. All land within a 100-foot buffer area of an eligible historic site as described herein shall similarly be excluded.

2. Agricultural lands shall be excluded when the development rights to these lands have been purchased or restricted by covenant or when such lands are subject to restrictions as set forth in the "Right to Farm

Act," P.L.1983 c.31 (N.J.A.C. 4:1C-1 et seq.) and the "Agricultural Retention and Development Act," N.J.S.A. 32 (N.J.S.A. 4:1C-11 et seq.)

3. Environmentally sensitive lands shall be excluded as follows:

i. Within the areas of the State regulated by the Pinelands Commission, Division of Coastal Resources and the Hackensack Meadowlands Development Commission, the Council shall adhere to the policies delineated in The Pinelands Comprehensive Management Plan, N.J.A.C. 7:50; the Coastal Permit Program Rules, N.J.A.C. 7:7-1; Coastal Resource and Development Rules, N.J.A.C. 7:7E-1; and the Zoning Regulations of the Hackensack Meadowlands District, N.J.A.C. 19:4.

ii. In areas of the State not regulated by the Pinelands Commission, the Division of Coastal Resources and the Hackensack Meadowlands Development Commission, the Council shall exclude as potential sites for low and moderate income housing: inland wetlands as delineated by the U.S. Army Corps of Engineers or New Jersey Department of Environmental Protection, whichever agency has jurisdiction; flood hazard areas as defined in N.J.A.C. 7:13; and sites with slopes in excess of 15 percent as determined from the U.S.G.S. Topographic Quadrangles which render a site unsuitable for low and moderate income housing.

iii. Where the legislature adopts legislation that requires the mapping of other natural resources and provides a mechanism for their regulation, the Council shall include such resources in its criteria and guidelines for municipal adjustment.

5:92-8.3 Adequate recreation, conservation and open space

(a) Municipalities may reserve three percent of their total developed and developable acreage for active municipal recreation and exclude this acreage from consideration as potential sites for low and moderate income housing. In determining developable acreage, municipalities shall calculate their total vacant and undeveloped lands and deduct from that total number the lands excluded by the Council's policy regarding historic and architecturally important sites, agricultural lands and environmentally sensitive lands. Municipalities shall also exclude from this calculation of total vacant and undevelopable lands, those owned by nonprofit organizations, counties and the state or federal government and when such lands are precluded from development at the time of substantive certification. Municipalities shall submit appropriate documentation demonstrating that such lands are precluded from development. Existing active municipal recreation areas shall be subtracted from the three percent calculation of total developed and developable acreage to determine additional land that may be reserved for active municipal recreation.

(b) Municipalities may exclude further recreation, conservation and open space areas, beyond those calculated in (a) above, when such lands have been designated in an adopted county master plan and:

1. The county has adopted appropriate language in its ordinances to secure specific areas for recreation, conservation or open space as part of the subdivision and site plan review process; or

2. The county has included specific areas for acquisition in a capital improvement program; or

3. The county has applied to the New Jersey Department of Environmental Protection Green Acres Program or other appropriate programs to acquire or otherwise permanently set aside specified areas.

(c) Municipalities shall submit a transparent overlay drawn to the same scale as the existing land use map depicting eligible county and municipal recreation, conservation and open space sites to be eliminated from consideration for low and moderate income housing.

5:92-8.4 Vacant and developable sites

(a) Vacant sites not specifically excluded from consideration for low and moderate income housing as a result of the Council's policies regarding historic and architecturally important sites, agricultural lands, environmentally sensitive lands and recreation, conservation and open space shall be considered vacant and developable sites.

(b) The Council may, within its discretion and upon its own initiative, eliminate additional sites from consideration when the Council determines that such action is consistent with the public's general welfare.

(c) The Council shall determine the municipality's ability to absorb its fair share obligation through inclusionary developments. The Council shall presumptively require a 20 percent maximum set-aside and a minimum gross density of six units per acre on vacant and developable sites. The Council may modify this minimum gross density based on factors, including but not limited to, appraised land values, improvement costs, site conditions and municipal subsidy of project costs. The Council may also modify this density when required to satisfy the municipal present and prospective need or when the municipality and developer agree to

a modification on a specific site or when the Council's minimum gross density policy conflicts with the land use policies adopted within the Pinelands, Coastal Zone or Hackensack Meadowlands.

5:92-8.5 Adequate public facilities and infrastructure capacities

(a) The Council shall make durational adjustments to defer a municipality's fair share obligation due to the lack of adequate public facilities and infrastructure capacity. This adjustment shall remain totally or partially in effect until adequate infrastructure facilities are provided.

(b) Notwithstanding the lack of adequate public facilities and infrastructure, the municipality shall nonetheless designate and zone appropriate sites to accommodate its fair share obligation. The lack of adequate capacity, in and of itself, shall constitute a durational adjustment of the municipal obligation and that obligation shall be deferred until adequate infrastructure is made available as set forth in (c) through (f) below.

(c) Notwithstanding the lack of adequate public facilities and infrastructure in extant at the time a municipality petitions for substantive certification, the municipality shall reserve and set aside new infrastructure capacity, when it becomes available, for low and moderate income housing, on a priority basis.

(d) Municipal officials shall endorse all applications to the New Jersey Department of Environmental Protection or its agent to provide affordable infrastructure. Such endorsements shall be simultaneously submitted to the Council.

(e) Where the New Jersey Department of Environmental Protection or its designated agent approves a proposal to provide infrastructure to a site for the development of low and moderate income housing identified in the housing element, the municipality shall permit such development.

(f) Where a municipality has designated sites for low and moderate income housing that lack adequate infrastructure and where the New Jersey Department of Environmental Protection or its designated agent approves a proposal to provide infrastructure to a site other than those designated for the development of low and moderate income housing in the housing element, the municipality shall amend its housing element and fair share housing ordinance to permit development of such site for low and moderate income housing. The amended housing element and fair share housing ordinance shall be submitted to the Council within 90 days of the site's approval by the New Jersey Department of Environmental Protection or its agent.

5:92-8.6 Prohibitive costs of infrastructure

(a) The Council shall make an adjustment to the municipal present and prospective need due to prohibitive costs associated with providing public facilities and infrastructure. This adjustment shall remain totally or partially in effect until adequate, affordable infrastructure facilities are provided.

(b) Notwithstanding the prohibitive cost of adequate public facilities and infrastructure, the municipality shall nonetheless designate and zone appropriate sites to accommodate its fair share obligation. The lack of adequate capacity, in and of itself, shall constitute a durational adjustment of the municipal obligation and that obligation shall be deferred until adequate infrastructure is made available as set forth in (c) through (h) below.

(c) Notwithstanding the prohibitive cost of adequate public facilities and infrastructure at the time a municipality petitions for substantive certification, the municipality shall reserve and set aside new infrastructure capacity, when it becomes available for low and moderate income housing on a priority basis.

(d) Municipalities seeking an adjustment of their fair share due to prohibitive costs of infrastructure to the public shall complete "The Costs of Providing Infrastructure" application provided by the Council and submit it to the Council for its review.

(e) The Council shall forward "The Costs of Providing Infrastructure" application to the New Jersey Department of Community Affairs Division of Local Government Services for review. The Council shall consider the report of the Division of Local Government Services in determining whether to permit an adjustment due to prohibitive costs associated with providing public facilities and infrastructure.

(f) Municipal officials shall endorse all applications to the New Jersey Department of Environmental Protection or its agent to provide affordable infrastructure. Such endorsements shall be simultaneously submitted to the Council.

(g) Where the New Jersey Department of Environmental Protection or its designated agent approves a proposal to provide affordable infrastructure to a site for the development of low and moderate income housing in the housing element, the municipality shall permit such development.

(h) Where a municipality has designated sites for low and moderate income housing that lack adequate infrastructure and where the New Jersey Department of Environmental Protection or its designated agent approves a proposal to provide affordable infrastructure to a site other than those designated for the development of low and moderate income housing in the housing element, the municipality shall amend its housing element and fair share housing ordinance to permit development of such site for low and moderate income housing. The amended housing element and fair share housing ordinance shall be submitted to the Council within 90 days of the site's approval by the New Jersey Department of Environmental Protection or its agent.

#### SUBCHAPTER 9. PRIORITIZING

##### 5:92-9.1 Prioritizing vacant and developable sites

(a) Municipalities shall establish priorities for low and moderate income sites. Sites should be available, suitable, developable and approvable as defined in N.J.A.C. 5:92-1.3.

(b) All sites designated for low and moderate income housing shall receive approval for consistency review, as set forth in Section 208 of the Clean Water Act, 33 U.S.C. §1251, et seq. prior to substantive certification. Where a site is denied consistency review, the municipality shall apply for an amendment to its Section 208 plan to incorporate the denied site.

(c) Agricultural lands within agricultural development districts as certified by the State Agricultural Development Board that do not conform to the policies set forth in N.J.A.C. 5:92-8.2(b) may be excluded initially in establishing priorities for low and moderate income sites. Where no other sites are either appropriate and/or sufficient to accommodate fully the municipality's low and moderate income housing obligation, the municipality or the Council may request the respective county agricultural development board to establish priorities for the development of unrestricted land within the county's agricultural development district.

#### SUBCHAPTER 10. PHASING OF PRESENT AND PROSPECTIVE NEED

##### 5:92-10.1 Phasing plans

Municipalities shall be allowed to submit a phase-in plan for low and moderate income units within inclusionary developments as defined in the Act. Phasing plans shall indicate a proposed sequence for site-specific inclusionary developments.

##### 5:92-10.2 Phasing schedules

(a) Municipalities may phase-in inclusionary developments pursuant to the following schedule:

1. Inclusionary developments of less than 999 units may be phased in over a period of six years;

2. The next 500 units, 1,000 units up to 1,499 units, may be phased in from the seventh through tenth year;

3. The next 500 units, 1,500 up to 1,999 units, may be phased in from the eleventh through fifteenth year;

4. An amount in excess of 2,000 units may be phased in over a period of 16 to at least 20 years.

(b) At least one-half and no less than 200 units of the municipal obligation shall be phased in during the first three years.

(c) Within the phasing schedule, market conditions shall prevail.

##### 5:92-10.3 Commencement date of phasing schedule

The commencement date of the phasing schedule shall be January 1, 1987.

##### 5:92-10.4 General provisions

(a) The phase-in schedule shall provide for the grant of preliminary approvals to a developer subject to the phase-in schedule for final approvals in accordance with time periods set forth in sections 34, 36 and 48 of P.L. 1975, c.291 (N.J.S.A. 40:55D-46, 48 and 61), provided that such preliminary approvals shall confer vested rights as defined in subsection a. of section 37 of P.L. 1975, c.291 (N.J.S.A. 40:55D-49) for the period until the developer has the ability to proceed to final approval pursuant to the phase-in schedule. In any phase-in schedule for a development, all final approvals and the rights to final approvals shall be cumulative.

(b) Phasing of present and prospective need shall not extend the period of substantive certification. Municipalities shall be responsible for an additional present and prospective need in addition to the phased need when the period of substantive certification expires.

(c) Developers of inclusionary developments shall be entitled to final approval of at least four market housing units per each low and moderate income housing units.

##### 5:92-10.5 Priority of sites

In developing a phasing plan, municipalities shall give priority to those vacant sites that are available, suitable, developable and approvable as defined in subchapter 1. The phasing plan shall be consistent with a municipal plan for infrastructure expansion and rehabilitation.

##### 5:92-10.6 Adjustments to phasing schedule

The Council may adjust phasing schedules by 20 percent for the first three years of the phasing period. An adjustment for the first half of the phasing period shall result in a proportionate adjustment during the second half of the phasing period. Such adjustments shall be based on the factors presented in section 23 of the Act or the effect of economic conditions on specific developments.

#### SUBCHAPTER 11. REGIONAL CONTRIBUTION AGREEMENTS (RCAs)

##### 5:92-11.1 General provisions

(a) A municipality may propose the transfer of up to 50 percent of its fair share to another municipality within its housing region by means of a contractual agreement into which two municipalities voluntarily enter.

(b) The Council shall maintain current lists of municipalities which have stated an intent to enter into RCAs as receiving municipalities and shall provide copies of such lists to potential sending municipalities as requested.

##### 5:92-11.2 Terms

(a) At least 50 percent of the units accepted by a receiving municipality shall be affordable to low income households. The Council may modify this requirement if it determines that the sending municipality has adequately provided for its low income housing obligation elsewhere in its housing element.

(b) Housing provided pursuant to an RCA may include new construction, rehabilitation, residential conversion of existing units, conversion of other uses for housing, or a combination of these methods. To qualify as an appropriate component of a RCA, a rehabilitated or converted unit must meet the code standard of a municipality or other applicable housing code.

(c) Housing provided pursuant to a RCA may include the creation of alternative living arrangements, including, but not limited to, congregate housing, Class C and D boarding homes regulated by the Department of Community Affairs and residential health care facilities regulated by the Department of Health. To qualify as an appropriate component of a RCA, such facilities must be subject to controls on affordability acceptable to the Council.

(d) All RCAs shall specify payment schedules which conform to a construction or rehabilitation schedule and which relate to the receiving municipality's ability to deliver housing units in a timely fashion.

(e) All RCAs shall require receiving municipalities to file annual reports with the Agency setting forth the progress in implementing the project to be produced under a RCA. This report shall be in such form as the Council and the Agency may from time to time require.

(f) All RCAs shall require that a receiving municipality submit a proposed project plan which shall be in such form and contain such information as the Agency may require.

##### 5:92-11.3 Credits

No receiving municipality shall receive credit towards its fair share obligation for units provided pursuant to a RCA where credit for such units has been awarded to a sending municipality.

##### 5:92-11.4 Review by county planning board or other county designated agency

(a) RCAs shall be reviewed by the county planning board or other county designated agency in which the receiving municipality is located, as set forth in N.J.A.C. 5:91-12.2. Such review shall be completed within 30 days after the agreement has been referred to the county planning board or other county designated agency. The Council may grant a timely request for an extension of this time period for a period not to exceed 15 days.

(b) In conducting the review required under this section and N.J.A.C. 5:91-12.2, the county planning board or other county designated agency shall consider the master plan and zoning ordinance of the sending and receiving municipalities, its own county master plan and the SDRP. In the event that the SDRP is not completed, the county planning board or other county designated agency shall consider the SDGP and other appropriate regional plans in conducting its review.

(c) County planning boards or other county designated agency undertaking the review provided in this section shall, in forwarding the results

f such review to the Council, include a completed checklist for this purpose provided by the Council. (see: Technical Appendix).

5:92-11.5 Amount and duration of contributions

(a) In negotiating RCAs, cosmetic improvements may be included in determining the negotiated price of rehabilitating a housing unit; but cosmetic improvements alone shall not constitute an eligible improvement or purposes of a RCA. In general, eligible rehabilitation may vary in degree from gutting and extensive reconstruction to repairs for damage caused by inadequate maintenance. Rehabilitation may also include the repair or replacement of major building systems or components in danger of failure (including roof, electrical, plumbing, heating, structural and foundation defects). To be an eligible improvement under a RCA, the housing unit must meet the municipal or other relevant housing code after rehabilitation.

(b) The cost of rehabilitating a low and moderate income housing unit may vary from unit to unit and from municipality to municipality. The Council establishes \$10,000 as the minimum per unit cost necessary for rehabilitation as may be adjusted by the Council on a case by case basis. See Technical Appendix for average costs of replacing major systems (or various types of housing.) This minimum amount includes the actual capital cost of substantive rehabilitation and the necessary operating costs to insure compliance with related code standards. This minimum amount shall be regarded as illustrative.

(c) The internal cost of subsidizing a low and a moderate income housing unit in an inclusionary development may vary from project to project and from municipality to municipality. The Council establishes that \$12,500 represents the current average, internal subsidization required to provide a moderate income housing unit in an inclusionary development, and constitutes 22 percent of the unit's total cost. The Council establishes \$27,500 as the current average, internal subsidization required to provide a low income housing unit in an inclusionary development, and constitutes 48 percent of the unit's total cost. These internal subsidization guidelines shall be regarded as illustrative and may be adjusted on a case by case basis.

(d) RCAs shall run concurrent with the sending municipality's period of substantive certification, not to exceed six years; contributions may be prorated in municipal appropriations concurrent with the certification period not to exceed six years.

5:92-11.6 Enforcement

(a) The Council shall take such actions as may be necessary to enforce a RCA with respect to the timely implementation of a project by the receiving municipality. In implementing its enforcement responsibilities, the Council may:

1. Initiate or join a lawsuit to enforce a RCA; and/or
2. Bar a delinquent receiving municipality from entering into further RCAs for a specified period of time; and/or
3. Recommend that the Agency and the Department of Community Affairs withhold further assistance available under the Act; and/or
4. Take such other actions as the Council may determine necessary.

SUBCHAPTER 12. CONTROLS ON AFFORDABILITY

5:92-12.1 General provisions

In developing housing elements, municipalities shall determine measures to assure that low and moderate income units remain affordable to low and moderate income households for an appropriate period of not less than 20 years which may be adjusted as provided pursuant to N.J.A.C. 5:92-12.2. In determining these measures, municipalities may propose alternative methods for assuring continued affordability which shall be reviewed by the Agency for feasibility prior to an award of substantive certification.

5:92-12.2 Length of controls on affordability

(a) Municipalities shall consider imposing controls on rents and resale of low and moderate income units, as set forth in this Subchapter, that extend for a period of 20 years with the following exceptions:

1. Rehabilitated owner-occupied single family housing units that are improved to code standard shall be subject to affordability controls for at least six years;
2. Rehabilitated renter-occupied housing units that are improved to code standard shall be subject to affordability controls for at least ten years; and
3. Housing units created through conversion of a non-residential structure or through new construction in municipalities receiving State Aid pursuant to P.L. 1978, L.14 (N.J.S.A. 52:27D-178 et. seq.) at the time of substantive certification shall be subject to affordability controls for at least ten years.

5:92-12.3 Administrative mechanism

Municipalities shall establish an appropriate administrative mechanism or entity responsible for assuring that low and moderate income housing units remain affordable to low and moderate income households; or they shall enter into a contractual agreement with the Agency to administer these responsibilities.

5:92-12.4 Initial pricing

(a) Municipalities shall consider requiring that the initial price of a low and moderate income owner-occupied single family housing unit be established so that after a downpayment of ten percent, the monthly principal, interest, taxes, insurance and condominium fees do not exceed 28 percent of an eligible gross monthly income. Municipalities shall consider requiring that rents, excluding utilities, be set so as not to exceed 30 percent of the gross monthly income of the appropriate household size. Maximum rent shall be calculated as a percentage of the uncapped Section 8 income limit (as contained in the Technical Appendix) or other recognized standard adopted by the Council that applies to the rental housing unit. The following criteria shall be considered in determining rents and sale prices:

1. Efficiency units shall be affordable to one person households;
2. One bedroom units shall be affordable to two person households;
3. Two bedroom units shall be affordable to three person households;
4. Three bedroom units shall be affordable to five person households; and
5. Four bedroom units shall be affordable to seven person households.

(b) Housing units that satisfy the criteria in (a)1 through 5. above shall be considered affordable.

(c) Median income by household size shall be established by the uncapped Section 8 income limits, published by HUD, as defined in subchapter 1 (see Technical Appendix) or other recognized standard adopted by the Council that applies to the rental housing unit.

5:92-12.5 Annual indexed increases

The price of an owner-occupied housing unit and the rents of affordable housing units may increase annually based on the percentage increase in median income for each housing region as determined from the uncapped Section 8 income limits, published by HUD, as defined in subchapter 1 (see Technical Appendix) or other recognized standard adopted by the Council that applies to the rental housing unit.

5:92-12.6 Subsidy to ensure affordability

If the use of median income data adopted by the Council to index the cost of housing renders a unit unaffordable to a low or moderate income household at the time of resale, a municipality shall not lose credit for the housing unit, provided that adequate controls on affordability remain in place, but the municipality may subsidize the housing unit to maintain affordability.

5:92-12.7 Procedures of resale

Persons wishing to sell affordable units shall notify the municipal entity responsible for assuring affordability of the intent to sell. If no eligible buyers enters a contract of sale for the unit within 60 days of notification, the municipal entity shall have the option to purchase the unit for the maximum price permitted based on the regional increase in median income as defined by HUD or other recognized standard adopted by the Council. If the municipal entity does not purchase the unit, the seller may apply for permission to offer the unit to a non-income eligible household at the maximum price permitted. The seller shall document efforts to sell the unit to an income eligible household as part of this application. If the request is granted, the seller may offer low income housing units to moderate income households and moderate income housing units to households earning in excess of 80 percent of median. In no case shall the seller be permitted to receive more than the maximum price permitted.

5:92-12.8 Eligible capital improvements

Property owners of single family, owner-occupied housing may apply to the municipal entity responsible for permission to increase the maximum price for eligible capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household. In no event shall the maximum price if an improved housing unit exceed the limits of affordability for the larger household. Property owners shall apply to the municipal entity if an increase in the maximum sales price is sought.

5:92-12.9 Impact of foreclosure on resale

An action of foreclosure by a financial institution regulated by state and/or federal law shall extinguish controls on affordable housing units. Notice of foreclosure shall allow the municipal entity to purchase the affordable housing unit at the maximum permitted sale price. Failure of

the municipal entity to purchase the affordable housing unit shall result in the Council adding that unit to the municipal present and prospective fair share obligation.

5:92-12.10 Excess procedures upon foreclosure

In the event of a foreclosure sale, the owner of the affordable housing unit shall be personally obligated to pay to the municipal entity responsible for assuring affordability, any surplus funds, but only to the extent that such surplus funds exceed the difference between the maximum price permitted at the time of foreclosure and the amount necessary to redeem the debt to the financial institution including costs of foreclosure.

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APPENDIX A

Approach: 1987-1993 Low and Moderate Income Housing Need Estimates

COUNCIL ON AFFORDABLE HOUSING  
1987-1993 LOW- AND MODERATE-INCOME  
HOUSING NEED ESTIMATES

—  
APPROACH

PRESENT NEED (2 INDICES)  
REALLOCATED PRESENT NEED  
(FAIR SHARE ALLOCATION FORMULA)  
PRESENT NEED  
PROSPECTIVE NEED  
(FAIR SHARE ALLOCATION FORMULA)  
TOTAL NEED  
SUPPLY CONTRIBUTIONS  
(FILTERING, RESIDENTIAL CONVERSION, REHABILITATION,  
DEMOLITION)  
PRE-CREDITED NEED

Research Sponsor	Research Organization
Council on Affordable Housing	Rutgers University Center for Urban Policy Research
Research Contacts	Principal Investigator
Arthur R. Kondrup, Chairman	Robert W. Burchell, Ph.D.
Douglas V. Opalski, Executive Director	

Date  
1 May 1986

REGIONAL AND STATEWIDE  
SUMMARY OF  
PRE-CREDITED NEED

1987-1993 LOW AND MODERATE NEED ESTIMATES BY STATE  
AND REGION

- HOUSING DEFICIENT PRESENT NEED-
- HISTORIC MODEL PROSPECTIVE NEED-
- FAIR SHARE PRESENT NEED  
ALLOCATION-
- FAIR SHARE PROSPECTIVE NEED  
ALLOCATION-

Accounting for:  
Demolition, Filtering, Residential Conversion,  
and Spontaneous Rehabilitation

	1987 Present Need
	1987-1993 Prospective Need

CALCULATING NEED

Indigenous Need	85,134
Reallocated Present Need	34,411
Prospective Need	80,421
Total Need	199,966
Demolition	13,367
Filtering	-51,004
Residential Conversion	-12,102
Spontaneous Rehabilitation	-4,520

STATEWIDE PRE-CREDITED NEED 145,707\*

REGIONAL NEED

Northeast	42,534
Northwest	28,773
West Central	14,720
East Central	23,247
Southwest	21,884
South-Southwest	14,549

\*The Council on Affordable Housing is prepared to adjust municipal housing need such that precredited final need will not exceed twenty percent of a municipality's occupied housing units in 1987. This adjustment is to prevent a municipality from experiencing a drastically altered development pattern as per Section 7 of the Fair Housing Act. The adjustment, if pursued by all municipalities who qualify, will not diminish statewide need by more than 1421 housing units. See subsequent section on Capped Need.

THE PROCEDURES TO CALCULATE  
LOW- AND MODERATE-INCOME  
HOUSING NEED

INTRODUCTION

The information which follows details the procedures and data resources employed to calculate low- and moderate-income housing need in the State of New Jersey. These procedures have evolved primarily since *Mount Laurel II*<sup>1</sup> and have been heavily influenced both by the provisions of the Fair Housing Act and *Mount Laurel III*.<sup>2</sup> The report incorporates the methodology adopted by the Council on Affordable Housing<sup>3</sup>—the agency charged with effecting the Fair Housing Act and bringing about statewide compliance with the *Mount Laurel* mandate.

The procedures specified here draw upon contributions by numerous groups to evolving fair housing implementation. These include efforts on the part of the *Mount Laurel II* judges, the Urban League group, Rutgers University, the appointed masters, the Department of the Public Advocate, the Governor's Office, New Jersey Department of Community Affairs, New Jersey Department of Environmental Protection (Division of Coastal Resources), New Jersey Pinelands Commission, New Jersey Housing and Mortgage Finance Agency, New Jersey Federation of Planning Officials, Land Use Section of the New Jersey Bar, New Jersey Builders Association, New Jersey State League of Municipalities, attorneys/planners for litigating developers/municipalities, and other individuals/groups too numerous to mention.

These groups have crafted a body of knowledge and procedure which has been drawn upon and refined in the production of this document. A clear effort has made here to take into account varying points of view and above all, as the name of the Fair Housing Act implies, be *fair*: fair to those who need housing, to municipalities and their residents who must

accommodate this housing, and finally, to the builders/developers who must provide it. The procedures contained here are an effort to move forward on a broad and unified front in meeting the charge of the Fair Housing Act.

To this end, the report begins with methods used to qualify the low- and moderate-income populations and subsequently deals with the calculation, distribution, and refinement of present and prospective low- and moderate-income housing need.

#### INCOME QUALIFICATION OF THE LOW- AND MODERATE-INCOME POPULATION

Data from the 1980 New Jersey Public Use Sample<sup>4</sup> (a five percent sample of all households in New Jersey taken by the U.S. Census Bureau) is used to qualify a household according to HUD Section 8<sup>5</sup> family-income requirements. The Sample is comprised of computer tapes which contain records for a sample of housing units with information on the characteristics of each unit as well as the people who reside in these units. Information from this file makes it possible to initially eliminate all individuals living in institutions, group quarters, or as boarders/lodgers from potential low- and moderate-income housing demand. This removes from direct count those people who comprise prison/sanitarium, college, nursing home, boarders/boarding home, and other related populations.<sup>6</sup>

Sub-households and sub-families are not separately distinguished as this would double count existing housing deterioration and no information is available on how or if sub-families/sub-households would choose to separate in the future. Thus, one household per unit is counted. Current applications for low- and moderate-income housing built under the *Mount Laurel II* aegis indicate shares or parts of families and unrelated individuals seeking to reside together. This partially confirms continued, shared or unrelated household use of new low- and moderate-income housing units.

Once these selection procedures are undertaken, the Public Use Sample may be employed to array all households by size and income status. HUD median family income for a region is determined, and 80 percent and 50 percent assigned to household sizes of four for the upper limits of moderate and low incomes, respectively. Each household size of more or less than four is allowed a positive or negative adjustment of the 80 percent or 50 percent of median figure to qualify for moderate- or low-income designation.<sup>7</sup> (This is based on the philosophy that if you have more children/dependents or household members you can earn slightly more and qualify for moderate/low income; in reverse fashion, if you have fewer dependents or members, it is more difficult to qualify by establishing a lower income for qualification.)

The procedure spelled out above separates low- and moderate-income households, adjusting for household size, from all other households in the region. This relative selection of a population qualifying for housing need forms the basis of all need estimates. In subsequent steps, the housing units occupied by these households are initially checked for deterioration to determine present need. The number of income-defined households is then projected into the future to determine prospective need. The detailing of these steps is explained below.

#### PRESENT NEED

##### Indigenous Need

Indigenous need is a component of present need which is the total deficient housing signaled by surrogates unique to each community. Where communities' deficient housing as a percentage of all occupied housing units exceeds the regional average, their excess need is sent to a housing pool for subsequent distribution in the region. Housing from the pool is reallocated to all communities in the growth area of the region with the exception of designated Urban Aid Cities. The indigenous need for communities below the regional average of housing deficiency is their tabulated deficient units. For those above the regional average, their indigenous need is their deficient housing capped by the regional average percent deterioration.

Recognizing the evolution of the concept of deteriorated housing from 1960 and earlier where enumerators attempted to physically identify bad housing from field survey, to the current period where deficient housing is isolated through housing quality surrogates, information provided by the *1980 Census* is used to signal housing deficiency via surrogates.<sup>8</sup>

*Surrogates do not themselves confirm that a unit is deficient.* They indicate that if a unit has these characteristics, it most likely would be independently found via field survey as deficient. Surrogates are developed by listing the characteristics of units found as deficient and viewing which characteristics consistently are associated with field-confirmed deficiency. Six housing quality surrogates are used with structure

age to signal housing deficiency. These indices represent the culmination of numerous empirical studies on factors indicative of superior versus inferior housing quality.<sup>9</sup> *They represent the full range of information available on housing quality from the 1980 Census.* No index is slighted, and all are simultaneously employed. They include:

(a) *Year Structure Built.* A distinction is made between units built before and after 1940. This pre-War cutoff is the classic differentiation point of new versus old housing in the literature.<sup>10</sup>

(1) *Persons per Room.* 1.01 or more persons per room is an index of overcrowding.

(2) *Access to Unit.* A unit is unacceptable if one must pass through another dwelling to enter it. This is a measure of privacy.

(3) *Plumbing Facilities.* A household must have exclusive use of complete plumbing facilities.

(4) *Kitchen Facilities.* Adequate kitchen facilities include a sink with piped water, a stove, and a refrigerator.

(5) *Heating Facilities.* The existence of central heat is used as a measure of adequacy.

(6) *Elevator.* Buildings of four stories or more are considered inadequate if they do not have an elevator.

A unit has to have at least two characteristics to be isolated as deficient once it qualifies as housing a low- or moderate-income family. Since age is so highly correlated with structure deterioration and loss, if in 1980 the unit was more than forty years old and had at least one other negative housing characteristic, it is selected as deficient. If, on the other hand, it was a newer unit in 1980, in the absence of the unit-age qualification, two or more negative structural characteristics signal housing deficiency.

Multiple deficient characteristics in a single housing unit is an important concept. Using multiple indicators results in a high probability of isolating bad housing, yet a very low probability of classifying good housing as bad.<sup>11</sup>

This procedure of establishing housing deficiency is: (1) drawn from the literature of the field; (2) encompasses a broad array of physical insufficiency including such items as indirect access, incomplete kitchen, burdensome walk-ups, etc., (3) ensures against erroneous inclusion of good units, and (4) provides a very high probability that the housing identified, at least in relative terms, is clearly less than adequate.

Due to confidentiality protection and data availability, the procedure to specify indigenous need can be estimated only to each of 52 subregions of the state.<sup>12</sup> It is taken down to the community level by three housing quality variables available at both the subregional level and the community level. These are:<sup>13</sup>

(1) Plumbing Facilities—non-exclusive use of complete plumbing;

(2) Heating Facilities—non-presence of central heat or vented room heaters; and

(3) Persons per Room—space inadequacy, i.e., 1.01 or more persons per room.

The pool of low- and moderate-income families living in deficient housing once calculated at the subregional level is distributed to individual communities on the basis of the share of three indices of deficient housing at the local level to the total at the regional level. At the local level, these latter variables cannot be cross-tabulated with age or income in the same way as information at the subregional level can. Thus, the best available information and the most rigorous procedures are used to isolate deficient housing at the subregional level, and this is taken to the municipal level through other housing quality variables less complete in terms of isolating housing deficiency but found at a variety of geographic levels.<sup>14</sup>

In order to address present need with some lead time appropriate for planning and implementation, present need is actually projected to be estimated as if July 1, 1987 were the current period and the sample of housing deficiencies was taking place at this time. This is done by reproducing the incidence rates of deterioration associated with certain age groups and household types in 1980, and projecting these households and their associated housing conditions to the 1987 period. The new array and number of households in 1987 carry with them the deterioration noted in 1980.

As noted earlier, for communities with severe housing deficiencies, their deficiencies are capped at the regional average percentage of deficiencies as a proportion of total occupied housing. The excess over this regional percentage is distributed to all communities in the growth area of the region.\* This is covered below.

\*Communities which originally contributed to the pool due to excess deficiency, if not selected Urban Aid Cities, can receive additional units from the pool via the reallocation formula.

Municipal surveys to determine indigenous need may be presented to the Council as an alternative method to this procedure. (See Section 10—Fair Housing Act.) The Council will provide guidance as to the appropriate form and scale of such surveys.

INDIGENOUS NEED BY REGION†

Northeast	34,227
Northwest	22,894
West Central	7,486
East Central	4,692
Southwest	9,208
South-Southwest	6,627
STATE TOTAL	85,134

†See the following figure for mapped display of regions

Reallocated Present Need

Reallocated present need is the share of excess deterioration in a region transferred to all communities in the growth area of the region with the exception of selected Urban Aid Cities. (See Attachment.) Urban Aid Cities, almost all of which are densely populated and have a higher-than-average proportion of low- and moderate income families living in deteriorated housing, are not expected to have this regional burden reinforced by future low- and moderate-income housing requirements.<sup>15</sup> Therefore, when the reallocated present need pool for the region is computed from an average deficiency percentage for the entire region, Urban Aid Cities are not expected to share in that pool. Instead, the excess of deficient units over the regional percentage of deficiencies is redistributed to all municipalities with any growth area in the region. The exact procedure for redistribution is covered under Distribution of Low- and Moderate-Income Housing Need.

REALLOCATED PRESENT NEED BY REGION

Northeast	17,676
Northwest	8,829
West Central	1,631
East Central	750
Southwest	4,060
South-Southwest	1,465
STATE TOTAL	34,411

PRESENT NEED

Present need is the sum of indigenous and reallocated present need in a municipality. It represents individual municipal housing responsibility reflective of its own housing inadequacy/deficiency (except where it is regionally excessive) and regional responsibilities in terms of its share of the pool of housing replacement/repair that must be undertaken by growth area communities due to excess deterioration in the region.

PRESENT NEED BY REGION

Northeast	51,903
Northwest	31,723
West Central	9,117
East Central	5,442
Southwest	13,268
South-Southwest	8,092
STATE TOTAL	119,545

PROSPECTIVE NEED

Prospective need is the share of the total projected population that will qualify for low- and moderate-incoming housing. It is obtained by projecting the population by age cohort from 1987 to 1993 through the following steps:

(1) A 1987 base is established by bounding it at one end by the age cohort distributions of the 1984 Population Estimates for New Jersey<sup>16</sup> from the New Jersey Department of Labor.\* The other end is bounded by the distribution of the projected population for 1990 by age cohort under the New Jersey Department of Labor's Historical Migration Model.<sup>17</sup> These two population distributions by each age cohort are added together and divided by two to obtain the age distribution of the base population for the mid-period 1987.

(2) A July 1, 1993 projection-year end is also arrayed by age distribution. This is done in the following way:

(a) 1990 and 1995 age distributions for the New Jersey Department of Labor's Historical Migration Model are distributed by their respective

eight age cohorts and three-fifths of the distance between 1990 and 1995 is used for each age cohort for 1993. The age cohorts are as follows:

AGE COHORT

- Less than 25 years
- 25-29 years
- 30-34 years
- 35-44 years
- 45-54 years
- 55-64 years
- 65-74 years
- 75 years and over

(3) Both the population age cohorts for the base year (1987) and the projection-end year (1993) are multiplied by 1980 New Jersey county-specific headship rates by age cohort.<sup>19</sup> Two distributions of total households emerge.

(4) Total households for each period are converted to low- and moderate-income households by carrying forward the income characteristics of all households in 1980 to 1987 and 1993 by age cohort. Low- and moderate-income households are sorted by applying the Section 8 household size/income qualification criteria that were used in 1980 to a different number of households that exist in each cohort in 1987 and 1993. Thus, to the degree that age cohorts are differently composed and growing differently, the low- and moderate-income population will also change as it ages into the future.

(5) Low- and moderate-income households for 1987 are subtracted from low- and moderate-income households in 1993 to obtain the change in low- and moderate-income households from 1987 to 1993. This is done for eight age cohorts specific to each of 21 counties. The result is prospective low- and moderate-income housing need.

PROSPECTIVE NEED BY REGION

Northeast	5,509
Northwest	9,759
West Central	13,661
East Central	23,752
Southwest	18,179
South-Southwest	9,561
STATE TOTAL	80,421

DISTRIBUTION OF LOW- AND MODERATE-INCOME HOUSING NEED

Low- and moderate-income housing need is distributed to each community using the economic and land-use factors listed below. These factors in the first two cases represent measures of responsibility, i.e., the labor force drawn to the municipality needing housing. In the second two cases, they represent measures of capacity, i.e., the physical and fiscal capacity to absorb and provide for such housing.<sup>20</sup> The first three factors are used to distribute excess present need (reallocated present need); the full four factors are used to distribute prospective need. The first three factors are identical for present and prospective need. All factors operate individually, are equally weighted, and involve only those municipalities in the growth area of the region.

(1) Regressed annual covered employment change within a municipality over the period 1977-84, as a percentage of regional regressed annual covered employment change for the same period (this is the most stable period to measure change in employment)<sup>21</sup>

(2) Covered employment in a municipality as a percentage of regional covered employment (1984)

(3) Municipal area in the growth areas as a percentage of growth area in the region as included on the official State Department Guide Plan (SDGP).<sup>22</sup> Pinelands and Coastal Zone areas are added to the SDGP Growth Area according to the following designations:<sup>23</sup>

(a) Pinelands—All areas in Regional Growth Areas and Pinelands Towns.

(b) Coastal Zone—All areas in Development Regions and Extension Regions, the latter including Central Corridor Barrier Islands.

(4) Municipal 1983/1984 aggregate per capita income as a percentage of 1983/1984 regional aggregate per capita income\*<sup>24</sup>

Neither prospective need nor reallocated present need are directed to Urban Aid municipalities which have the characteristics of older core areas to avoid reconcentrations of low- and moderate-income families in these fiscally/economically stressed locations.<sup>25</sup>

\*These are available by county from the New Jersey Department of Health.<sup>17</sup>

\*1983/1984 aggregate per capita income is obtained by multiplying 1983 per capita income by the 1984 Population Estimates for the growth area municipality and all municipalities in the growth area of the region.

**FIGURE**

**THE COUNCIL ON AFFORDABLE HOUSING REGIONS**

**Region 1 -  
Northeast**

Bergen  
Hudson  
Passaic

**Region 2 -  
Northwest**

Essex  
Morris  
Sussex  
Union

**Region 3 -  
West Central**

Hunterdon  
Middlesex  
Somerset  
Warren

**Region 4 -  
East Central**

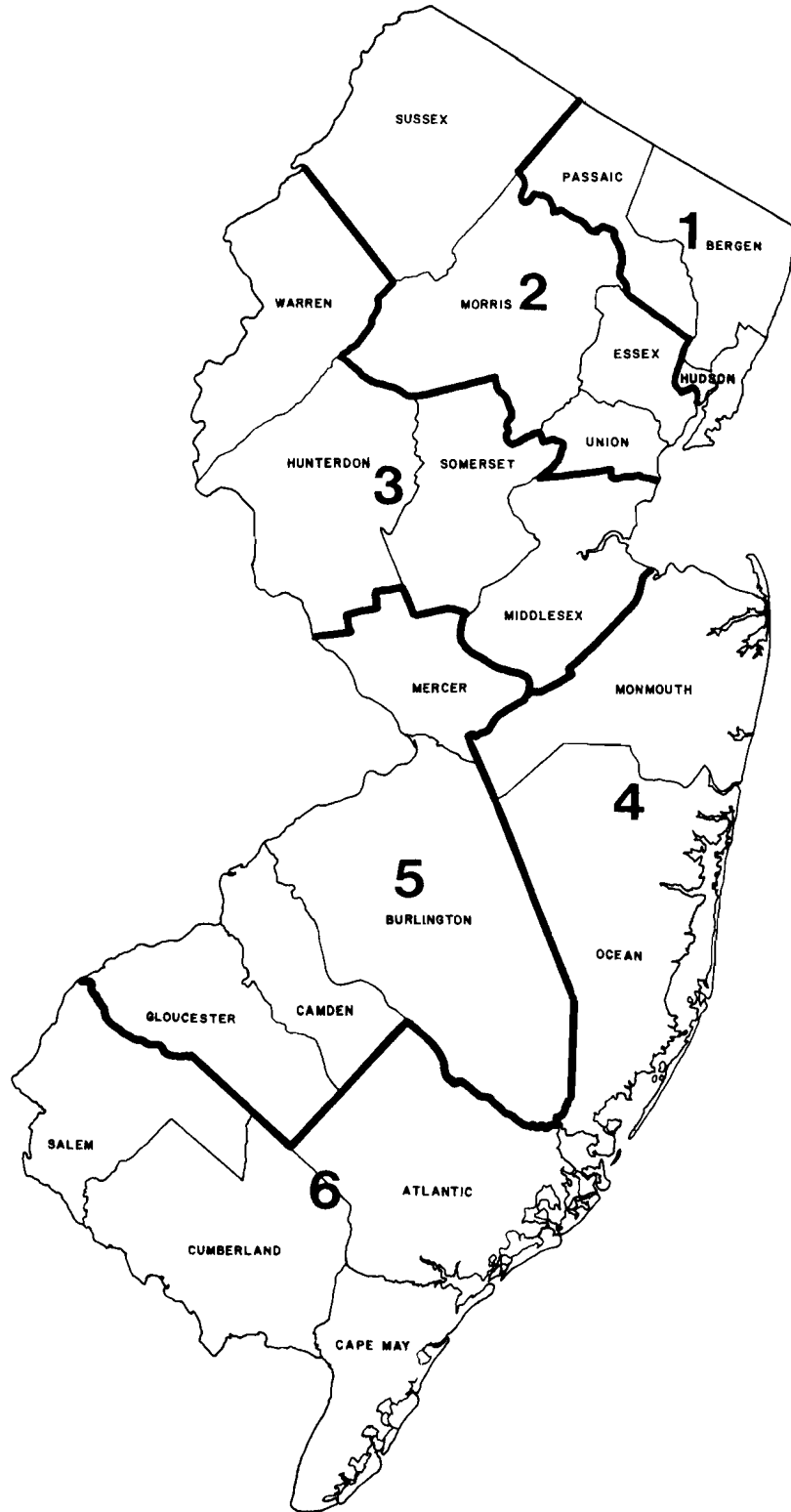
Monmouth  
Ocean

**Region 5 -  
Southwest**

Burlington  
Camden  
Gloucester  
Mercer

**Region 6 -  
South-Southwest**

Atlantic  
Cape May  
Cumberland  
Salem



Source: RUTGERS UNIVERSITY Center for Urban Policy Research,  
Winter, 1983

The criteria for determining the Urban Aid municipalities to be exempt from any housing need beyond indigenous need are summarized as follows:<sup>26</sup>

(a) Designated "Urban Aid" by the State for funding year 1986. In addition, they must meet one of the following:

(1) Level of existing low- and moderate-income housing deficiency, according to the six housing deficiency criteria, that exceeds average regional low- and moderate-income housing deficiency for the region in which the Urban Aid municipality is located

(2) Population density of greater than 10,000 persons per square mile or 14.1 per acre

(3) Population density of 6,000 to 10,000 persons per square mile or 9.4 to 14.1 per acre plus less than five percent of vacant, non-farm, municipal land as measured by the average of the percentage of vacant land valuation and vacant land parcels of all local land valuation/parcels in the 1984 Statement of Financial Condition of Counties and Municipalities (Trenton, NJ: New Jersey Department of Community Affairs, 1985).<sup>27</sup>

TOTAL NEED

Total need 1987 to 1993 is composed of indigenous need, reallocated present need, and prospective need. It is the total municipal need number before demand increases for demolitions and demand reductions for secondary sources of supply are introduced. In a very few cases, negative prospective need in a community, reflective of reduced housing demand due to employment loss, lessens present need demand and, as such, reduces total need.

TOTAL NEED (PRESENT AND PROSPECTIVE)  
BY REGION

Northeast	57,412
Northwest	41,482
West Central	22,778
East Central	29,194
Southwest	31,447
South-Southwest	17,653
STATE TOTAL	199,966

SECONDARY SOURCES OF HOUSING SUPPLY/DEMAND

Background

Secondary sources of housing supply/demand reflect the adjustments of the housing market to the unevenness and spontaneity of primary supply/demand. As housing ages or as it falls prey to accident, natural disasters, or publicly/privately initiated changes in land use, it may become obsolete and be removed from the stock. The term for this selective pruning is *demolition*. Demolitions occur regularly and affect various markets differently. In strong markets, demolitions are low; in weaker markets, they are proportionally higher. In both situations, demolitions add to future housing demand.

As housing is added by private developers to the upper and middle price categories of the stock, a large share of consumers who already occupy housing within the market are attracted to this housing. When they occupy the new housing through purchase or rental agreements, they release housing within the local market that is inferior to the new housing that has been built. This causes housing to be available to a lower round of consumers, often at a reduced price. The process is termed *filtering*. Filtering reduces future demand as a greater proportion of formerly higher priced housing is now available at potentially lower prices. Filtering takes place in active housing markets, especially those receiving a significant influx of new housing.

In selected submarkets, a demand may exist for smaller units, and this need may not be responded to by normal market operations. The market adjusts to this need by creating additional smaller units from larger ones. This is termed *residential conversion* and most often occurs in housing stocks containing larger structures that can be adapted to smaller units yet not destroy or significantly alter the value of adjacent units in the process. The older, urban two- to four-family home is an ideal conversion unit. Four or six units may be created where only one-half this number may have existed in this type of structure previously. Often these units are termed illegal conversions, not because they are not safe, sound housing, but rather because the enlarged structure no longer conforms to the unit restrictions of the zoning ordinance.

Another characteristic of the housing market is for deficient units to be upgraded privately. This also lessens housing demand as a deficient unit is replaced by a sound unit. This happens usually because a market exists for the renovated structure, usually at a higher occupancy cost than

when the structure fell into disrepair. *Spontaneous rehabilitation*, as it is called, occurs in stronger, growing markets and affects only a small proportion of the low- and moderate-income housing stock.

Procedures

In the earlier-discussed allocation and reallocation procedures, only those municipalities in the growth area participated. *In the reductions or increases to housing need due to secondary supply and demand, all locations participate.* This is true because all municipalities have some type of need, and reductions apply to housing need no matter how the need is generated. Thus, when demand reductions due to filtering are calculated, the reduction for a particular location is based on the share of *all* multifamily units in the region.

For Urban Aid Cities, the demand reductions are taken before these areas send excess need to the reallocation pool; for all other locations, demand reductions are taken after this point. This is to prevent other less-dense, less-deteriorated, inner-ring cities from receiving a large share of reallocated need without an equivalent chance to participate in secondary demand reductions due to specific characteristics of their housing stock.

Demolitions

Demolitions are a secondary source of housing demand in that demand is created by households requiring housing because units are lost from the stock. Housing units are lost due to fire, structure abandonment, road improvements, community renewal, land-use change, and other reasons.<sup>28</sup> It is estimated that units lost from the low- and moderate-income stock (both reported and unreported demolitions) are on a par with those added to the stock due to conversion. For the *entire* housing stock, the ratio of demolitions to conversions may be even higher.<sup>29</sup> It is also true that the level of demolitions is faly in New Jersey. At the beginning of the decade, total reported demolitions for New Jersey municipalities were 4,000-5,000 per year; towards mid-decade the total is closer to 3,000 annually.<sup>30</sup>

In order to estimate the scale of demolitions, reported demolitions for each municipality for the years 1983 and 1984 are averaged and multiplied by six to obtain a six-year demolition estimate by municipality. These are representative years which catch the most recent aspects of the trend in demolitions.<sup>31</sup> Demolitions are adjusted for each municipality to the share of all demolitions that affect the low- and moderate-income housing sector by 150 percent of the subregional share of low- and moderate-income housing. This percentage share of all demolitions that affect low- and moderate-income families is capped at 95 percent. Total demolitions are thus tallied by individual community, and the share affecting low- and moderate-income housing is estimated by a multiple of the subregional low- and moderate-income housing deficiency percentage. This latter factor recognizes that demolitions take place at a much higher rate in the low- and moderate-income housing sector than for all housing locally. Demolitions at a statewide level are essentially offset by conversions for low- and moderate-income households. This latter relationship is covered more fully in a subsequent section.

DEMOLITION HOUSING NEED BY REGION

Northeast	4,037
Northwest	4,350
West Central	365
East Central	870
Southwest	1,753
South-Southwest	1,992
STATE TOTAL	13,367

Filtering

Filtering is a downward adjustment of housing which recognizes that the housing requirements of lower-income groups can be served by supply additions to the higher-income sectors of the housing market.<sup>32</sup> During the course of normal market operations, middle- and upper-income households vacate existing housing for new, more desirable units, leaving their units vacant for households of lesser income. Filtering is predicated on the existence of housing surpluses which cause housing prices to drop because of the excess of housing supply over demand.

Filtering is measured using *The American (Annual) Housing Survey* over the nine-year period 1974-1983. *The American (Annual) Housing Survey* sponsored jointly by the U.S. Department of Housing and Urban Development and the U.S. Department of Commerce is particularly useful in that the same unit is measured at various intervals.<sup>33</sup> By specifying Section 8 income eligibility by household size for the years in question,

two components of the household population can be specified: those households that meet the *Mount Laurel II* income requirements, and those households whose incomes are above the *Mount Laurel II* income requirements for each observation period.

Viewing the same housing units, it is found that the net filtering (units moving down minus units moving up) to the lower-income population in New Jersey is about 6.5 percent over the course of the observation period.<sup>34</sup> About 18.8 percent of the stock moves down, and 12.3 percent moves up. The figure used for six-year net filtering is 3.25 percent of the non-deteriorated, non-low- and moderate-income housing stock. The 3.25 percent figure is derived by multiplying the actual 4.32 percent six-year rate by 0.75. The latter accounts for those units which filtered down over the period and do not have the same range of affordability as those units that were continuously occupied by low- and moderate-income families. Further, by using the non-deteriorated portion of the housing stock, the units that are counted as moving downward are assumed to be of adequate housing quality. Thus, both affordability and housing condition are controlled for in the filtering estimate.

Through cross-tabulation analysis, and taking into account the dominance of single-family homes in New Jersey, filtering is found to be more active in those locations which have higher percentages of multifamily units, and much less active in locations where there are small percentages of multifamily units.<sup>35</sup> Even though filtering takes place to some degree in all locations, it is much more of an urban than suburban housing phenomenon.

Filtering for the period 1987 to 1993 is estimated by taking 3.25 percent of the 1987 non-deteriorated, non-low- and moderate-income housing stock by region and assigning this need reduction to communities within the region according to their share of multifamily housing units (two or more units) of the regions' total multifamily units. A community receives a filtering adjustment to the degree that it contains multifamily housing,\* i.e., the most likely type of housing to filter down.

**FILTERING HOUSING SUPPLY\* BY REGION**

Northeast	-12,179
Northwest	-12,661
West Central	- 7,121
East Central	- 6,114
Southwest	- 3,494
STATE TOTAL	-51,004

\*Secondary supply sources shown as negative demand contributors

**Residential Conversion**

Conversion is the creation of dwelling units from already existing structures. Almost all conversion consists of additional dwelling units being created from other residential units, and very rarely from nonresidential units. This type, termed residential conversion, is a significant and recognized source of housing supply to low- and moderate-income families. According to the U.S. Department of Housing and Urban Development, as family size has decreased over the past two decades, residential conversion creating multiple smaller units from larger units has also increased.<sup>36</sup>

Converted units are measured through *American (Annual) Housing Survey* and the *Decennial Census*. Conversions are the difference between the net change in total housing units (end minus beginning of period), minus the net of housing units constructed and demolitions lost over the period. Residential conversion is equivalent to 15 percent of total units constructed over a decade and over double this percentage (i.e., 30 percent) of the low and moderate component of required total housing production.<sup>37</sup> It is estimated that units made available through conversion will reduce indigenous need by 18 percent during the six-year projection period. Residential conversion is closely related and distributed to municipalities on the basis of their percentage of two- to four-family structures.<sup>38</sup> Residential conversions influence housing supply at the regional level according to an observed share of indigenous need. They are distributed to municipalities within regions according to the presence of structure types conducive to conversion, i.e., two- or four-family units.\*

Residential conversions to low- and moderate-income housing in normal markets are often on a par with demolitions for this income sector. In stronger markets, conversions are more than demolitions; in weaker markets, less. A statewide control of demolitions pairs this variable in approximate magnitude with that of total demolitions.

\*1980 instead of 1987 is used as a base to tabulate the share of multifamily units as demolitions over the period 1980-1985 are not available by structure type. It is possible to estimate total 1987 occupied housing units, but the distribution by structure type cannot be accurately determined without demolition information by structure type.

**RESIDENTIAL CONVERSION HOUSING SUPPLY BY REGION**

Northeast	- 4,897
Northwest	- 3,221
West Central	945
East Central	- 482
Southwest	- 1,383
South-Southwest	- 1,174
STATE TOTAL	-12,102

**Spontaneous Rehabilitation**

Spontaneous rehabilitation is the unsolicited private market reduction of housing need by structure rehabilitation sufficient to render the unit free of deficiencies.<sup>39</sup> Via the *American (Annual) Housing Survey*, over five interim years between 1974 and 1980, spontaneous rehabilitation can be measured by using as a surrogate more than \$200 spent on each of three of four categories of additions, alterations, replacements, or repairs during the course of a single year.<sup>40</sup> This spontaneous rehabilitation happens to about 1.1 percent of the deficient units occupied by low- and moderate-income households annually. For a six-year period, the figure is estimated to be 6.6 percent applied to indigenous need at the regional level.

The key factor associated with rehabilitation of deteriorated units is wealth of the area as interpreted through aggregate income. Reductions for spontaneous rehabilitation are given to each municipality according to the municipality's share of regional aggregate income.\* Larger, less wealthy—and smaller, more affluent—communities will get some measure of a larger relative credit for potential rehabilitation because in the first case, there is more opportunity for rehabilitation to happen, and in the second, there is more money to support it.<sup>41</sup>

Spontaneous rehabilitation at this juncture should not be confused with rehabilitation as a meliorative housing strategy once final need is determined. Spontaneous rehabilitation is a reduction before final need is calculated due to the workings of the private market. Public, publicly assisted, or private rehabilitation as a housing strategy once need is determined is one of several means of response to that need and has nothing to do with the need reduction determined here.

**SPONTANEOUS REHABILITATION HOUSING SUPPLY BY REGION**

Northeast	-1,839
Northwest	-1,177
West Central	- 366
East Central	- 221
Southwest	- 499
South-Southwest	- 428
STATE TOTAL	-4,530

(includes ten units which would have made total need in a community negative. This accounting measure allows the reduction for this factor to be 4,520.)

**PRE-CREDITED NEED**

Pre-Credited Need is the municipality's estimated obligation under the *Mount Laurel* mandate for the period 1987 to 1993. Relative to other municipalities, and taking into account past growth, growth designation/share, and aggregate income, this is the need to which the municipality must address itself. Under Section 7 of the Fair Housing Act, municipalities may take credit for past provision of public or publicly assisted housing. Pre-Credited Need may be addressed via new construction or a level of rehabilitation to render the deteriorated units adequate. It is a need which, if it is less than 1,000, must be addressed within a six-year period; yet, if more than 1,000, may be spread out over a longer period as per subsequent phasing rules. Pre-Credited Need is solely the low- and moderate-income housing number and does not address the number of market units that might have to be built to support the development of the low- and moderate-income units locally.

\*1983/1984 aggregate per capita income is used for this ratio.

PRE-CREDITED NEED BY REGION

Northeast	42,534
Northwest	28,773
West Central	14,720
East Central	23,247
Southwest	21,884
South-Southwest	14,549
STATE TOTAL	145,707

CAPPED NEED

Low- and moderate-income housing need in a community is capped at 20 percent of occupied housing units in 1987. Should density bonuses be applied and the community actively pursued by developers, under the provision of the 20-percent CAP no community will be required to double over the projection period. The small reduction in need that this capping procedure provides prevents the smaller communities in a region from experiencing significant change while complying with the state's low- and moderate-income housing mandate. Capped need is not a part of a municipality's pre-credited need estimate as this credit (if applicable) may be applied for during the municipal adjustment process.

CAPPED NEED BY REGION

Northeast	404
Northwest	24
West Central	34
East Central	153
Southwest	130
South-Southwest	676
STATE TOTAL	1,421

ATTACHMENT

1986 URBAN AID CITIES BY COUNTY THAT MEET THE CRITERIA SPECIFIED UNDER DISTRIBUTION OF NEED\*

ATLANTIC	HUDSON	PASSAIC
None	Bayonne City Hoboken City Jersey City (City)	Passaic City Paterson City
BERGEN	SALEM	
Lodi Borough Garfield City	North Bergen Township Union City (City) Weehawken Township West New York Town	None
BURLINGTON	HUNTERDON	SOMERSET
Pemberton Township	None	None
CAMDEN	MERCER	SUSSEX
Camden City	Trenton City	None
CAPE MAY	MIDDLESEX	UNION
None	Carteret Borough New Brunswick City Perth Amboy City	Elizabeth City Hillside Township Plainfield City Roselle Borough
CUMBERLAND	MONMOUTH	WARREN
Vineland City Bridgeton City	Asbury Park City Keansburg Borough Long Branch City Neptune Township	Phillipsburg Town
ESSEX	MORRIS	
Belleville Township Bloomfield Township East Orange City Irvington Township Montclair Township Newark City Orange Township	None	
GLOUCESTER	OCEAN	
None	Lakewood Township	

NOTES

1. *Southern Burlington County NAACP v. The Township of Mount Laurel*, 67 N.J. 151, 336 A. 2d 713, Appeal Dismissed and Cert. Denied, 423 U.S. 808 (1975) (*Mount Laurel I*); *Southern Burlington County NAACP v. The Township of Mount Laurel*, 92 N.J. 158, 456, A.2d 390 (1983) (*Mount Laurel II*).
2. Fair Housing Act, Chapter 222 of the Laws of 1985; *Hills Development Corp. v. Township of Bernards*, Docket No. A.122-85 (N.J. Sup. Ct., February 20, 1986) (*Mount Laurel III*).
3. *Ibid.*
4. U.S. Department of Commerce, Bureau of the Census, *The 1980 Census of Population and Housing, Public Use Sample: New Jersey* (Washington, D.C.: U.S. Government Printing Office, 1982).
5. United States Housing Act of 1937 (42 U.S.C. 1401 et seq.), Section 3(b)(2).
6. U.S. Department of Commerce, Bureau of the Census, *The 1980 Census of Population and Housing, Public Use Sample: New Jersey*.
7. 42 U.S.C. 1401, Section 3(b)(2).
8. See, for example, U.S. Bureau of the Census, *Measuring the Quality of Housing: An Appraisal of Census Statistics and Methods* (Washington, D.C.: Government Printing Office, 1967); and U.S. Bureau of the Census, *A Preliminary Look at the Results of the Five City Survey* (Washington, D.C., July 9, 1975).
9. W. Patrick Beaton, "The Use of Combinatorial Indices in Housing Quality Specification." Paper presented to the October 1984 meeting of the ACSF Conference, New York. W. Patrick Beaton, "Quality Judgments, Quality Analysis, and Housing Policy Analysis" (unpublished paper). Beaton's data are derived from the probabilities of the *Five City Study* (see Note 8).
10. Robert W. Burchell et al., *Mount Laurel II: Challenge and Delivery of Low-Cost Housing* (New Brunswick, NJ: Center for Urban Policy Research, 1983), p. 112.
11. *Ibid.*, Chapter 2, Appendix I, p. 141; Beaton, "The Use of Combinatorial Indices in Housing Quality Specification."
12. U.S. Department of Commerce, Bureau of the Census, *The 1980 Census of Population and Housing, Public Use Sample: New Jersey*.
13. U.S. Department of Commerce, Bureau of the Census, *The 1980 Census of Population and Housing* (Washington, D.C.: U.S. Government Printing Office, 1982).
14. See *Countryside Properties, Inc. et al. v. Mayor and Council of the Borough of Ringwood and Planning Board of Ringwood et al.*, Law Division, Docket No. L-42095-81, July 24, 1984.
15. See, for example, New Jersey Department of Community Affairs, Division of State and Regional Planning: *A Revised Statewide Housing Allocation Report for New Jersey* (Trenton, NJ: Division of State and Regional Planning, 1978).
16. State of New Jersey, Department of Labor, Division of Planning and Research, Office of Demographic and Economic Analysis, *Population Estimates for New Jersey, July 1, 1984* (Trenton, NJ: Division of Planning and Research, September 1985).
17. *State of New Jersey, Department of Health, New Jersey State and County Population Estimates by Age, Sex, and Race* (Trenton, NJ: Center for Health Statistics, October 1985).
18. State of New Jersey, Department of Labor, Division of Planning and Research, Office of Demographic and Economic Analysis, *Population Projections—New Jersey and Counties: 1990 to 2020* (Trenton, NJ: Division of Planning and Research, November 1985).
19. U.S. Department of Commerce, Bureau of the Census, *The 1980 Census of Population and Housing, Public Use Sample: New Jersey*.
20. For discussion of fair share allocation criteria, see New Jersey Department of Community Affairs, "Fair Housing Act Issue Papers" (Trenton, NJ: Division of Housing and Development, January 10, 1986); New Jersey Department of Community Affairs, *Mount Laurel II: Methods of Calculating Municipal Fair Share* (Trenton, NJ: Division of Housing and Development, undated); David Listokin, *Fair Share Housing Allocation* (New Brunswick, NJ: Center for Urban Policy Research, 1976); Mary Brooks, *Lower Income Housing: The Planner's Response* (Chicago: American Society of Planning Officials, 1972); and Robert W. Burchell et al., *Mount Laurel II: Challenge and Delivery of Low-Cost Housing*, Chapter 7.

\*These cities do not receive either Reallocated Present Need or Prospective Need

21. State of New Jersey, Department of Labor, Division of Planning and Research, Office of Demographic and Economic Analysis, *New Jersey Covered Employment Trends* (Series).
22. New Jersey Department of Community Affairs, *State Development Guide Plan* (Trenton, NJ: Division of State and Regional Planning, 1980).
23. State of New Jersey, Department of Environmental Protection, Division of Coastal Resources, *Coastal Resource and Development Policies* (Trenton, NJ: Division of Coastal Resources, April 1982); State of New Jersey, Pinelands Commission, *Comprehensive Management Plan for the Pinelands National Reserve* (New Lisbon, NJ: Pinelands Commission, undated).
24. Bureau of Government Research, *New Jersey Legislative District Data Book—1986* (New Brunswick, NJ: Bureau of Government Research, April 1986).
25. State of New Jersey, Department of Community Affairs, *A Revised Statewide Housing Allocation Report for New Jersey*; see also, Carla L. Lerman et al., "Fair Share Report—*Urban League of Greater New Brunswick v. Carteret et al.*"
26. Lerman et al., "Fair Share Report—*Urban League of Greater New Brunswick v. Carteret et al.*," p. 14.
27. State of New Jersey, Department of Community Affairs, Division of Local Government Services, *Forty-Seventh Annual Report of the Division of Local Government Services—1984—Statements of Financial Condition of Counties and Municipalities* (Trenton, NJ: Division of Local Government, 1985).
28. See Robert W. Burchell and David Listokin, *The Adaptive Reuse Handbook* (New Brunswick, NJ: Center for Urban Policy Research, 1981), Chapter 1, "Property Abandonment in the United States."
29. Center for Urban Policy Research, analysis, *American (Annual) Housing Survey 1974-1983—Metropolitan Areas of New Jersey* (see Note 33 for citation of *American (Annual) Housing Survey*).
30. State of New Jersey, Department of Labor, Division of Planning and Research, *Residential Building Permits* (series—annual and monthly).
31. *Ibid.*
32. See, for example, J.B. Lansing et al., "New Homes and Poor People—Study of Chains of Moves." *Geographical Analysis*, Vol. 6, No. 1 (1974), pp. 95-99; F.S. Kristof, "Federal Housing Policies—Subsidized Production, Filtration, and Objectives," *Land Economics*, Vol. 49, No. 2 (1983), pp. 163-174.
33. U.S. Department of Commerce, U.S. Bureau of the Census, *Current Housing Reports—Housing Characteristics for Selected Metropolitan Areas* (Washington, D.C.: U.S. Government Printing Office), series.
34. Center for Urban Policy Research, analysis of *American (Annual) Housing Survey—1974-1983—Metropolitan Areas of New Jersey* (see Note 33).
35. *Ibid.*
36. U.S. Department of Housing and Urban Development, "Additions to the Housing Supply by Means Other Than New Construction" (December 1982). Paper prepared by the Division of Housing and Demographic Analysis, Office of Policy Development and Research.
37. *Ibid.*
38. See Note 29.
39. U.S. Department of Housing and Urban Development, "Additions to the Housing Supply by Means Other Than New Construction."
40. Burchell et al., *Mount Laurel II, op. cit.*, Chapter 5, Part IV.
41. J. Thomas Black, "Private-Market Housing Restoration in Central Cities: A ULI Survey." *Urban Land*, November 1975, p. 3; A. H. Schaaf, "Economic Feasibility Analysis for Urban Renewal Housing Rehabilitation," *Journal of the American Institute of Planners*, Vol. 35, No. 6 (November 1969), p. 399.

APPENDIX B

Exhibit 1—Base Data, Municipal Determination of Pre-Credited Need  
Exhibit 2—Base Data by Housing Region

MUNICIPAL DETERMINATION OF  
PRE-CREDITED NEED

(EXHIBIT 1—BASE DATA)

1 May 1986

EXHIBIT 1  
NEW JERSEY  
COUNCIL ON AFFORDABLE HOUSING  
BASE DATA FOR MUNICIPAL LOW & MODERATE INCOME  
HOUSING NEED CALCULATION  
01 MAY 86

COUNTY	NAME	SUBREG MULTI INDEX NEED	MUNIC. SINGLE INDEX NEED	SUBREG SINGLE INDEX NEED	1987 OCCUPIED HOUSING EST.	% REG. GROWTH AREA (5)	% REG. EMPLOY MENT (6)	% REG. AGGREG INCOME (7)	% REG. EMPLOY CHANGE (8)	PRES. NEED FACTOR (9)	PROS. NEED ALLOCA FACTOR (10)	LOW- MOD INCOME SUBREG PERCENT (11)
EXAMPLE	JOHNSONVILLE	323	144	984	8922	3.464	1.940	2.244	3.575	2.549	2.806	23.3
ATLANTIC	ABSECON CITY	3428	54	4209	2392	1.413	.995	2.438	.636	1.615	1.370	43.2
	ATLANTIC CITY CITY	3428	1501	4209	17729	2.934	38.916	8.441	86.007	16.764	34.075	43.2
	BRIGANTINE CITY	3428	103	4209	4639	1.584	.517	3.114	-.254	1.738	1.240	43.2
	BUENA BORO	3428	56	4209	1275	.201	1.028	.940	.801	.723	.743	43.2
	BUENA VISTA TWP.	3428	188	4209	2050	.	.	.	.	.	.	43.2
	CORBIN CITY CITY	3428	8	4209	116	.	.	.	.	.	.	43.2
	EGG HARBOR TWP.	3428	344	4209	7686	7.577	4.864	5.886	6.893	6.109	6.305	43.2
	EGG HARBOR CITY CITY	3428	117	4209	1640	.790	.632	1.312	-.743	.911	.498	43.2
	ESTELL MANOR CITY	3428	39	4209	314	.	.	.	.	.	.	43.2
	FOLSOM BORO	3428	34	4209	563	.	.	.	.	.	.	43.2
	GALLOWAY TWP.	3428	237	4209	6604	2.699	1.568	4.380	.203	2.883	2.213	43.2
	HAMILTON TWP.	3428	243	4209	4367	3.528	1.368	3.209	.784	2.702	2.222	43.2
	HAMMONTON TOWN	3428	215	4209	4169	2.797	4.454	3.448	2.213	3.567	3.228	43.2
	LINWOOD CITY	3428	33	4209	2030	.942	1.424	2.421	.537	1.595	1.331	43.2
	LONGPORT BORO	3428	12	4209	593	.074	.118	.509	.077	.234	.194	43.2
	MARGATE CITY CITY	3428	98	4209	3839	.347	.836	4.419	.370	1.867	1.493	43.2
	MULLICA TWP.	3428	247	4209	1662	.	.	.	.	.	.	43.2
	NORTHFIELD CITY	3428	56	4209	2552	.867	1.860	2.616	2.503	1.781	1.962	43.2
	PLEASANTVILLE CITY	3428	288	4209	5429	1.437	3.631	3.183	1.749	2.750	2.500	43.2
	PORT REPUBLIC CITY	3428	25	4209	310	.	.	.	.	.	.	43.2
	SOMERS POINT CITY	3428	107	4209	4374	.792	2.312	3.155	1.565	2.086	1.956	43.2
	VENTNOR CITY CITY	3428	148	4209	5140	.520	1.107	4.403	.619	2.010	1.662	43.2
	WEYMOUTH TWP.	3428	56	4209	441	.	.	.	.	.	.	43.2

EXHIBIT 1  
NEW JERSEY  
COUNCIL ON AFFORDABLE HOUSING  
BASE DATA FOR MUNICIPAL LOW & MODERATE INCOME  
HOUSING NEED CALCULATION  
01 MAY 86

COUNTY	NAME	SUBREG MULTI INDEX NEED (1)	MUNTC. SINGLE INDEX NEED (2)	SUBREG SINGLE INDEX NEED (3)	1987 OCCUPIED HOUSING EST. (4)	% REG. GROWTH AREA (5)	% REG. EMPLOY MENT (6)	% REG. AGGREG INCOME (7)	% REG. EMPLOY CHANGE (8)	PRES. NEED REALLO FACTOR (9)	PROS. NEED ALLOCA FACTOR (10)	LOW- MOD INCOME SUBREG PERCENT (11)
BERGEN	ALLENDALE BORO	345	11	701	1822	.994	.315	.796	1.328	.702	.858	17.1
	ALPINE BORO	511	15	1190	601	2.201	.047	.399	-.505	.882	.535	23.1
	BERGENFIELD BORO	511	302	1190	9014	1.065	.944	1.994	.768	1.335	1.193	23.1
	BOGOTA BORO	1246	97	1900	2880	.249	.233	.647	.465	.376	.398	37.2
	CARLSTADT BORO	1374	115	1767	2421	1.264	3.445	.437	2.992	1.715	2.035	39.1
	CLIFFSIDE PARK BORO	1543	440	2157	9221	.355	.404	1.915	.244	.891	.730	37.8
	CLOSTER BORO	511	53	1190	2751	1.125	.420	.807	.148	.784	.625	23.1
	CRESSKILL BORO	511	34	1190	2597	.710	.364	.758	.019	.611	.463	23.1
	DEMAREST BORO	511	8	1190	1577	.746	.056	.650	.048	.484	.375	23.1
	DUMONT BORO	511	154	1190	6296	.639	.273	1.414	-.027	.775	.575	23.1
	EAST RUTHERFORD BORO	1374	187	1767	3354	1.059	2.054	.527	.021	1.213	.915	39.1
	EDGEWATER BORO	1543	125	2157	2244	.249	.571	.496	.432	.438	.437	37.8
	ELMWOOD PARK BORO	821	241	2334	6984	.888	1.373	1.294	-.371	1.185	.796	35.6
	EMERSON BORO	511	50	1190	2256	.781	.499	.667	1.421	.649	.842	23.1
	ENGLEWOOD CITY	1246	514	1900	8824	1.740	2.587	2.188	1.518	2.171	2.008	37.2
	ENGLEWOOD CLIFFS BORO	511	19	1190	1865	.639	2.050	.723	.209	1.137	.905	23.1
	FAIR LAWN BORO	821	149	2334	11831	1.882	2.299	2.845	1.256	2.342	2.070	35.6
	FAIRVIEW BORO	1543	304	2157	4355	.320	.631	.703	-.232	.551	.355	37.8
	FORT LEE BORO	1543	611	2157	15462	.888	2.216	3.944	7.126	2.349	3.543	37.8
	FRANKLIN LAKES BORO	345	22	701	3006	3.479	.801	1.506	1.564	1.929	1.838	17.1
	GARFIELD CITY	821	876	2334	11060							35.6
	GLEN ROCK BORO	345	22	701	3772	.994	.600	1.253	1.108	.949	.989	17.1
	HACKENSACK CITY	1246	991	1900	16345	1.420	6.230	3.018	3.008	3.556	3.419	37.2
	HARRINGTON PARK BORO	511	16	1190	1429	.724	.093	.500	.430	.439	.437	23.1
	HASBROUCK HEIGHTS BORO	1374	97	1767	4501	.533	.667	1.023	1.746	.741	.992	39.1
	HAWORTH BORO	511	2	1190	1127	.699	.082	.383	.258	.388	.355	23.1
	HILLSDALE BORO	511	67	1190	3302	1.030	.376	1.005	.613	.804	.756	23.1
	HO-HO-KUS BORO	345	7	701	1405	.639	.105	.579	.061	.441	.346	17.1
	LEONIA BORO	1543	67	2157	3386	.533	.183	.844	-.315	.520	.311	37.8
	LITTLE FERRY BORO	1374	180	1767	5098	.533	.550	.757	-.279	.613	.390	39.1
	LODI BORO	821	515	2334	9500							35.6
	LYNDHURST TWP.	1374	315	1767	7738	.846	1.637	1.471	2.259	1.318	1.553	39.1
	MAHWAH TWP.	345	113	701	5221	2.975	1.177	1.352	-8.607	1.835	-.776	17.1
	MAYWOOD BORO	821	81	2334	3842	.462	.693	.796	.755	.650	.676	35.6
	MIDLAND PARK BORO	345	70	701	2612	.600	.588	.604	.880	.597	.668	17.1
	MONTVALE BORO	511	33	1190	2515	1.420	1.441	.798	3.562	1.220	1.805	23.1
	MOONACHIE BORO	1374	38	1767	1045	.568	1.529	.181	1.252	.759	.882	39.1
	NEW MILFORD BORO	821	107	2334	6334	.781	.270	1.360	.225	.804	.659	35.6
	NORTH ARLINGTON BORO	1374	184	1767	6551	.501	.458	1.267	-.295	.742	.483	39.1
	NORTHVALE BORO	511	36	1190	1572	.462	.878	.382	2.725	.574	1.112	23.1
	NORWOOD BORO	511	38	1190	1441	1.030	.377	.442	-.349	.616	.375	23.1
	OAKLAND BORO	345	80	701	3987	2.127	.858	1.172	2.096	1.386	1.563	17.1
	OLD TAPPAN BORO	511	13	1190	1366	1.101	.248	.438	1.244	.595	.758	23.1
	ORADELL BORO	821	25	2334	2817	.905	.585	.980	.769	.823	.810	35.6
	PALISADES PARK BORO	1543	294	2157	5799	.462	.717	1.077	.346	.752	.651	37.8
	PARAMUS BORO	821	97	2334	7923	3.674	6.930	2.314	13.562	4.306	6.620	35.6
	PARK RIDGE BORO	511	72	1190	2947	.916	.501	.798	.889	.738	.776	23.1
	RAMSEY BORO	345	57	701	4501	2.095	1.089	1.320	2.932	1.501	1.859	17.1
	RIDGEFIELD BORO	1543	131	2157	4015	.923	1.091	.811	-1.614	.942	.303	37.8
	RIDGEFIELD PARK VILLAGE	1543	184	2157	5034	.710	.425	1.005	.618	.713	.690	37.8
	RIDGEWOOD VILLAGE	345	150	701	8671	2.095	1.578	3.328	3.061	2.334	2.515	17.1
	RIVER EDGE BORO	821	68	2334	4180	.675	.377	1.066	.621	.706	.685	35.6
	RIVER VALE TWP.	511	39	1190	3070	1.491	.155	1.057	.448	.901	.787	23.1
	ROCHELLE PARK TWP.	821	38	2334	2065	.391	.719	.431	1.521	.514	.765	35.6
	ROCKLEIGH BORO	511	1	1190	59	.355	.562	.018	.353	.312	.322	23.1
	RUTHERFORD BORO	1374	257	1767	7060	.843	1.618	1.602	4.889	1.354	2.238	39.1
	SADDLE BROOK TWP.	821	137	2334	4961	.959	2.318	1.083	.084	1.453	1.111	35.6
	SADDLE RIVER BORO	345	12	701	1032	1.811	.062	.576	-.111	.816	.584	17.1
	SOUTH HACKENSACK TWP.	1374	46	1767	784	.178	.998	.151	-.026	.442	.325	39.1
	TEANECK TWP.	1246	298	1900	13256	2.095	1.802	3.595	-.244	2.497	1.812	37.2
	TENAFLY BORO	511	89	1190	4917	1.562	.554	1.807	1.176	1.308	1.275	23.1
	TETERBORO BORO	1374	0	1767	10	.426	1.996	.002	6.359	.808	2.196	39.1
	UPPER SADDLE RIVER BORO	345	36	701	2401	1.811	.609	1.155	1.733	1.192	1.327	17.1
	WALDWICK BORO	345	70	701	3396	.852	.378	.923	.474	.718	.657	17.1
	WALLINGTON BORO	1374	300	1767	4667	.355	.545	.734	.267	.545	.475	39.1
	WASHINGTON TWP.	511	26	1190	3266	1.019	.086	.932	-.002	.679	.509	23.1
	WESTWOOD BORO	511	114	1190	4070	.852	1.013	.939	1.104	.935	.977	23.1
	WOODCLIFF LAKE BORO	511	9	1190	1708	1.331	.379	.724	1.508	.811	.986	23.1
	WOOD-RIDGE BORO	1374	48	1767	2877	.391	.437	.668	-.728	.498	.192	39.1
	WYCKOFF TWP.	345	49	701	5040	2.379	.677	1.834	1.323	1.630	1.553	17.1

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<b>BURLINGTON</b>												
	BASS RIVER TWP.	832	45	1975	543	.	.	.	.	.	.	46.2
	BEVERLY CITY	716	60	1327	1055	.084	.262	.196	.587	.181	.282	36.4
	BORDENTOWN CITY	716	102	1327	1839	.147	.296	.387	-.089	.277	.185	36.4
	BORDENTOWN TWP.	716	55	1327	2689	.985	.821	.630	1.369	.812	.951	36.4
	BURLINGTON CITY	716	197	1327	4019	.538	1.028	.761	-.501	.776	.457	36.4
	BURLINGTON TWP.	716	179	1327	4112	2.221	2.095	.902	4.714	1.739	2.483	36.4
	CHESTERFIELD TWP.	832	29	1975	832	.281	.088	.307	.406	.226	.271	46.2
	CINNAMINSON TWP.	716	85	1327	4889	1.184	1.541	1.634	2.082	1.453	1.610	36.4
	DELANCO TWP.	716	25	1327	1361	.338	.292	.270	.071	.300	.243	36.4
	DELTRAN TWP.	716	128	1327	5050	1.081	.885	1.263	2.006	1.076	1.309	36.4
	EASTAMPTON TWP.	832	40	1975	1578	.594	.033	.361	.060	.329	.262	46.2
	EDGEWATER PARK TWP.	716	88	1327	3578	.447	.257	.829	-.474	.511	.265	36.4
	EVESHAM TWP.	323	82	984	11379	2.125	1.934	2.448	4.882	2.169	2.847	23.3
	FIELDSBORO BORO	716	8	1327	194	.047	.025	.041	-.195	.038	-.020	36.4
	FLORENCE TWP.	716	127	1327	3723	1.509	.501	.731	1.454	.914	1.049	36.4
	HAINESPORT TWP.	832	57	1975	1246	1.029	.294	.243	-.077	.522	.372	46.2
	LUMBERTON TWP.	832	67	1975	2139	.739	.199	.442	-.051	.460	.332	46.2
	MANSFIELD TWP.	832	52	1975	1130	1.134	.193	.234	.367	.520	.482	46.2
	MAPLE SHADE TWP.	323	199	984	9024	.582	1.268	1.727	2.018	1.192	1.398	23.3
	MEDFORD TWP.	323	125	984	7084	2.022	1.228	2.053	2.906	1.768	2.052	23.3
	MEDFORD LAKES BORO	323	48	984	1578	.176	.028	.526	.005	.243	.184	23.3
	MOORESTOWN TWP.	323	63	984	5998	2.374	4.685	2.039	5.320	3.033	3.604	23.3
	MOUNT HOLLY TWP.	832	212	1975	3910	.455	1.867	.847	1.004	1.057	1.044	46.2
	MOUNT LAUREL TWP.	323	144	984	8922	3.464	1.940	2.244	3.575	2.549	2.806	23.3
	NEW HANOVER TWP.	832	73	1975	1183	.	.	.	.	.	.	46.2
	NORTH HANOVER TWP.	832	138	1975	3205	.	.	.	.	.	.	46.2
	PALMYRA BORO	716	80	1327	3255	.300	.374	.632	.384	.435	.422	36.4
	PEMBERTON BORO	832	23	1975	468	.	.	.	.	.	.	46.2
	PEMBERTON TWP.	832	708	1975	10363	.	.	.	.	.	.	46.2
	RIVERSIDE TWP.	716	142	1327	3060	.241	.651	.579	-.909	.490	.140	36.4
	RIVERTON BORO	716	49	1327	1147	.109	.262	.312	-.312	.228	.093	36.4
	SHAMONG TWP.	832	67	1975	1584	.298	.064	.394	.016	.252	.193	46.2
	SOUTHAMPTON TWP.	832	84	1975	3942	.219	.381	.786	.291	.462	.419	46.2
	SPRINGFIELD TWP.	832	61	1975	1001	.530	.070	.221	.138	.274	.240	46.2
	TABERNACLE TWP.	832	99	1975	2132	.613	.079	.517	.262	.403	.368	46.2
	WASHINGTON TWP.	832	45	1975	300	.	.	.	.	.	.	46.2
	WESTAMPTON TWP.	832	35	1975	2911	1.726	.204	.377	-.213	.769	.523	46.2
	WILLINGBORO TWP.	323	322	984	11538	1.188	1.150	3.193	-.415	1.844	1.279	23.3
	WOODLAND TWP.	832	60	1975	408	.	.	.	.	.	.	46.2
	WRIGHTSTOWN BORO	832	78	1975	1032	.	.	.	.	.	.	46.2
<b>CAMDEN</b>												
	AUDUBON BORO	506	46	1072	3724	.231	.495	.761	-.237	.496	.313	42.3
	AUDUBON PARK BORO	506	18	1072	509	.023	.003	.087	-.025	.038	.022	42.3
	BARRINGTON BORO	506	131	1072	2826	.249	.466	.603	-1.279	.439	.010	42.3
	BELLMAR BORO	506	174	1072	4626	.468	.918	.975	.763	.787	.781	42.3
	BERLIN BORO	718	55	1553	1930	.557	.921	.507	2.331	.662	1.079	38.5
	BERLIN TWP.	718	57	1553	1765	.511	.336	.391	-.233	.413	.251	38.5
	BROOKLAWN BORO	506	15	1072	800	.077	.178	.149	.232	.134	.159	42.3
	CAMDEN CITY	3730	3288	3594	27693	.	.	.	.	.	.	63.2
	CHERRY HILL TWP.	445	345	671	25222	3.781	12.596	8.014	21.297	8.130	11.422	30.1
	CHESILHURST BORO	718	26	1553	485	.269	.009	.096	.001	.125	.094	38.5
	CLEMENTON BORO	718	81	1553	2282	.299	.473	.420	.465	.397	.414	38.5
	COLLINGSWOOD BORO	445	205	671	6665	.291	.691	1.328	.619	.770	.732	30.1
	GIBBSBORO BORO	718	22	1553	785	.338	.431	.187	1.058	.318	.503	38.5
	GLOUCESTER TWP.	718	325	1553	17476	3.619	1.427	3.894	1.032	2.980	2.493	38.5
	GLOUCESTER CITY CITY	506	209	1072	4831	.363	.444	.821	-.796	.542	.208	42.3
	HADDON TWP.	445	96	671	6455	.421	.825	1.514	.068	.920	.707	30.1
	HADDONFIELD BORO	506	44	1072	4634	.435	1.548	1.638	2.781	1.207	1.600	42.3
	HADDON HEIGHTS BORO	506	79	1072	3184	.247	.357	.776	.069	.460	.362	42.3
	HI-NELLA BORO	718	20	1553	501	.036	.018	.089	-.059	.048	.021	38.5
	LAUREL SPRINGS BORO	718	31	1553	801	.070	.162	.186	.103	.140	.130	38.5
	LAWNSIDE BORO	506	76	1072	1070	.224	.313	.219	-.156	.252	.150	42.3
	LINDENWOLD BORO	718	235	1553	8107	.597	.550	1.472	.778	.873	.849	38.5
	MAGNOLIA BORO	506	39	1072	1705	.153	.216	.353	.214	.241	.234	42.3
	MERCHANTVILLE BORO	3730	40	3594	1623	.095	.232	.370	-.187	.232	.128	63.2
	MOUNT EPHRAIM BORO	506	41	1072	1931	.141	.271	.363	.537	.258	.328	42.3
	OAKLYN BORO	506	38	1072	1841	.099	.206	.359	.083	.221	.187	42.3
	PENNSAUKEN TWP.	3730	265	3594	12207	1.651	6.437	2.732	2.603	3.607	3.356	63.2
	PINE HILL BORO	718	134	1553	3634	.621	.082	.651	.040	.451	.349	38.5
	PINE VALLEY BORO	718	0	1553	11	.147	.020	.008	.023	.058	.050	38.5
	RUNNEMEDE BORO	506	93	1072	3409	.313	.449	.661	.234	.474	.414	42.3
	SOMERDALE BORO	506	68	1072	2093	.213	.580	.440	2.113	.411	.836	42.3



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	GLASSBORO BORO	2107	250	2622	4950	1.092	1.132	.902	2.142	1.042	1.317	41.7
	GREENWICH TWP.	2107	43	2622	1865	1.476	.526	.448	.957	.817	.852	41.7
	HARRISON TWP.	2107	60	2622	1382	.261	.203	.306	.557	.257	.332	41.7
	LOGAN TWP.	2107	52	2622	1327	3.662	.436	.275	.912	1.458	1.321	41.7
	MANTUA TWP.	2107	113	2622	3018	1.855	.661	.739	.682	1.085	.984	41.7
	MONROE TWP.	2107	296	2622	7830	2.583	.815	1.557	1.136	1.652	1.523	41.7
	NATIONAL PARK BORO	2107	53	2622	1134	.156	.033	.207	.063	.132	.115	41.7
	NEWFIELD BORO	2107	19	2622	539	.	.	.	.	.	.	41.7
	PAULSBORO BORO	2107	143	2622	2415	.327	.739	.445	-1.545	.503	-.009	41.7
	PITMAN BORO	2107	71	2622	3566	.353	.919	.770	-.600	.681	.360	41.7
	SOUTH HARRISON TWP.	2107	30	2622	583	.	.	.	.	.	.	41.7
	SWEDESBO BORO	2107	69	2622	772	.120	.370	.146	.383	.212	.255	41.7
	WASHINGTON TWP.	2107	142	2622	11117	3.046	1.076	2.536	1.481	2.219	2.035	41.7
	WENDONAH BORO	2107	14	2622	825	.155	.083	.241	-.153	.160	.082	41.7
	WEST DEPTFORD TWP.	2107	137	2622	7190	2.530	1.090	1.577	.659	1.732	1.464	41.7
	WESTVILLE BORO	2107	40	2622	1907	.189	.685	.345	.618	.406	.459	41.7
	WOODBURY CITY	2107	152	2622	3949	.333	1.956	.851	1.744	1.047	1.221	41.7
	WOODBURY HEIGHTS BORO	2107	20	2622	1092	.192	.301	.271	.203	.255	.242	41.7
	WOOLWICH TWP.	2107	39	2622	445	1.740	.091	.096	.110	.642	.509	41.7
HUDSON												
	BAYONNE CITY	3970	1978	3450	25759	.	.	.	.	.	.	50.4
	EAST NEWARK BORO	3970	74	3450	675	.036	.278	.103	-.114	.139	.076	50.4
	GUTTENBERG TOWN	15084	277	10252	3281	.071	.344	.775	.771	.397	.490	63.3
	HARRISON TOWN	3970	489	3450	4753	.426	1.089	.742	-1.433	.752	.206	50.4
	HOBOKEN CITY	15084	3127	10252	16036	.	.	.	.	.	.	63.3
	JERSEY CITY CITY	14356	10765	10765	80987	.	.	.	.	.	.	63.3
	KEARNY TOWN	3970	725	3450	13212	2.817	3.110	2.296	-10.66	2.741	-.609	50.4
	NORTH BERGEN TWP.	15084	1373	10252	19651	.	.	.	.	.	.	63.3
	SECAUCUS TOWN	3970	184	3450	5298	1.331	5.445	1.349	15.808	2.709	5.983	50.4
	UNION CITY CITY	15084	3061	10252	20755	.	.	.	.	.	.	63.3
	WEEHAWKEN TWP.	15084	470	10252	5357	.	.	.	.	.	.	63.3
	WEST NEW YORK TOWN	15084	1944	10252	15469	.	.	.	.	.	.	63.3
HUNTERDON												
	ALEXANDRIA TWP.	2548	69	3279	1042	.	.	.	.	.	.	43.8
	BETHLEHEM TWP.	2548	64	3279	969	.021	.054	.362	.181	.146	.154	43.8
	BLOOMSBURY BORO	2548	16	3279	294	.101	.175	.100	.038	.125	.104	43.8
	CALIFON BORO	2548	27	3279	338	.	.	.	.	.	.	43.8
	CLINTON TOWN	2548	21	3279	701	.180	.380	.247	.703	.269	.377	43.8
	CLINTON TWP.	2548	79	3279	2797	2.972	.440	1.030	.456	1.480	1.224	43.8
	DELAWARE TWP.	2548	78	3279	1324	.	.	.	.	.	.	43.8
	EAST AMWELL TWP.	2548	84	3279	1293	.	.	.	.	.	.	43.8
	FLEMINGTON BORO	2548	84	3279	1839	.242	1.433	.510	1.701	.728	.972	43.8
	FRANKLIN TWP.	2548	39	3279	831	.046	.094	.297	.098	.146	.134	43.8
	FRENCHTOWN BORO	2548	25	3279	551	.	.	.	.	.	.	43.8
	GLEN GARDNER BORO	2548	19	3279	409	.	.	.	.	.	.	43.8
	HAMPTON BORO	2548	28	3279	565	.	.	.	.	.	.	43.8
	HIGH BRIDGE BORO	2548	69	3279	1442	.435	.125	.381	.109	.314	.263	43.8
	HOLLAND TWP.	2548	88	3279	1528	.	.	.	.	.	.	43.8
	KINGWOOD TWP.	2548	95	3279	1008	.	.	.	.	.	.	43.8
	LAMBERTVILLE CITY	2548	105	3279	1592	.	.	.	.	.	.	43.8
	LEBANON BORO	2548	9	3279	365	.270	.106	.092	.036	.156	.126	43.8
	LEBANON TWP.	2548	168	3279	1752	.	.	.	.	.	.	43.8
	MILFORD BORO	2548	25	3279	475	.	.	.	.	.	.	43.8
	RARITAN TWP.	2548	92	3279	3812	2.550	1.679	1.246	2.632	1.825	2.027	43.8
	READINGTON TWP.	2548	111	3279	3602	2.300	.662	1.436	.863	1.466	1.315	43.8
	STOCKTON BORO	2548	14	3279	247	.	.	.	.	.	.	43.8
	TEWKSBURY TWP.	2548	71	3279	1456	.075	.129	1.012	.451	.405	.417	43.8
	UNION TWP.	2548	68	3279	1148	.	.	.	.	.	.	43.8
	WEST AMWELL TWP.	2548	40	3279	745	.	.	.	.	.	.	43.8
MERCER												
	EAST WINDSOR TWP.	481	212	1109	7923	2.090	2.223	2.227	3.701	2.180	2.560	30.3
	EWING TWP.	481	291	1109	11666	2.366	3.888	3.351	-.531	3.201	2.268	30.3
	HAMILTON TWP.	3411	749	3479	30368	5.269	5.051	7.361	-2.672	5.894	3.752	49.0
	HIGHTSTOWN BORO	481	97	1109	1629	.192	.909	.443	-.251	.515	.323	30.3
	HOPEWELL BORO	481	26	1109	767	.	.	.	.	.	.	30.3
	HOPEWELL TWP.	481	117	1109	3590	1.324	.781	1.395	.401	1.167	.975	30.3
	LAWRENCE TWP.	3411	141	3479	7944	3.061	5.180	2.328	6.075	3.523	4.161	49.0
	PENNINGTON BORO	481	15	1109	866	.	.	.	.	.	.	30.3
	PRINCETON BORO	481	86	1109	3068	.275	4.521	1.332	6.121	2.043	3.062	30.3

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	PRINCETON TWP.	481	161	1109	4932	1.891	.923	2.380	.346	1.732	1.385	30.3
	TRENTON CITY	3411	2588	3479	30626							49.0
	WASHINGTON TWP.	481	42	1109	1428	2.455	.350	.351	.870	1.052	1.007	30.3
	WEST WINDSOR TWP.	481	62	1109	3306	3.255	2.203	1.167	4.841	2.208	2.866	30.3
MIDDLESEX												
	CARTERET BORO	2372	343	3200	6537							45.5
	CRANBURY TWP.	491	23	1010	766	2.042	1.173	.296	1.337	1.170	1.212	37.0
	DUNELLEN BORO	652	148	1557	2293	.228	.272	.669	-.590	.390	.145	34.0
	EAST BRUNSWICK TWP.	2177	176	2407	13448	3.910	5.466	5.071	9.324	4.816	5.943	42.9
	EDISON TWP.	652	590	1557	30286	6.734	14.022	9.358	8.705	10.038	9.705	34.0
	HELMETTA BORO	491	17	1010	305	.176	.058	.088	.315	.107	.159	37.0
	HIGHLAND PARK BORO	2177	152	2407	5543	.395	.792	1.664	-.193	.951	.665	42.9
	JAMESBURG BORO	491	71	1010	1481	.162	.292	.418	-.148	.290	.181	37.0
	METUCHEN BORO	652	101	1557	4655	.604	1.660	1.862	.042	1.375	1.042	34.0
	MIDDLESEX BORO	652	104	1557	4398	.758	1.773	1.422	1.410	1.318	1.341	34.0
	MILLTOWN BORO	2177	40	2407	2453	.352	.778	.823	.338	.651	.573	42.9
	MONROE TWP.	491	133	1010	8553	1.876	.382	2.390	.882	1.549	1.382	37.0
	NEW BRUNSWICK CITY	2177	1549	2407	14164							42.9
	NORTH BRUNSWICK TWP.	2177	182	2407	8826	2.637	3.970	3.139	7.312	3.248	4.264	42.9
	OLD BRIDGE TWP.	491	476	1010	18462	8.417	1.460	5.934	.732	5.270	4.136	37.0
	PERTH AMBOY CITY	2372	1633	3200	12784							45.5
	PISCATAWAY TWP.	652	463	1557	12507	4.152	8.015	4.571	11.391	5.579	7.032	34.0
	PLAINSBOUR TWP.	491	50	1010	8404	1.377	1.042	1.523	3.680	1.314	1.906	37.0
	SAYREVILLE BORO	2372	258	3200	11608	3.647	2.144	3.319	-.584	3.037	2.131	45.5
	SOUTH AMBOY CITY	2372	168	3200	2718	.319	.736	.741	-.012	.598	.446	45.5
	SOUTH BRUNSWICK TWP.	491	150	1010	8088	5.307	3.175	2.113	7.022	3.532	4.405	37.0
	SOUTH PLAINFIELD BORO	652	150	1557	6180	1.802	4.796	2.175	1.131	2.924	2.476	34.0
	SOUTH RIVER BORO	2177	308	2407	4770	.615	.532	1.410	-.634	.853	.481	42.9
	SPOTSWOOD BORO	491	91	1010	2507	.472	.436	.888	.060	.599	.464	37.0
	WOODBRIIDGE TWP.	2372	798	3200	30420	5.075	11.807	10.457	12.775	9.113	10.028	45.5
MONMOUTH												
	ABERDEEN TWP.	1254	216	1516	6219	1.157	1.985	2.473	.181	1.872	1.449	31.5
	ALLENHURST BORO	1498	4	2315	337	.064	.288	.160	-.042	.171	.117	42.3
	ALLENTOWN BORO	230	23	1079	690							27.1
	ASBURY PARK CITY	1498	765	2315	7262							42.3
	ATLANTIC HIGHLANDS BORO	1254	45	1516	1867	.255	.903	.681	.816	.613	.664	31.5
	AVON-BY-THE-SEA BORO	1498	26	2315	1024	.085	.394	.334	.097	.271	.228	42.3
	BELMAR BORO	1498	181	2315	3132	.212	1.165	.809	1.340	.729	.882	42.3
	BRADLEY BEACH BORO	1498	149	2315	2206	.149	.284	.527	-.123	.320	.209	42.3
	BRIELLE BORO	1498	28	2315	1753	.350	.669	.787	1.054	.602	.715	42.3
	COLTS NECK TWP.	230	20	1079	2545	.135	.634	1.592	.991	.787	.838	27.1
	DEAL BORO	1498	6	2315	683	.255	.231	.508	-.058	.331	.234	42.3
	EATONTOWN BORO	871	105	1448	5332	1.232	4.683	1.659	5.127	2.525	3.175	40.0
	ENGLISHTOWN BORO	230	19	1079	470	.121	.769	.092	.346	.328	.332	27.1
	FAIR HAVEN BORO	871	30	1448	1971	.329	.242	1.000	.650	.524	.555	40.0
	FARMINGDALE BORO	230	16	1079	531							27.1
	FREEHOLD BORO	230	185	1079	3715	.403	3.014	1.145	1.301	1.521	1.466	27.1
	FREEHOLD TWP.	230	94	1079	7030	4.441	4.336	2.858	4.896	3.878	4.133	27.1
	HAZLET TWP.	1254	136	1516	7175	1.189	1.842	2.855	2.471	1.962	2.090	31.5
	HIGHLANDS BORO	1254	94	1516	2378	.136	.468	.752	.434	.452	.448	31.5
	HOLMDEL TWP.	1254	25	1516	3211	1.787	5.535	2.074	3.019	3.132	3.104	31.5
	HOWELL TWP.	230	335	1079	11205	5.802	2.016	3.345	2.738	3.721	3.475	27.1
	INTERLAKEN BORO	1498	5	2315	396	.081	.010	.199	.003	.096	.073	42.3
	KEANSBURG BORO	1254	274	1516	3516							31.5
	KEYPORT BORO	1254	151	1516	3122	.297	.991	.776	-1.381	.688	.171	31.5
	LITTLE SILVER BORO	871	23	1448	1948	.595	.654	1.106	1.011	.785	.841	40.0
	LOCH ARBOUR VILLAGE	1498	3	2315	127	.021	.030	.068	-.047	.040	.018	42.3
	LONG BRANCH CITY	871	816	1448	12506							40.0
	MANALAPAN TWP.	230	155	1079	7636	3.079	1.257	3.273	1.193	2.536	2.201	27.1
	MANASQUAN BORO	1498	97	2315	2256	.297	1.282	.717	1.514	.766	.953	42.3
	MARLBORO TWP.	230	78	1079	8377	4.769	1.906	3.431	4.475	3.369	3.645	27.1
	MATAWAN BORO	1254	85	1516	3183	.480	1.415	1.235	1.122	1.043	1.063	31.5
	MIDDLETOWN TWP.	1254	373	1516	23133	8.462	4.586	10.375	4.819	7.808	7.060	31.5
	MILLSTONE TWP.	230	93	1079	1410							27.1
	MONMOUTH BEACH BORO	871	19	1448	1511	.234	.225	.834	.436	.431	.432	40.0
	NEPTUNE TWP.	1498	559	2315	10704							42.3
	NEPTUNE CITY BORO	1498	66	2315	2267	.191	1.027	.681	-.694	.633	.301	42.3
	OCEAN TWP.	1498	125	2315	9213	2.378	6.367	3.607	12.697	4.117	6.262	42.3
	OCEANPORT BORO	871	23	1448	2113	.658	1.137	.843	-.204	.879	.608	40.0
	RED BANK BORO	871	225	1448	5004	.372	5.604	1.609	5.283	2.528	3.217	40.0
	ROOSEVELT BORO	230	13	1079	325							27.1
	RUMSON BORO	871	44	1448	2626	1.104	.488	1.949	.392	1.180	.983	40.0

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	SEA BRIGHT BORO	871	31	1448	1116	.127	.352	.366	.249	.282	.274	40.0
	SEA GIRT BORO	1498	5	2315	1056	.223	.372	.554	.197	.383	.336	42.3
	SHREWSBURY BORO	871	14	1448	1097	.488	1.450	.492	1.343	.810	.943	40.0
	SHREWSBURY TWP.	871	27	1448	556	.019	.189	.102	.266	.103	.144	40.0
	SOUTH BELMAR BORO	1498	34	2315	683	.042	.105	.171	.204	.106	.130	42.3
	SPRING LAKE BORO	1498	37	2315	1575	.276	.549	.752	.719	.526	.574	42.3
	SPRING LAKE HEIGHTS BORO	1498	34	2315	2782	.276	.569	.845	.765	.563	.614	42.3
	TINTON FALLS BORO	871	70	1448	3296	1.255	2.279	1.159	4.999	1.564	2.423	40.0
	UNION BEACH BORO	1254	118	1516	2126	.382	.430	.598	-.044	.470	.341	31.5
	UPPER FREEHOLD TWP.	230	47	1079	1051							27.1
	WALL TWP.	1498	191	2315	7350	3.688	2.898	2.598	4.309	3.061	3.373	42.3
	WEST LONG BRANCH BORO	871	23	1448	2538	.601	1.793	1.058	1.477	1.150	1.232	40.0
MORRIS												
	BOONTON TOWN	280	177	798	3255	.680	.622	.705	-.246	.669	.440	23.6
	BOONTON TWP.	280	63	798	1242	1.049	.253	.406	-1.144	.569	.141	23.6
	BUTLER BORO	418	84	1148	2672	.553	.323	.600	-.595	.492	.220	29.4
	CHATHAM BORO	537	36	741	3315	.660	.610	1.081	.463	.784	.704	24.1
	CHATHAM TWP.	537	20	741	3556	1.244	.247	1.394	.353	.962	.809	24.1
	CHESTER BORO	769	13	1211	497							28.2
	CHESTER TWP.	769	50	1211	1819							28.2
	DENVILLE TWP.	418	112	1148	4917	3.533	1.245	1.369	2.768	2.049	2.229	29.4
	DOVER TOWN	769	350	1211	5322	.705	1.434	1.101	-1.106	1.080	.534	28.2
	EAST HANOVER TWP.	280	50	798	2958	1.835	2.289	.849	3.478	1.658	2.113	23.6
	FLORHAM PARK BORO	537	7	741	3039	2.106	2.584	1.081	5.429	1.924	2.800	24.1
	HANOVER TWP.	280	40	798	3931	3.033	3.047	1.186	3.062	2.422	2.582	23.6
	HARDING TWP.	537	7	741	1315	1.353	.238	.911	1.014	.834	.879	24.1
	JEFFERSON TWP.	418	391	1148	5905	.056	.213	1.305	.096	.525	.418	29.4
	KINNELON BORO	418	56	1148	2672	.493	.162	.985	.142	.547	.446	29.4
	LINCOLN PARK BORO	418	60	1148	3893	1.138	.387	.684	-.183	.736	.507	29.4
	MADISON BORO	537	108	741	5384	1.180	1.088	1.750	1.269	1.339	1.322	24.1
	MENDHAM BORO	537	23	741	1766							24.1
	MENDHAM TWP.	537	33	741	1624	.048	.055	.703	.034	.269	.210	24.1
	MINE HILL TWP.	769	30	1211	1211	.829	.032	.277	.087	.379	.306	28.2
	MONTVILLE TWP.	280	98	798	4835	2.751	1.322	1.562	2.772	1.878	2.102	23.6
	MORRIS TWP.	537	99	741	7245	3.039	1.471	2.584	.587	2.365	1.920	24.1
	MORRIS PLAINS BORO	537	24	741	1831	.730	1.959	.626	3.963	1.105	1.820	24.1
	MORRISTOWN TOWN	537	349	741	7155	.803	6.305	1.587	11.712	2.898	5.102	24.1
	MOUNTAIN LAKES BORO	280	9	798	1239	.815	.205	.611	.183	.544	.453	23.6
	MOUNT ARLINGTON BORO	769	37	1211	1452	.190	.031	.352	.009	.191	.145	28.2
	MOUNT OLIVE TWP.	769	165	1211	6847	1.629	.552	1.648	1.279	1.277	1.277	28.2
	NETCONG BORO	769	35	1211	1380	.253	.179	.264	-.327	.232	.092	28.2
	PARSIPPANY-TROY HILLS TWP.	280	360	798	18470	6.030	5.581	4.689	13.996	5.434	7.574	23.6
	PASSAIC TWP.	537	35	741	2717	2.340	.331	.813	.191	1.161	.919	24.1
	PEQUANNOCK TWP.	418	65	1148	4394	1.678	.880	1.269	1.079	1.276	1.226	29.4
	RANDOLPH TWP.	769	180	1211	6708	4.000	.942	1.986	2.083	2.309	2.253	28.2
	RIVERDALE BORO	418	34	1148	877	.525	.285	.207	.128	.339	.286	29.4
	ROCKAWAY BORO	418	77	1148	2448	.562	.562	.616	.371	.580	.528	29.4
	ROCKAWAY TWP.	418	191	1148	6775	2.896	1.714	1.835	4.413	2.148	2.714	29.4
	ROXBURY TWP.	769	194	1211	6460	4.473	1.162	1.709	1.171	2.448	2.129	28.2
	VICTORY GARDENS BORO	769	32	1211	407	.056	.005	.079	.008	.047	.037	28.2
	WASHINGTON TWP.	769	124	1211	4789	.198	.251	1.255	.362	.568	.517	28.2
	WHARTON BORO	418	79	1148	1976	.548	.479	.477	.139	.501	.411	29.4
OCEAN												
	BARNEGAT TWP.	859	122	2258	3156	3.541	.297	.864	.613	1.567	1.329	53.1
	BARNEGAT LIGHT BORO	859	14	2258	405	.149	.161	.112	.142	.141	.141	53.1
	BAY HEAD BORO	730	9	2161	565	.127	.136	.221	.150	.161	.159	46.6
	BEACH HAVEN BORO	859	26	2258	942	.212	.558	.267	.037	.346	.269	53.1
	BEACHWOOD BORO	859	86	2258	2646	.583	.274	.759	.110	.539	.432	53.1
	BERKELEY TWP.	859	259	2258	15928	5.573	.922	2.853	.738	3.116	2.521	53.1
	BRICK TWP.	730	494	2161	24040	5.544	4.201	6.634	1.819	5.460	4.550	46.6
	DOVER TWP.	730	537	2161	25834	8.838	11.897	7.969	10.933	9.568	9.909	46.6
	EAGLESWOOD TWP.	859	28	2258	399							53.1
	HARVEY CEDARS BORO	859	7	2258	297	.117	.067	.055	.039	.079	.069	53.1
	ISLAND HEIGHTS BORO	730	19	2161	631	.127	.059	.179	.028	.122	.098	46.6
	JACKSON TWP.	859	380	2258	8654	2.666	2.347	2.875	2.892	2.629	2.695	53.1
	LACEY TWP.	859	231	2258	7290	4.862	1.689	1.682	2.223	2.744	2.614	53.1
	LAKEHURST BORO	859	90	2258	905	.200	.495	.256	.749	.317	.425	53.1
	LAKEWOOD TWP.	730	742	2161	15893							46.6
	LAVALLETTE BORO	730	25	2161	1122	.138	.444	.300	1.164	.294	.512	46.6
	LITTLE EGG HARBOR TWP.	859	153	2258	4153	2.207	.146	1.017	.304	1.123	.918	53.1
	LONG BEACH TWP.	859	58	2258	2487	.913	.356	.587	.268	.619	.531	53.1
	MANCHESTER TWP.	859	158	2258	17100	5.572	.771	3.808	.751	3.384	2.726	53.1

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	MANTOLOKING BORO	730	2	2161	204	.093	.099	.151	.271	.114	.154	46.6
	OCEAN TWP.	859	63	2258	1621	3.041	.210	.441	-.163	1.231	.882	53.1
	OCEAN GATE BORO	859	33	2258	610	.106	.024	.140	.039	.090	.077	53.1
	PINE BEACH BORO	859	8	2258	672	.127	.156	.224	.257	.169	.191	53.1
	PLUMSTED TWP.	859	145	2258	1785	.	.	.	.	.	.	53.1
	POINT PLEASANT BORO	730	136	2161	7488	.786	2.261	2.135	1.926	1.727	1.777	46.6
	POINT PLEASANT BEACH BORO	730	78	2161	2307	.319	1.215	.724	.393	.753	.663	46.6
	SEASIDE HEIGHTS BORO	730	78	2161	1206	.074	.696	.179	.511	.317	.365	46.6
	SEASIDE PARK BORO	730	40	2161	852	.127	.416	.265	.481	.270	.322	46.6
	SHIP BOTTOM BORO	859	35	2258	690	.151	.459	.202	.411	.271	.306	53.1
	SOUTH TOMS RIVER BORO	859	81	2258	1058	.256	.148	.305	.134	.236	.211	53.1
	STAFFORD TWP.	859	172	2258	5027	4.126	1.453	1.292	2.337	2.291	2.302	53.1
	SURF CITY BORO	859	32	2258	866	.138	.218	.198	.158	.185	.178	53.1
	TUCKERTON BORO	859	77	2258	1054	.786	.404	.258	-.060	.483	.347	53.1
PASSAIC												
	BLOOMINGDALE BORO	1082	108	1922	2790	1.477	.104	.559	-.156	.713	.496	29.4
	CLIFTON CITY	4533	1070	4293	31372	3.976	7.596	5.845	10.285	5.806	6.926	51.6
	HALEDON BORO	1082	119	1922	2760	.462	.321	.459	-.154	.414	.272	29.4
	HAWTHORNE BORO	1082	192	1922	7358	1.221	1.218	1.406	.887	1.282	1.183	29.4
	LITTLE FALLS TWP.	1082	90	1922	4438	.994	1.240	1.054	.849	1.096	1.034	29.4
	NORTH HALEDON BORO	1082	49	1922	2655	1.243	.213	.636	.291	.697	.596	29.4
	PASSAIC CITY	4533	3224	4293	19928	.	.	.	.	.	.	51.6
	PATERSON CITY	7036	7023	7023	46629	.	.	.	.	.	.	63.3
	POMPTON LAKES BORO	1082	68	1922	3871	1.012	.482	.883	.402	.792	.695	29.4
	PROSPECT PARK BORO	1082	127	1922	1991	.160	.057	.327	-.266	.181	.069	29.4
	RINGWOOD BORO	1082	117	1922	4011	.	.	.	.	.	.	29.4
	TOWANA BORO	1082	89	1922	3573	1.420	2.144	.781	2.030	1.448	1.594	29.4
	WANAQUE BORO	1082	123	1922	3332	.590	.232	.675	-.030	.499	.367	29.4
	WAYNE TWP.	1082	239	1922	15901	8.836	6.286	4.324	8.487	6.482	6.983	29.4
	WEST MILFORD TWP.	1082	466	1922	7822	.087	.455	1.675	.910	.739	.782	29.4
	WEST PATERSON BORO	1082	135	1922	4241	1.047	.564	.846	-.022	.819	.609	29.4
SALEM												
	ALLOWAY TWP.	2377	84	3357	971	.	.	.	.	.	.	41.8
	CARNEYS POINT TWP.	2377	102	3357	3342	1.842	.292	2.298	-.293	1.477	1.035	41.8
	ELMER BORO	2377	18	3357	611	.	.	.	.	.	.	41.8
	ELSINBORO TWP.	2377	29	3357	555	.056	.046	.414	.122	.172	.159	41.8
	LOWER ALLOWAYS CREEK TWP.	2377	53	3357	615	.	.	.	.	.	.	41.8
	MANNINGTON TWP.	2377	71	3357	606	.	.	.	.	.	.	41.8
	OLDMANS TWP.	2377	31	3357	671	3.028	.568	.459	.468	1.352	1.131	41.8
	PENNS GROVE BORO	2377	187	3357	2216	.223	.961	1.002	-.134	.729	.513	41.8
	PENNSVILLE TWP.	2377	198	3357	5719	1.990	3.817	4.033	-5.931	3.280	.977	41.8
	PILES GROVE TWP.	2377	67	3357	1071	.	.	.	.	.	.	41.8
	PITTSBORO TWP.	2377	120	3357	2607	.197	.224	1.727	-.537	.716	.403	41.8
	QUINTON TWP.	2377	89	3357	1103	.	.	.	.	.	.	41.8
	SALEM CITY	2377	200	3357	2843	.590	2.124	1.540	-5.032	1.418	-.195	41.8
	UPPER PITTSBORO TWP.	2377	75	3357	1114	.	.	.	.	.	.	41.8
	WOODSTOWN BORO	2377	45	3357	1408	.	.	.	.	.	.	41.8
SOMERSET												
	BEDMINSTER TWP.	655	37	834	3539	1.331	1.397	.771	.397	1.166	.974	31.2
	BERNARDS TWP.	655	42	834	5418	3.341	2.018	2.290	5.033	2.550	3.170	31.2
	BERNARDSVILLE BORO	655	54	834	2344	.928	.537	1.396	.217	.954	.770	31.2
	BOUND BROOK BORO	655	201	834	3387	.352	1.067	1.029	-2.364	.816	.021	31.2
	BRANCHBURG TWP.	222	34	1072	2741	2.219	.684	1.129	1.349	1.344	1.345	32.3
	BRIDGEWATER TWP.	655	160	834	8913	6.820	3.452	4.161	-1.192	4.811	3.310	31.2
	FAR HILLS BORO	655	7	834	237	.095	.177	.176	.290	.150	.185	31.2
	FRANKLIN TWP.	222	344	1072	12151	4.220	4.336	4.040	10.897	4.199	5.873	32.3
	GREEN BROOK TWP.	655	32	834	1394	1.011	.695	.564	1.164	.757	.858	31.2
	HILLSBORO TWP.	222	103	1072	9248	3.795	.673	2.791	1.049	2.420	2.077	32.3
	MANVILLE BORO	222	183	1072	3787	.549	.471	1.113	-2.283	.711	-.037	32.3
	MILLSTONE BORO	222	2	1072	162	.053	.014	.073	-.438	.047	-.075	32.3
	MONTGOMERY TWP.	222	47	1072	2516	.014	1.430	1.102	.770	.849	.829	32.3
	NORTH PLAINFIELD BORO	655	208	834	7154	.593	.947	2.190	.802	1.244	1.133	31.2
	PEAPACK AND GLADSTONE BORO	655	25	834	764	.439	.257	.326	.429	.341	.363	31.2
	RARITAN BORO	222	122	1072	2210	.439	1.817	.619	2.009	.958	1.221	32.3
	ROCKY HILL BORO	222	6	1072	256	.	.	.	.	.	.	32.3
	SOMERVILLE BORO	222	154	1072	4467	.505	3.969	1.391	7.433	1.955	3.325	32.3
	SOUTH BOUND BROOK BORO	222	77	1072	1551	.154	.094	.406	-.319	.218	.084	32.3
	WARREN TWP.	655	52	834	3172	4.306	1.093	1.664	1.815	2.355	2.220	31.2
	WATCHUNG BORO	655	17	834	1753	1.318	1.248	1.063	-.362	1.210	.817	31.2



EXHIBIT 2 - BASE DATA BY HOUSING REGION

REGION	COLUMN A 1987 REGIONAL AVERAGE PERCENT DETERIORATION	COLUMN B REGIONAL POOL OF EXCESS DEFICIENT HOUSING UNITS	COLUMN C 1993 PROSPECTIVE NEED	COLUMN D 1987-1993 FILTERING ESTIMATES	COLUMN E 1980 MULTIFAMILY UNIT TOTALS	COLUMN F 1987-1993 RESIDENTIAL CONVERSION ESTIMATES	COLUMN G 1980 2-4 FAMILY UNIT TOTALS	COLUMN H 1987-1993 SPONTANEOUS REHABILITATION ESTIMATES	COLUMN I 1983/1984 AGGREGATE PER CAPITA INCOME (\$)
1	.075	17,676	5,509	12,202	410,972	5,138	224,294	1,884	21,112,820,558
2	.047	8,829	9,759	12,678	334,839	3,257	165,631	1,194	22,029,857,240
3	.025	1,631	13,661	7,222	104,428	1,048	50,697	384	12,235,480,836
4	.015	750	23,752	6,706	73,799	662	29,269	243	9,830,614,791
5	.026	4,060	18,179	9,587	121,352	1,478	42,692	542	14,201,442,966
6	.042	1,465	9,561	3,494	57,287	1,174	27,873	431	4,592,475,839

APPENDIX C

GROWTH AREA ALLOCATION INDEX TOTALS  
UPON WHICH ALLOCATION PERCENTAGES ARE BASED<sup>1</sup>

REGION	1984 TOTAL COVERED EMPLOYMENT	1977-1984 REGRESSED ANNUAL COVERED EMPLOYMENT CHANGE
1. Northeast	530,670	9,248
2. Northwest	472,159	13,295
3. West Central	347,443	10,622
4. East Central	187,414	6,618
5. Southwest	362,365	10,249
6. South-Southwest	152,928	6,353
Total	2,052,979	56,385

REGION	GROWTH AREA <sup>2</sup> IN ACRES	1983-1984 AGGREGATE PER CAPITA INCOME
1. Northeast	180,278	\$15,200,259,200
2. Northwest	227,868	\$14,100,784,128
3. West Central	291,294	\$10,539,986,795
4. East Central	301,384	\$ 8,549,553,470
5. Southwest	409,260	\$12,406,160,844
6. South-Southwest	258,254	\$ 3,556,207,381
Total	1,668,338	\$64,352,951,818

Notes

- For all communities in the growth area with the exception of selected Urban Aid Cities. See Technical Appendix, *infra*.
- Includes applicable growth area designations of the *State Development Guide Plan*, Pinelands Commission, and the Coastal Zone. See Technical Appendix, *infra*.

Source: Rutgers University, Center for Urban Policy Research, 1986

## APPENDIX D

## SECTION 8 INCOME LIMITS BY COUNTY

COUNTY		1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON
Atlantic	Moderate Income (80%)	\$14,850	\$16,950	\$19,100	\$21,200	\$22,550	\$23,850	\$25,200	\$26,500
	Low Income (50%)	9,300	10,600	11,900	13,250	14,300	15,350	16,450	17,500
Bergen	Moderate Income (80%)	20,380	23,300	26,210	29,210	30,940	32,760	34,580	36,400
	Low Income (50%)	12,740	14,560	16,380	18,200	19,340	20,475	21,610	22,750
Burlington	Moderate Income (80%)	17,100	19,500	21,950	24,400	25,950	27,450	29,000	30,500
	Low Income (50%)	10,700	12,200	13,700	15,250	16,450	17,700	18,900	20,150
Camden	Moderate Income (80%)	17,100	19,500	21,950	24,400	25,950	27,450	29,000	30,500
	Low Income (50%)	10,700	12,200	13,700	15,250	16,450	17,700	18,900	20,150
Cape May	Moderate Income (80%)	14,850	16,950	19,100	21,200	22,550	23,850	25,200	26,500
	Low Income (50%)	9,300	10,600	11,900	13,250	14,300	15,350	16,450	17,500
Cumberland	Moderate Income (80%)	14,300	16,300	18,350	20,400	21,700	22,950	24,250	25,500
	Low Income (50%)	8,950	10,200	11,450	12,750	13,750	14,800	15,800	16,850
Essex	Moderate Income (80%)	19,770	22,590	25,420	28,240	30,010	31,770	33,540	35,300
	Low Income (50%)	12,355	14,120	15,885	17,650	18,755	19,855	20,960	22,065
Gloucester	Moderate Income (80%)	17,100	19,500	21,950	24,400	25,950	27,450	29,000	30,500
	Low Income (50%)	10,700	12,200	13,700	15,250	16,450	17,700	18,900	20,150
Hudson	Moderate Income (80%)	14,050	16,100	18,100	20,100	21,350	22,600	23,850	25,150
	Low Income (50%)	8,800	10,050	11,300	12,550	13,550	14,550	15,550	16,550
Huntdon	Moderate Income (80%)	21,620	24,700	27,790	30,880	32,810	34,740	36,670	38,600
	Low Income (50%)	13,510	15,440	17,370	19,300	20,505	21,710	22,920	24,125
Mercer	Moderate Income (80%)	18,950	21,700	24,400	27,100	28,800	30,500	32,200	33,900
	Low Income (50%)	11,850	13,550	15,250	16,950	18,300	19,650	21,000	22,350
Middlesex	Moderate Income (80%)	21,620	24,700	27,790	30,880	32,810	34,740	36,670	38,600
	Low Income (50%)	13,510	15,440	17,370	19,300	20,505	21,710	22,920	24,125
Monmouth	Moderate Income (80%)	17,900	20,500	23,050	25,600	27,200	28,800	30,400	32,000
	Low Income (50%)	11,200	12,800	14,400	16,000	17,300	18,550	19,850	21,100
Morris	Moderate Income (80%)	19,770	22,590	25,420	28,240	30,010	31,770	33,540	35,300
	Low Income (50%)	12,355	14,120	15,885	17,650	18,755	19,855	20,960	22,065
Ocean	Moderate Income (80%)	17,900	20,500	23,050	25,600	27,200	28,800	30,400	32,000
	Low Income (50%)	11,200	12,800	14,400	16,000	17,300	18,550	19,850	21,100
Passaic	Moderate Income (80%)	20,380	23,300	26,210	29,210	30,940	32,760	34,580	36,400
	Low Income (50%)	12,740	14,560	16,380	18,200	19,340	20,475	21,610	22,750
Salem	Moderate Income (80%)	17,550	20,100	22,600	25,100	26,650	28,250	29,800	31,400
	Low Income (50%)	11,000	12,550	14,150	15,700	16,950	18,200	19,450	20,700
Somerset	Moderate Income (80%)	21,620	24,700	27,790	30,880	32,810	34,740	36,672	38,600
	Low Income (50%)	13,510	15,440	17,370	19,300	20,505	21,713	22,920	24,125
Sussex	Moderate Income (80%)	19,770	22,590	25,420	28,240	30,010	31,770	33,540	35,300
	Low Income (50%)	12,355	14,120	15,885	17,650	18,755	19,855	20,960	22,065
Union	Moderate Income (80%)	19,770	22,590	25,420	28,240	30,010	31,770	33,540	35,300
	Low Income (50%)	12,355	14,120	15,885	17,650	18,755	19,855	20,960	22,065
Warren	Moderate Income (80%)	16,400	18,750	21,100	23,450	24,900	26,400	28,850	29,300
	Low Income (50%)	10,250	11,700	13,200	14,650	15,800	17,000	18,150	19,350

Source: 1) US Dept. of Housing and Urban Development estimates as of October 21, 1985.  
2) For areas of unusually high income, a maximum income limit has been established at the national median family income level of \$27,000 applicable to the four person income limit for lower income (moderate) families. These figures above do not reflect this limit or cap.

**APPENDIX E**  
**AVERAGE COST OF REPLACING MAJOR SYSTEMS**  
**FOR HOUSING REHABILITATION<sup>1</sup>**

	<u>LOW RISE</u>	<u>HIGH RISE</u>
Plumbing	\$ 3,000	\$ 3,300
HVAC <sup>2</sup>	2,500	5,500
Electric	3,000	6,000
Dry Wall, Carpentry, Insulation	5,000	10,400
Painting	750	850
Roofing, Flashing	1,400	1,300
Windows	550	950
Kitchen Cabinets	850	1,100
Flooring	1,700	1,400
Ceramic Tile	<u>450</u>	<u>450</u>
<b>TOTAL AVERAGE</b>	<b>\$19,200</b>	<b>\$31,250</b>
<b>AVERAGE OF TOTAL AVERAGE</b>	<b>\$ 9,600</b>	<b>\$15,625</b>

<sup>1</sup> These are average figures that are not adjusted by municipality.  
<sup>2</sup> Heating, ventilation, air conditioning.  
Source: New Jersey Housing and Mortgage Finance Agency, April, 1986.

**APPENDIX F**  
**COUNTY REVIEW CHECKLIST**

The Act allows a municipality to transfer up to 50% of its low and moderate income housing obligation to a willing receiving municipality. The terms of this transfer are determined by the individual negotiations between willing sending and receiving municipalities within the same housing region as adopted by the Council.

Recognizing the need for sound regional comprehensive planning, the Act permits the county of the receiving municipality to review the proposed RCA and submit its comments and recommendations to the Council. The Act indicates that this review shall be performed by the county planning board or other designated agency and that in its review, the county "shall consider the master plan and zoning ordinance of the sending and receiving municipalities, its own county master plan and the State development and redevelopment plan".

The Act permits the Council to establish time limits for county review and, since the Council views expedient review of RCAs as crucial, it shall impose a 30 day limit for the county to complete its review. The Council may provide a 15 day extension if the county requests such an extension for legitimate reasons. If the county is unable to complete its review within the allotted time, or if there is no county planning board or designated county agency, the Council shall perform the required review.

To facilitate county review, the Council has developed a four section checklist. This checklist is to be completed as part of the county review process.

**COUNTY REVIEW CHECKLIST**  
**For Sound Comprehensive Regional Planning Of Proposed Low and Moderate Income Housing Sites Proposed Through Regional Contribution Agreements**

**SECTION I: ACCESS TO EMPLOYMENT OPPORTUNITIES**

A. Does the proposed agreement provide realistic housing opportunities within convenient access to employment opportunities?

	Housing Site(s) Proposed	Check One	Yes		No		If Access Possible, Briefly Explain on Attached Sheet, By Site #
			Loc.	#	Yes	No	
1. Within Receiving Munic.	A.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	B.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	C.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Within Sending Munic.	A.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	B.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	C.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

B. Is the proposed housing served by available transit?

	Housing Site(s) Proposed	Check Appropriate Boxes							If Transit Possible, Briefly Explain On Attached Sheet by Site #
		Yes	No	Inter-Municipal	County	Inter-co	No		
1. Within Receiving Munic.	A.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	B.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	C.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Within Sending Munic.	A.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	B.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	C.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

\*These sites represent possible alternate locations of sites within the sending municipality that would be developed for housing in the absence of a successful RCA.

**SECTION II: CURRENTLY ADOPTED AND/OR OFFICIAL LAND USE ELEMENT CONSISTENCY REVIEW (ATTACH RELEVANT PAGES OF DOCUMENTS CITED BELOW)**

	Check One Complies in			Conflicts In Whole	Brief Explanation (Attach Additional Sheets as Necessary)
	Whole	Part (Explain)	No		
A. 1. Receiving Munic					
(a) Master Plan Of: _____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		_____
(b) Zoning Ordinance Of: _____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		_____
2. Sending Munic.					
(a) Master Plan Of: _____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		_____
(b) Zoning Ordinance Of: _____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		_____
B. 1. Receiving County Land Use Element Of: _____ County; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		_____
2. Sending County (if different from B.1) Land Use Element of: _____ County; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		_____

C. 1. Other Regional Plan  
Land Use Element(s)  
Affecting: \_\_\_\_\_  
(a) Receiving Munic: \_\_\_\_\_  
\_\_\_\_\_; Adopted:    \_\_\_\_\_  
(b) Sending Munic: \_\_\_\_\_  
\_\_\_\_\_; Adopted:    \_\_\_\_\_

D. 1. State Development  
Redevelopment Plan  
(S.D.R.P.) 3  
(a) Receiving  
Munic.    \_\_\_\_\_  
(b) Sending  
Munic.    \_\_\_\_\_

<sup>2</sup>For example, is site(s) consistent with Hackensack Meadowland Development Commission's Adopted Land Use Element?  
<sup>3</sup>Use official State Development Guide Plan until S.D.R.P. is adopted.

D. State Plan/Prog. 4  
(a) Plan; Adopted: \_\_\_\_\_  
(1) Receiving Munic:    \_\_\_\_\_  
(2) Sending Munic:    \_\_\_\_\_  
(2) Program; Adopted: \_\_\_\_\_  
(1) Receiving Munic    \_\_\_\_\_  
(2) Sending Munic.    \_\_\_\_\_

\*For example, is site(s) consistent with the applicable H.M.D.C. and/or N.J. Turnpike plans and programs.  
<sup>4</sup>Use current and official State Transportation Plan and Program as prepared by the N.J. Department of Transportation.

**SECTION III: CURRENTLY ADOPTED TRANSPORTATION PLAN AND/OR PROGRAM ELEMENT CONSISTENCY REVIEW (ATTACH RELEVANT PAGES OF DOCUMENTS CITED BELOW)**

	Check One			Brief Explanation (Attach Additional Sheets as Necessary)
	Complies in Whole	Part (Explain)	Conflicts In Whole	
a. 1. Receiving Munic.				
(a) Plan of: _____				
_____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
				_____
(b) Program of: _____				
_____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
				_____
B. 1. Receiving County				
(a) Plan Of: _____				
_____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
				_____
(b) Program Of: _____				
_____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
				_____
2. Sending County (if different from B.1.)				
(a) Plan of: _____				
_____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
				_____
(b) Program of: _____				
_____; Adopted:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
				_____
C. Other Regional Plan/Prog. 4)				
(a) Receiving Munic:				
(1) Plan; Adopted: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
(2) Program; Adopted: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
(b) Sending Munic. _____				
(1) Plan; Adopted: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
(2) Program; Adopted: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

**SECTION IV: CURRENTLY ADOPTED WATER QUALITY MANAGEMENT PLAN (208) (ATTACH RELEVANT PAGES OF DOCUMENT)**

A. Is the proposed housing consistent with the 208 Plan?

	Housing Site(s) Proposed	Check One	
		<input type="checkbox"/>	<input type="checkbox"/>
1. Within Receiving Munic.	A.	<input type="checkbox"/>	<input type="checkbox"/>
	B.	<input type="checkbox"/>	<input type="checkbox"/>
	C.	<input type="checkbox"/>	<input type="checkbox"/>
2. Within Sending Munic.	A.	<input type="checkbox"/>	<input type="checkbox"/>
	B.	<input type="checkbox"/>	<input type="checkbox"/>
	C.	<input type="checkbox"/>	<input type="checkbox"/>

This review is certified by the undersigned as representing a true and accurate statement of fact.

Based on this review, it is found that the following sites are:

	Housing Site(s) Proposed Loc. #	In Keeping With Sound Regional Comprehensive Planning		Not in Keeping With Sound Regional Comprehensive Planning	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1. Within Receiving Munic.	A.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	B.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	C.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Within Sending Munic.	A.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	B.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	C.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CERTIFIED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

TYPE NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

REPRESENTING: \_\_\_\_\_

PROFESSIONAL LICENSE #: \_\_\_\_\_

(AS APPLICABLE)

## ENVIRONMENTAL PROTECTION

(a)

### DIVISION OF WASTE MANAGEMENT

#### Installation and Operation of Scales at Solid Waste Facilities

##### Proposed New Rules: N.J.A.C. 7:26-17

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

Authority: N.J.S.A. 13:1E-1 et seq., specifically 13:1E-117 to 122, and N.J.S.A. 13:1D-1 et seq.

DEP Docket No. 022-86-05.

Proposal Number: PRN 1986-217.

A public hearing concerning this proposal will be held on:

July 16, 1986 at 1:00 P.M.  
Large Conference Room  
New Jersey Records Storage Center  
2300 Stuyvesant Avenue  
Trenton, New Jersey 08110

Submit comments by July 16, 1986 to:

David Weinsoff  
Office of Regulatory Services  
Department of Environmental Protection  
CN 402  
Trenton, New Jersey 08625

The agency proposal follows:

##### Summary

The proposed new subchapter is authorized by the passage of the Scales Act, (P.L. 1983, c.93) N.J.S.A. 13:1E-117 to 122. This proposal establishes procedures for the installation (N.J.A.C. 7:26-17.7) and operation (N.J.A.C. 7:26-17.9) of computerized scales to monitor the weight of solid waste at the time of its disposal at certain solid waste facilities. The proposal also establishes procedures for the electronic transmission of the data collected by the computers at the facilities to the Department of Environmental Protection.

Notice of the availability of guidelines regarding scales installation for solid waste facilities was published at 15 N.J.R. 1388 (August 15, 1983), following a public hearing held in Trenton on April 12, 1983. This proposed subchapter is similar to the guidelines with the addition of standards for data collection and transmission. The added standards make possible an efficient integrated data system that will greatly enhance solid waste tracking in New Jersey.

A summary of the text of each section follows:

7:26-17.1, Scope, describes the scope of Subchapter 17, Installation and Operation of Scales at Solid Waste Facilities.

7:26-17.2, Construction, establishes the authority of the Department to implement this subchapter.

7:26-17.3, Applicability, establishes which facilities are regulated by this subchapter.

7:26-17.4, Definitions, contains the definitions applicable to this subchapter.

7:26-17.5, General requirements, requires the owner or operator of a solid waste facility to comply with the requirements regulating the number, design, installation, use, information obtained from and service of the scales.

7:26-17.6, Number of scales required, establishes the formula to be applied in determining the number of scales required to be used at a subject solid waste facility.

7:26-17.7, Design and installation of scales, stipulates the requirements for design and installation of the weighing devices, landfill and non-landfill scales.

7:26-17.8, Computerization, requires that the scales shall be computerized, meet established operating standards, conform with detailed programming requirements and have the capacity to transfer data by telephone directly to the Department's computers.

7:26-17.9, Operation of scales, establishes procedures for weighing.

7:26-17.10, Severability, contains a notice that should a specific provision of the rules or law be found unconstitutional, the remainder of the rules will not be affected.

##### Social Impact

While many landfill operators weighed solid waste prior to disposal, there have previously been no inform requirements for weighing and reporting. The proposed subchapter establishes a uniform standard for weighing solid waste. The proposal also requires a reporting system which, when implemented, will provide accurate information on solid waste disposal which may be utilized by the Department, by solid waste management districts and by the facilities in making planning decisions. The information generated will enable the Department to account more accurately for the tax money associated with the Sanitary Landfill Facility Closure and Contingency Fund Act, N.J.S.A. 13:1E-100 et seq., the Recycling Act, N.J.S.A. 13:1E-92 et seq. and the Solid Waste Services and Resource Recovery Investment tax funds established pursuant to N.J.S.A. 13:1E-136 et seq., thus helping to ensure that the purposes of those Acts are fulfilled.

##### Economic Impact

A positive economic impact will accrue to customers of facilities required to install scales in that charges will be computed on the basis of actual waste disposed rather than by truckload, eliminating excess payment for partially loaded trucks. In addition, a positive impact will result from more efficient bookkeeping and reporting available to facilities which computerize.

Some owners of solid waste facilities will have to purchase scales. Nearly all, including those who already own scales, will incur equipment and programming costs to provide electronic data transmission. Where the owners are granted relief for these expenses from the Board of Public Utilities in the form of a tariff increase or surcharge, the customer will pay this increase over the remaining operating life of the facility. Thus, the initial impact will be minimal. Those owners who do not seek this form of relief will absorb the cost within the current tariff.

The Department estimates the total cost to install and operate solid waste facility scales in New Jersey at \$3 million annually for the first five years of weighing. With approximately 30 million cubic yards of waste being disposed of each year in New Jersey, this represents an average cost of \$.10 per cubic yard (\$.32 per ton). Should the operational life of a solid waste facility extend beyond five years, the impact will lessen proportionately.

##### Environmental Impact

Scales will increase the accuracy of available solid waste disposal data, so that solid waste facilities can be planned, designed and operated to reflect actual disposal needs, with fewer adverse environmental effects. It is further expected that scales may increase the revenue generated by various taxes on solid waste disposal. Greater tax revenue will increase the funds available for proper closure and post-closure care of existing landfills, and for construction of new, state-of-the-art solid waste disposal facilities which meet stringent environmental standards.

Full text of the proposed new rules follows:

#### SUBCHAPTER 17. INSTALLATION AND OPERATION OF SCALES AT SOLID WASTE FACILITIES

##### 7:26-17.1 Scope

Unless otherwise provided by rule or statute, this subchapter shall constitute the Department's rules for installation scales equipment, weighing solid waste, and transmitting data to the Department.

##### 7:26-17.2 Construction

This subchapter shall be liberally construed to permit the Department to discharge its statutory functions.

##### 7:26-17.3 Applicability

(a) This subchapter shall apply to owners or operators of the following types of non-hazardous solid waste facilities:

1. New sanitary landfill facilities;
2. Existing sanitary landfill facilities which:
  - i. Are identified in an approved district solid waste management plan as accepting waste after January 1, 1985; and
  - ii. Accept more than 31,200 tons of solid waste per year;
3. New or existing transfer stations which will accept more than 31,200 tons of solid waste per year; and
4. New or existing waste-to-energy resource recovery and incinerator facilities, the maximum permitted capacity of which is greater than 20,000 tons per year, based on at least a five-year design period.

(b) This subchapter shall not apply to non-commercial on-site industrial solid waste facilities which do not accept solid waste generated from any other source.

(c) Upon request of an applicant or upon its own initiative, the Department may exempt from the requirements of this subchapter certain new solid waste facilities, the total design capacity of which is equal to or less than 100,000 tons of non-liquid solid waste, when the Department finds that such exemption will be in the public interest and will be consistent with the intent of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.

#### 7:26-17.4 Definitions

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

"Act" means P.L. 1983, c.93 (N.J.S.A. 13:1E-117 et seq.)

"ASCII" means the American Standard Code for Information Interchange, a widely used scheme for representing letters, digits, punctuation marks and special characters as numbers between 0 and 127.

"Autoanswer" describes a modem capable of answering an incoming telephone call from another modem without manual intervention.

"Baud" means a data transmission rate approximately equal to one bit (binary digit) per second.

"Bit" means a binary digit, the smallest unit of computer-processed data. A bit represents a choice between only two alternatives, such as 0 and 1.

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

"Department" means the New Jersey Department of Environmental Protection.

"Division" means the Division of Waste Management in the Department of Environmental Protection.

"Error-checking protocol" means a set of rules for electronic data transfer which enable the detection of transmission errors, and correct of these errors by retransmitting the incorrect data.

"Modem" means a device (MOdulator/DEModulator) which encodes and decodes data for transmission over telephone lines.

"Non-volatile media" means data storage devices (such as magnetic disk) which do not require external electrical power to retain stored data.

"Parity" means a technique for detecting data errors by assuring that each group of correct bits adds up to a prearranged type of number (either odd or even).

"Regular vehicle" means any waste-bearing vehicle which appears at a facility more than six times per calendar year, unless the appearances are within a three-month period.

"Stop bit" means a bit which marks the end of a group of bits representing a transmitted character.

"Subject solid waste facility" means a solid waste facility to which the requirements of this subchapter are applicable, as set forth in N.J.A.C. 7:26-17.3.

"212A-compatible" means conforming to the signal standards for asynchronous (character-by-character) data transmission established by the Western Electric 212A modem.

"Two-way weighing" means a procedure to determine the weight of a vehicle's load by measuring the gross weight of the loaded vehicle, measuring the tare weight of the empty vehicle following disposal of the load, the subtracting the tare weight from the gross weight.

#### 7:26-17.5 General requirements

(a) No person shall own or operate a subject solid waste facility without installing the required number of scales and complying with all other requirements set forth in this subchapter.

(b) The owner or operator of an existing subject solid waste facility who installed a scale prior to November 10, 1983, the design of which is not in conformance with this subchapter, may request approval for the scale by proceeding as follows:

1. A written request describing the design of the existing scale shall be submitted to the Department for approval;

2. A schedule shall be established to ensure the scale is retrofitted with the electronic equipment and programming specified in this subchapter within a reasonable time; and

3. The owner or operator shall comply with all other requirements set forth in this subchapter.

(c) The owner or operator of a new subject solid waste facility shall install the required number of scales prior to facility operation and as approved by the Department.

(d) The owner or operator of any subject solid waste facility shall use scales to perform two-way weighing of each vehicle which disposes of solid waste at that facility.

(e) The owner or operator shall use the information obtained by use of a scale in the preparation of documents required by N.J.A.C. 7:26-2.13.

(f) The owner or operator of any subject solid waste facility shall, to the greatest extent possible, follow the technical specifications guidelines at N.J.A.C. 7:26-17.8, Appendix A and any other Departmental requirement for data collection, reporting and transmission. Upon demonstration of successful compliance with all applicable requirements, the Department may waive the filing of a monthly report required pursuant to N.J.A.C. 7:26-2.13.

(g) The owner or operator shall maintain a service contract with an authorized dealer for the proper maintenance and servicing of the scale. The computer and data transmission equipment shall also be covered by contract service. The owner or operator shall not be liable for data transmission errors due to failure of off-site equipment not under the control of the owner or operator.

#### 7:26-17.6 Number of scales required

(a) The number of scales required to be used at a subject solid waste facility shall be determined as follows:

1. One scale shall be used for each 200 regular vehicles per day. A count of regular vehicles between increments of 200 may be rounded up or down at the discretion of the owner or operator.

2. The number of regular vehicles per day shall be determined by dividing the number of regular vehicles per year by the number of days the facility is open to the regular vehicles per calendar year.

3. Each day the facility is not open for the entire day shall be considered a fraction of a day and shall be calculated by dividing the number of hours the facility was open by the number of hours the facility is open on a full work day.

4. Each appearance by any particular regular vehicle shall count as a vehicle per day.

#### 7:26-17.7 Design and installation of scales

(a) The design and installation of scales shall meet the following requirements:

1. The weighing devices shall be adequate in size, suitable for use in single draft weighing and shall comply with all rules and regulations promulgated by the State Superintendent of Weights and Measures, N.J.A.C. 13:47B-1.20.

2. Any accessory attached to or used in connection with a weighing device shall comply with all rules and regulations promulgated by the State Superintendent of Weights and Measures, N.J.A.C. 13:47B-1.20.

3. Landfill scales shall be of the low profile, pitless design shall be fully electronic or hydraulic, and shall include a digital indicator of the measured weight. The area beneath the pitless landfill scale shall be paved and have a minimum five inch clearance from the bottom of the scale. A minimum of two feet of unobstructed work space shall be provided on each side of the scale;

4. Non-landfill scales shall be of the pit or pitless design. If there is reason to suspect that methane gas might be a problem, the Department reserves the right to require a pitless scale;

5. Existing landfill pit scales, which have been approved by the Department pursuant to this subchapter, shall be tested on a daily basis for methane. The test results shall be recorded in a daily log which shall be kept on site and be available for inspection by the Department. If and when methane is detected at or above 25 percent of the lower explosive limit, immediate corrective action shall be taken. The Department shall be notified immediately and a plan for permanent corrective action shall be submitted to the Department within 30 days;

6. Scales shall allow drainage of water off the weighing platform to permit proper zeroing of the scales;

7. At each end of the scale there shall be a paved, level and straight roadway at least as wide as the scale. The length of each roadway shall be forty feet or the length of the scale, whichever is less;

8. Each scale shall have a set of red and green traffic control lights associated with it to regulate traffic onto and off of the scale. Each set of traffic control lights shall be capable of directing traffic coming onto the scale from either direction. However, should the facility's traffic patterns require all incoming and outgoing vehicles to pass over the scale in only one direction, the Department may, upon written request, approve the use of lights which control traffic in only that one direction;

9. Each scale shall have a clear line of sight so that identification numbers on vehicles can be read from the scalehouse or trailer;

10. The scales, the computer and associated data communications equipment (known collectively as "computerized scales"), shall receive electric power through an uninterruptible power supply. The power supply shall:

i. Be capable of operating the computerized scales for a minimum of twenty minutes without external power;

ii. Transfer from external to internal power rapidly enough to avoid any adverse effect upon normal operation of the computerized scales; and

iii. Provide protection against electrical surges and noise. The Department, at its discretion, may require additional electric power protection for specific facilities;

11. An external electrical surge protector shall be connected between the computerized scales' modem and the telephone line;

12. The conduit housing the electrical connections shall be of a material which will prevent electrical bleeding; and

13. The conduit connecting a pitless scale with the scalehouse or trailer shall emerge from the ground exterior to the scalehouse or trailer.

#### 7:26-17.8 Computerization

(a) Scales shall be fully computerized. The computer equipment shall meet the following standards:

1. At a minimum, the following components shall be provided:

i. Display;

ii. Alphanumeric keyboard;

iii. Printer;

iv. Autoanswer 212A-compatible modem connected to the dial-up telephone network and supporting unattended file transfer; and

v. Processor unit with associated disk drive capable of storing at least three hundred thousand characters of transaction data ready for transmission;

2. The computer equipment shall be enclosed and kept in a controlled environment. Temperature shall be maintained within a range specified by the computer manufacturer. Infiltration of dust and dirt into the equipment room shall be minimized by limiting exterior openings. Any ventilation devices shall, if necessary, be equipped with filters to remove airborne particles; and

3. Flexible disk shall not be used as the primary storage medium for data awaiting transmission, unless the disk system has a demonstrated reliability in the landfill scalehouse environment of at least five thousand hours between failures and the Department approves a written request by the owner or operator to use such a system.

(b) The computerized scales shall be programmed to store and process data as follows:

1. The scales shall, at a minimum, store and transmit the following data for each transaction:

i. Date;

ii. Time;

iii. Identifying number assigned to the vehicle by the Department;

iv. Vehicle capacity;

v. Waste type;

vi. Net weight of waste;

vii. Source of net weight data;

viii. Percent of total load from each place of waste origin;

ix. County of waste origin (or state if not N.J.), but if more than one county has contributed to the load, all counties of waste origin;

x. Municipality of waste origin, but if more than one municipality has contributed to the load, all municipalities of waste origin; and

xi. Serial number of printed ticket.

2. The scales shall generate a printed, serialized ticket for each transaction. Each ticket shall accommodate as many as six places of waste origin for a "split load", and shall provide the following data:

i. All data noted in 1 above;

ii. The measured gross weight of the vehicle; and

iii. The measured tare of weight of the vehicle.

3. The waste origin data printed and stored for transmission may derive from standard values stored by the scales for each vehicle. The scales, however, shall allow the scale operator to readily override the stored data and enter correct waste origin data for any vehicle transporting waste from a location other than its standard place of waste origin.

(c) The scales shall, to the greatest extent possible, transfer data by telephone directly to the Department's computers, using the data items, data format and error-checking protocol specified in Appendix A. The programming for data transmission shall meet the following requirements:

1. The scales shall transmit data at 1200 baud using ASCII character codes (signal shall be eight bits, no parity, one stop bit);

2. The scales shall be programmed to accept an identifying password from the Department's computer and transmit data only after authenticating the password;

3. When called by the Department's computer, the scales shall transmit all data which they have not previously transmitted, regardless of transaction dates. However, if a transmission is interrupted, the scales shall reset and await another call. When called again, they shall begin sending data from the beginning of the previously interrupted transmission;

4. The scale operator or supervisor shall be able to manually override the automatic selection by the scale of data to be transmitted. At a minimum, the operator shall be able to specify transmission of all transaction data currently stored by the scale, even if some or all of this data has previously been transmitted. The operator or supervisor shall perform this override upon request by the Department; and

5. Routine end-of-day procedures programmed into the scales shall prepare the system fully for unattended transmission of the logged data after business hours. This preparation shall require minimal operator intervention. Any necessary operator actions shall be clearly prompted by the scales.

#### 7:26-17.9 Operation of scales

(a) The following weighing procedures shall be followed:

1. Any vehicle having an identification number assigned by the Department shall be identified to the scale using that number;

2. The facility owner or operator shall consult with the Department prior to establishing a scheme for identifying vehicles which do not have identification numbers assigned by the Department; and

3. The facility owner or operator shall make all reasonable efforts to assure that the printed tickets and the data stored for transmission to the Department comprise a complete and accurate record of all appearances by waste-bearing vehicles at the facility. Such efforts shall include but not be limited to the following:

i. If a scale stores standard waste origin data for each vehicle, the scale operator shall override the stored data whenever necessary to enter the actual origin of every load; and

ii. During times when a computerized scale is not fully operational, the same data that is logged by the scale shall be collected manually. Vehicle capacity in cubic yards shall, if necessary, be recorded in place of net weight of waste. After full operation is restored, the facility owner or operator shall enter the manually collected data into the computerized scale within forty-eight hours, using appropriate coding for the "source of net weight" data item. The computerized scale shall print tickets for these transactions.

#### 7:26-17.10 Severability

If any section, subsection, provision, clause or portion of this subchapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining portions of this subchapter shall not be affected thereby.

## APPENDIX A

### INTRODUCTION:

This Appendix describes technical specifications for data transmission from solid waste facility scales to the Department, including the data items, data format and communications protocol. The XMODEM asynchronous file transfer protocol is used. All numbers appear in decimal form.

The facility owner or operator should ensure that the supplier of the computerized scale coordinates testing and implementation of the communications system with the Department.

### DATA ITEMS AND FORMAT:

The data should be transmitted as 64-byte fixed-length records in the following format:

ITEM NUMBER	POSITION(S) OCCUPIED	DATA ELEMENT
1	1-2	Transaction month (01-12)
2	3-4	Transaction day (01-31)
3	5-8	Transaction time as HHMM (0001=12:01 a.m., 2400=midnight)
4	9-15	Identification number assigned to the vehicle by the Department (00000AA-99999ZZ)
5	16-17	Capacity of vehicle in cubic yards (01-99)
6	18-19	Waste type (10, 13, etc.)
7	20-24	Net weight of waste in pounds (00000-99999 or blank—see text)
8	25	Source of net weight (blank, E or X—see text)
9	26-27	Percent of total load from the place of origin specified in items 10 & 11 (blank if 100%, otherwise 01-99)
10	28-29	County or state of waste origin (numeric code—see text)
11	30-49	Municipality of waste origin (numeric code or alphabetic full name—see text)
12	50-63	Serial number of corresponding printed ticket (left-justified, padded with blanks, exact format determined by owner/operator)
13	64	End-of-record delimiter (carriage return—ASCII decimal 13)

Scales should record and print tickets for all transactions for which a vehicle identifier is entered by the operator. If a transaction is cancelled before weighing, or the vehicle does not dispose of its load at the facility, the transaction record should show zeroes for the net weight data item. Any transactions recorded when the scale is not operational, including those entered from manual records, should show a net weight computed from the vehicle capacity using a conversion procedure specified by the Department.

The "source of net weight" data item should be coded as follows:

- (blank) Net weight computed from both gross and tare weights measured by the scale at this vehicle appearance
- E Net weight estimated by computation from vehicle capacity; two-way weighing not performed (e.g., scale not operational)
- X Vehicle did not dispose of waste at this appearance

When a load of waste originates from only one place, the "percent" data element (item 9) should be filled with blanks. When a waste load originates from multiple places, the scale should generate a distinct record occurrence for each place. These record occurrences should be identical except that data items 9, 10 and 11 should reflect the data for each place of origin.

Data items 10 and 11 should be supplied using New Jersey county and municipality codes, with the county codes extended to include nearby states. Only if a municipality code is unavailable despite reasonable effort should the name of the municipality be entered in item 9. The twenty-one counties are coded 01 to 21 in alphabetical order; the municipalities in each county are assigned a similar two-digit code. Coding details and data are available on request from the Department.

Note that numeric data are right-justified and padded with zeros; alphabetic data and the ticket serial number and left-justified and padded with blanks. Capacity units are implicit in the waste type.

**XMODEM TRANSMISSION PROTOCOL**

When the Department's computer calls a scale, the Department's computer will transmit a single data block containing a password to the scales computer. Upon authenticating the password, the scales computer should transmit its transaction data to the Department's computer, block by block. Each block should contain 128 characters of data.

Error correction should be accomplished by programming the sending system to compute a total (or "checksum") from each block's data and transmit it with the block. The receiving system will recompute the checksum, and request that the block be retransmitted if the recomputed checksum differs from the received checksum.

Special characters used in the XMODEM specification are identified in the following table:

CHARACTER	DECIMAL VALUE	REPRESENTS
ACK	006	Acknowledge
EOT	004	End of Transmission
NAK	021	Negative Acknowledge
NUL	000	Null
SOH	001	Start of Header

The detailed protocol using XMODEM conventions shall be as follows:

DEP COMPUTER	SCALE
Originates call	Answers, sends NAK every ten seconds until receives SOH (nine NAK's max).
/SOH/001/254/password padded (NUL's) to 128 bytes/checksum/	Verifies SOH, block # and complement, checksum. Sends ACK if OK, NAK if not.
Retransmits block 001 if necessary until receives ACK (nine total attempts max).	Repeats verification and response.
EOT	ACK
Sends NAK every ten seconds until receives SOH (nine NAK's max).	Verifies password. If OK, sends first data block (/SOH/. . . etc.), continues until all data is sent, then sends EOT. If bad password, hangs up.
ACK (in response to EOT after transfer in complete).	Hangs up.

Note that the checksum is computed by summing the ASCII values of each character in the 128-character data block, dividing the sum by 255, and retaining the remainder as the checksum. The complement of the block number equals the block number XOR (exclusive OR) 255.

**COMMISSION ON RADIATION PROTECTION**

The following proposals are authorized by the Commission on Radiation Protection, Max Weiss, Chairman.

A public hearing concerning N.J.A.C. 7:28-14 and 7:28-42.1 will be held on:

June 19, 1986 at 9:30 A.M.  
Bureau of Environmental Laboratories  
Large Conference Room  
380 Scotch Road (2nd bldg)  
Trenton, New Jersey

(a)

**Therapeutic Installations**

**Proposed Repeal: N.J.A.C. 7:28-14**

**Proposed New Rules: N.J.A.C. 7:28-14**

Authority: N.J.S.A. 13:1D-1 et seq. and N.J.S.A. 26:2D-1 et seq., specifically 26:2D-7.

DEP Docket No. 024-86-05.

Proposal Number: PRN 1986-219.

Submit comments by July 2, 1986 to:

Roger S. Haase  
Office of Regulatory Services  
Department of Environmental Protection  
CN 402  
Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

In 1958, the Radiation Protection Act, N.J.S.A. 26:2D-1 et seq. was enacted. This Act, as amended in 1971, 1977 and 1981, relates to the possession, handling, transportation and use of sources of radioactivity within the State of New Jersey. The Act established the State's Radiological Health Program, which was transferred from the State Department of Health to the Bureau of Radiation of the Department of En-

vironmental Protection. The Act also created the New Jersey Commission on Radiation Protection (CORP) and vested in that body the authority to promulgate rules and regulations.

In 1967, the CORP promulgated N.J.A.C. 7:28-14, "Therapeutic Installations". This subchapter established standards for therapeutic x-ray installations operated at potentials above and below 60 kVp, and standards for teletherapy apparatus utilizing radioactive materials. Since N.J.A.C. 7:28-14 was promulgated newer and more effective radiation protection practices and procedures have evolved as a result of a better understanding of the biological effects of radiation and the availability of more sophisticated technology including a number of more powerful radiotherapy devices. This new equipment is capable of producing radiation at much higher energy and greater intensity and requires higher standards of radiation protection and quality assurance if the interests of the citizens of New Jersey are to be fully served.

This proposal deals with all of the types of radiation therapy devices in use today and codifies currently acceptable concepts of radiation safety and dosimetry. Specifically the shielding required for each energy of radiation therapy device is described. Requirements for measurements of leakage and scatter are specified. Requirements are established for beam calibration, uniformity and delineation. Qualifications are established for individuals who will be responsible for these measurements. The proposal establishes the mechanical and electrical requirements for the therapy devices which deal with radiation safety and dosimetry, such as electrical timers, safety interlocks and emergency switches.

In order to establish standards for this new equipment the CORP established a committee to revise Subchapter 14. This committee developed a proposal and solicited comments from radiation therapists and medical physicists. A large number of radiation physicists came to two work sessions at the Department, where the entire document was reworked to better reflect current standards and availability of equipment and personnel. This proposal establishes the standards and procedures necessary to insure that the citizens of the State receive the degree of radiation protection they need and deserve. The proposal does not establish standards which exceed the technical capability presently available to physicians and medical institutions, nor require apparatus that is not currently available.

N.J.A.C. 7:28-14.2, "Definitions" has been expanded to include many definitions not relevant when the subchapter was first promulgated.

N.J.A.C. 7:28-14.3 is a revision and an updating of the standards for conventional x-ray therapy equipment. The standards proposed in the section reflect generally accepted standards of good practice for this equipment. For equipment installed before promulgation of these regulations, the requirements for calibration and radiation safety have been restated but not substantially changed. Equipment installation on or after promulgation of these regulations will be required to meet standards currently available from all manufacturers and which assure optimal shielding from stray radiation, accuracy of timing and additional safety interlocks. They require continuous monitoring of the radiation beam to assure accuracy of the dose. Equipment meeting these requirements is readily available. There are new requirements for display of the machine's operations at the control panel which will keep the therapist continuously apprised of machine operation. There are additional requirements for all installations that include spot checks of calibration and safety devices, such spot checks to be performed at least monthly.

N.J.A.C. 7:28-14.4 establishes standards for all therapeutic x-ray and therapeutic accelerator installations with energies of one MeV and above. Installations of this energy were not envisioned at the time the present regulations were promulgated. Such high energies require shielding of buildings and machines far greater than that required for conventional x-ray therapy. They also require control of therapy beam quality that is far more demanding than the controls necessary for lower energy devices. The standards for radiation safety proposed here give the same protection both to patients and equipment operators as are applied throughout chapter 28.

N.J.A.C. 7:28-14.4 establishes precise limits to leakage radiation for x-ray and neutrons. It specifies safety requirements to assure correct filtration, field uniformity, beam constancy and continued operations of all of the monitoring systems themselves. It establishes the standards for calibration of the installations. Many of the standards have been taken from the Suggested State Regulations for Control of Radiation, Volume One, Ionizing Radiation, prepared by the Conference of Radiation Control Program Directors, Inc. These requirements can be met by all the major manufacturers of x-ray therapy or accelerator systems. In develop-

ing these standards, the CORP has drawn heavily upon the advice and expertise of radiation physicists currently practicing at hospitals throughout New Jersey.

N.J.A.C. 7:28-14.5 is an updating of the standards for teletherapy apparatus utilizing radioactive material. It employs the standards of protection and quality control required by the Nuclear Regulatory Commission which has authority to license these devices. Insofar as possible it employs wording identical to or consistent with the Nuclear Regulatory Commission's regulations and licensing guides.

N.J.A.C. 7:28-14.6 establishes standards for therapy simulator installations including medical radiographic units and medical fluoroscopic units. These are devices similar to diagnostic radiographic and fluoroscopic machines but dedicated to radiation therapy planning. They were not in common use when these regulations were first promulgated but are now required for proper planning and treatment by the new high energy radiotherapy systems. Despite their similarity to diagnostic devices, their unique application requires a number of exceptions to the restrictions necessary for radiological diagnostic use.

Once this subchapter is promulgated the CORP will have standards for therapeutic installations equaling the generally accepted standards of good practice for the profession.

#### Social Impact

Since the use of radiation and radioactive materials is an indispensable part of daily living and the presence of radioactivity in the environment is, to an extent, unavoidable and, in some situations, desirable and necessary, the inherent goal of any radiological health program is the elimination of unnecessary radiation or the reduction of radiation dose levels and rates of exposure to a point that is as low as reasonably achievable. Modern radiation oncology has contributed to improved quality of life for patients suffering from malignant disease and has strikingly contributed to the cure rate for some types of cancer. The use of higher energies of radiation puts patients and health workers at risk of higher exposure; therefore, appropriately higher standards of radiation safety and quality control are required. By extending the standards for leakage radiation and scatter radiation, and by establishing criteria for measuring patient exposure rate and dose, and by establishing standards of training for individuals qualified to measure these parameters, the CORP has determined that both patients and health workers will be protected.

The proposed regulations do not change the social impact of the new modalities of treatment of cancer. They are generally accepted and in common use. The proposed regulations will establish safety and dosimetry standards for the high energy radiotherapy installations which are now in use but which heretofore have not been properly regulated. Enforcement of the regulations will minimize any adverse impact that would result from unrestricted use of radiation producing machines. The literal interpretation of existing regulations, written for low energy technologies, could prevent the use of new devices, such as linear accelerators, for which they were not intended. This proposal, when adopted, should accomplish the goal of improved radiation safety while at the same time making possible improved medical care for patients.

#### Economic Impact

The proposed regulations will require minimal new expenditure on the part of the regulated community. For those therapy installations currently regulated and installed prior to the effective date of the new rule, there is no substantial new requirement that would require increased cost for personnel or equipment. For those high energy radiotherapy installations currently installed but not covered by the regulations, virtually all of the equipment requirements are met by the present apparatus. The proposal was written with knowledge of the equipment in use at this time. For equipment not yet installed, the proposed rule does not require anything not currently available from all the leading manufacturers. In all cases, it is generally agreed that the requirements of the proposal are currently being met or can be met by institutions that meet the standard of radiation protection and quality control accepted by radiation oncologists and radiological physicists.

Accordingly it is concluded that significant economic impact will only be felt by radiotherapy installations whose equipment or standard of practice suffers serious deficiency. In such instances, the additional cost would be more than offset by the overriding concern for patient and personnel care and safety.

#### Environmental Impact

The proposed regulations establish standards which will protect the public, patients and the environment from unnecessary doses of radiation. Except for teletherapy devices employing sealed sources of radioactive

material, which are licensed and regulated by the Nuclear Regulatory Commission, there is no potential for contamination of air, water or soil by any radiation therapy device. There is, however the potential for unnecessary radiation emanating from radiation therapy devices and facilities when they are in use. The Radiation Protection Act charges the CORP with the responsibility to promulgate the regulations necessary to prevent unnecessary radiation. In the proposed rule, the CORP specifically set standards which will prevent the release of unnecessary radiation in the environment.

Full text of the proposed repeal can be found in the New Jersey Administrative Code at N.J.A.C. 7:28-14.

Full text of the proposed new rules follows.

#### SUBCHAPTER 14. THERAPEUTIC INSTALLATIONS

##### 7:28-14.1 Scope

(a) This subchapter covers therapeutic installations used in the healing arts. These therapeutic installations include x-ray, accelerator and teletherapy installations. No registrant shall operate or permit the operation of therapeutic equipment used in the healing arts unless the equipment and installation meet the applicable requirements of this subchapter.

##### 7:28-14.2 Definitions

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

"Applicator" means a structure which determines the extent of the treatment field at a given distance from the virtual source and which may or may not incorporate the beam limiting device.

"Beam limiting device" means a device which provides a means to restrict the dimensions of the radiation field and which is an integral part of the equipment.

"Beam monitoring system" means a system designed to detect and measure the radiation present in the useful beam.

"Beam scattering filter" means a filter used to scatter a beam of electrons.

"Central axis of the beam" means a line passing through the virtual source and the center of the plane figure formed by the edge of the final beam limiting device.

"Contact therapy system" means an x-ray system used for therapy with the x-ray tube port placed in contact with or within five centimeters of the surface being treated.

"Department" means the New Jersey Department of Environmental Protection.

"Dose monitoring system" means a system of devices for the detection, measurement, and display of dose information for the useful beam.

"Dose monitor unit" means a unit response from the dose monitoring system from which the absorbed dose can be calculated.

"Field flattening filter" means a filter used to provide dose uniformity over the area of a useful beam of x-rays at a specified depth.

"Field size" means the dimensions along the major axes of an area in a plane perpendicular to the specified direction of the beam of incident radiation at the normal treatment distance and defined by the intersection of the major axes and the 50 percent isodose line.

"Full beam detector" means a radiation detector of such size that the total cross section of the maximum-size useful beam is intercepted.

"Gantry" means that part of the system supporting and allowing possible movements of the radiation head.

"Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

"Interruption of irradiation" means the stopping of irradiation with the possibility of continuing irradiation without resetting of operating conditions at the control panel.

"Isocenter" means a fixed point in space located at the center of the smallest sphere through which the central axes of the beam pass.

"Leakage radiation" means radiation emanating from the diagnostic or therapeutic source assembly except for the useful beam.

"Moving beam therapy" means radiation therapy with relative movement of the useful beam and the patient during irradiation.

"Normal treatment distance" means:

1. For electron irradiation, the nominal source to surface distance along the central axis of the useful beam, specified by the manufacturer for the applicator;

2. For x-ray irradiation, the nominal source to isocenter distance along the central axis of the useful beam; and

3. For non-isocentric equipment, this distance shall be specified by the manufacturer.

"Phantom" means a volume of material behaving in a manner similar to tissue with respect to the attenuation and scattering of radiation.

"Primary dose monitoring system" means a system which will monitor the quantity of radiation produced during irradiation and which will terminate irradiation when a pre-selected number of dose monitor units have been delivered.

"Qualified radiological physicist" means a person who holds at least a bachelor's degree in one of the physical sciences and who is certified by the American Board of Radiology either in radiological physics, x- and gamma ray physics or therapeutic radiological physics, is eligible for such certification, or has equivalent training and experience.

1. "Equivalent training and experience" means a person has:

i. A bachelor's degree in physical sciences and three years full time experience working under the direction of a physicist certified by the American Board of Radiology;

ii. A doctorate or master's degree in physical science and two years such experience; or

iii. A doctorate or master's degree in radiological or medical physics and two years of full-time, post-doctoral training with clinical experience.

"Registrant" means the person owning machinery or materials registered with the Department pursuant to N.J.A.C. 7:28-3.

"Secondary dose monitoring system" means a system which will terminate irradiation in the event of failure of the primary system.

"Spot check" means an abbreviated calibration procedure which is performed to assure that a previous calibration continues to be valid.

"Stationary beam therapy" means radiation therapy without relative movement of the useful beam and the patient during irradiation.

"Target" means that part of a radiation-producing device used to intercept a beam of accelerated particles and cause emission of other radiation.

"Termination of irradiation" means the stopping or irradiation in a fashion which will not permit continuance of irradiation without the resetting of operating conditions at the control panel.

"Transmission detector" means a radiation detector through which the useful beam or part of the useful beam passes.

"Traceable to national standards" means a dosimetry system calibrated by the National Bureau of Standards (NBS) or calibrated in a beam which has been standardized by a transfer-grade ionization chamber having a NBS calibration.

"Treatment field" means the area of the patient's skin which is to be irradiated.

"Virtual source" means a point from which radiation appears to originate.

"Wedge filter" means an added filter effecting continuous progressive attenuation on all or part of the useful beam.

##### 7:28-14.3 Therapeutic x-ray systems with energies less than one MeV.

(a) Equipment requirements for therapeutic x-ray systems with energies less than one MeV. are as follows:

1. Leakage radiation shall be measured under conditions which provide maximum leakage radiation, the leakage radiation shall not exceed the value specified at the distance specified for the classification of that x-ray system. Compliance shall be determined by measurements averaged over an area of 100 square centimeters. Measurement shall be performed at installation and whenever the tube is changed. Measurement shall be performed at least once every five years;

i. For Contact Therapy Systems, leakage radiation shall not exceed 100 milliroentgens in one hour at five centimeters from the surface of the tube housing assembly;

ii. For 0-150 kVp Systems which are installed prior to January 1, 1987, leakage radiation shall not exceed one roentgen in one hour at one meter from the target;

iii. For 0-150 kVp Systems which are installed on or after January 1, 1987, leakage radiation shall not exceed 100 milliroentgens in one hour at one meter from the target;

iv. For 151 to 500 kVp Systems the leakage radiation shall not exceed one roentgen in one hour at one meter from the target;

v. For 501 to 999 kVp Systems the leakage radiation at a distance of one meter from the target shall not exceed 0.1 percent of the useful beam exposure rate at one meter from the target; and

vi. Records of leakage radiation shall be maintained at the facility for at least five years and shall be made available for inspection by the Department.

2. Beam limiting devices for equipment installed on or after January 1, 1987 shall transmit no more than one percent of the useful beam, for the portion of the beam which is to be attenuated by the beam limiting

device, when the equipment is operating at maximum kVp and with maximum filtration. Measurements shall be made at a distance of one meter from the beam limiting device and in a plane perpendicular to the central axis of the beam. For equipment installed before January 1, 1987, transmissions shall not exceed five percent of the useful beam:

3. The filter system shall be so designed that:
  - i. It will minimize the possibility of error in filter selection;
  - ii. Filters cannot be accidentally displaced from the useful beam at any possible tube orientation;
  - iii. Each filter is marked as to its material of construction and its thickness or wedge angle for wedge filters;
  - iv. It shall be possible for the operator to determine the presence or absence of any filter in the useful beam when the operator is at the control panel, either by display at the control panel or by direct observation;
  - v. For equipment installed prior to January 1, 1987, the radiation at five centimeters from the filter insertion slot opening does not exceed 30 roentgens per hour under any operating conditions; and
  - vi. For equipment listed on or after January 1, 1987, the radiation from the filter slot shall not exceed the leakage radiation specified in 1 above.
4. A means shall be provided to immobilize the tube housing assembly during stationary treatments;
5. The tube housing assembly shall be so marked that it is possible to determine the location of the focal spot to within five millimeters, and such marking shall be readily accessible for use during calibration procedures;
6. Equipment employing Beryllium or other low-filtration windows shall have a removable shield of at least 0.5 millimeter lead equivalency at 100 kVp that can be positioned over the entire useful beam exit port during periods when the beam is not in use;
7. Beam monitoring systems of greater than 150 kVp installed on or after January 1, 1987 shall be provided with a beam monitor system which shall:
  - i. Include a radiation detector which is placed on the patient side of any fixed added filters other than a wedge filter;
  - ii. Have the radiation detector interlocked to prevent its incorrect positioning in the useful beam;
  - iii. Not allow irradiation until a pre-selected value of exposure or pre-selected number of dose monitor units has been made at the treatment control panel;
  - iv. Independently terminate irradiation when the pre-selected value of exposure or dose monitor units has been reached;
  - v. Be so designed that, in the event of a system malfunction or electrical power failure, the dose administered to a patient prior to the system malfunction or power failure can be accurately determined;
  - vi. Have a display at the control panel, reading in roentgens, from which the dose at a reference point in the treatment volume can be calculated;
- (1) The reading shall be maintained in the display at the control panel until intentionally reset to zero; and
- vii. Have a control panel display which does not have scale multiplying factors and utilizes a design such that an increasing dose is displayed by increasing numbers.
8. The following are the equipment requirements for timer systems:
  - i. A timer system shall be provided which has a display at the treatment control panel. It shall be graduated in minutes and seconds and/or fractions of minutes. It shall have a pre-set time selector. For equipment installed on or after January 1, 1987, it shall also have an elapsed time indicator;
  - ii. The timer shall terminate irradiation when a pre-selected time has elapsed;
  - iii. The timer shall permit pre-setting and determination of exposure times to an accuracy of one second or less;
  - iv. The timer shall not permit an exposure if set at zero;
  - v. When patient irradiation is controlled by a shutter mechanism the timer shall not begin to run until the shutter is opened;
  - vi. Equipment installed on or after January 1, 1987 shall have an elapsed-time indicator which is activated when radiation is emitted and retains its reading after irradiation is interrupted or terminated; and
  - vii. After irradiation is terminated and before irradiation can be re-initiated, it shall be necessary to cycle the pre-set time selector through zero time.
9. In addition to the control panel displays required in other provisions of this subsection, the control panel shall have:
  - i. An indication of whether electrical power is available at the control panel and if activation of the x-ray tube is possible;

- ii. An indication of whether x-rays are being produced;
- iii. Means for indicating kVp and x-ray tube current; and
- iv. The means for terminating an exposure at any time.

10. There shall be a means of determining the source-to-patient distance to within 10 percent or one centimeter, whichever is smaller; and

11. Unless it is possible to bring the x-ray output to the prescribed exposure parameters within five seconds, the entire useful beam shall be attenuated automatically by a shutter having a lead equivalency not less than that of the tube housing assembly. In addition:

- i. After the unit is at operating parameters, the shutter shall be controlled electrically from the control panel by the operator; and
- ii. An indication of shutter position shall appear at the control panel.

(b) In addition to shielding adequate to meet the requirements of N.J.A.C. 7:28-5 and 6, the treatment room design and shielding requirements for systems capable of operating above 50 kVp, shall be the following:

1. There shall be warning lights in treatment rooms to which access is possible through more than one entrance. The warning lights shall be placed in readily observable positions near the outside of all access doors and shall indicate when the useful beam is "on";

2. There shall be means for two-way aural communication between the patient and the operator at the control panel at all times when the system is in operation;

3. A window, mirror, closed-circuit television, or an equivalent system shall be provided to permit continuous observation of the patient during irradiation and shall be so located that the operator can observe the patient from the control panel. When the primary viewing system is by electronic means (for example, television), a secondary viewing system shall be available for use in the event of failure of the primary viewing system;

4. Treatment rooms which contain an x-ray system capable of operating above 150 kVp shall meet the following additional requirements:

i. All required shielding, except for any beam interceptor, shall be provided by fixed barriers;

ii. The control panel shall be outside the treatment room;

iii. All entrance doors of the treatment room shall be electrically connected to the control panel in such a way that x-ray production cannot occur unless all doors are closed;

iv. When any entrance door of the treatment room is opened while the x-ray tube is activated, x-ray production shall terminate within one second; and

v. After the radiation output of the x-ray tube has been terminated by the opening of any door of the treatment room, it shall be possible to restore the x-ray system to full operation only upon closing the door, and subsequently, reinitiating the exposure at the control panel.

(c) The following are the calibration requirements for therapeutic x-ray systems with energies less than one MeV:

1. System calibrations shall be performed before the system is first used for irradiation of a patient and thereafter at time intervals which do not exceed 12 months and after any change which might significantly alter the calibration or other characteristic of the therapy beam;

2. The calibration of the radiation output of the x-ray system shall be performed by a qualified radiological physicist;

3. Calibration of the radiation output of an x-ray system shall be performed with an instrument whose calibration shall be directly traceable to a national standard and which shall have been calibrated within the preceding three years;

4. The calibration shall be such that the dose at a reference point in soft tissue can be calculated to within  $\pm 5$  percent;

5. The calibration of the x-ray system shall include, but not be limited to, the following determinations;

i. Verification that the x-ray system is operating in compliance with the radiological design specifications;

ii. The exposure rates for each combination of field size, technique factors, filter, and treatment distance used;

iii. The congruence between the radiation field and the field indicated by the localizing device if such device is present; and

iv. The uniformity of the radiation field symmetry for representative field sizes used.

6. Records of calibration performed pursuant to 1 above shall be maintained by the registrant and made available for inspection by the Department for five years after completion of the calibration.

(d) Spot checks shall be performed on therapeutic x-ray systems with energies less than one MeV and shall meet the following requirements:

1. The qualified radiological physicist will determine those parameters to be spot-checked and the procedure to be used when performing those

spot checks. The spot check procedure shall be in writing and specify the frequency at which tests or measurements are to be performed, not to exceed one month, and the acceptable tolerance for each parameter measured in the spot-check. A qualified radiological physicist need not actually perform the spot-check measurement. If a qualified radiological physicist does not perform the spot-check measurement, the results of the spot-check measurement shall be reviewed by a qualified radiological physicist within 15 days;

2. The measurements taken during spot checks shall demonstrate the degree of consistency of the operating characteristics which can affect the radiation output of the system or the radiation delivered to a patient during a therapy procedure;

3. The cause for a parameter exceeding tolerances set by the qualified radiological physicist shall be promptly investigated and corrected before the system is used for patient irradiation;

4. Whenever a spot check indicates a significant change in the operating characteristics of a system, as specified in the spot check procedures, the system shall be recalibrated;

5. The cause for a parameter exceeding tolerances set by the qualified radiological physicist shall be promptly investigated and corrected before the system is used for patient irradiation; and

6. Records of spot-check measurements shall be maintained by the registrant and made available for inspection by the Department for a period of five years following such measurement.

(e) The following procedures shall be followed when operating therapeutic x-ray systems with energies less than one meV:

1. A therapeutic x-ray system shall not be left unattended unless the system is secured against unauthorized use;

2. No individual other than the patient shall be in the treatment room unless such individual is protected by a barrier meeting the requirements of N.J.A.C. 7:28-6. No individual other than the patient shall be in the treatment room during exposure when the kVp exceeds 50;

3. When a patient must be held in position for radiation therapy, mechanical supporting or restraining devices shall be used; and

4. Except for contact therapy devices, the tube housing assembly shall not be held by an individual during exposure.

(f) The x-ray system shall not be used in the administration of radiation therapy unless the requirements of this section have been met.

7:28-14.4 Therapeutic x-ray and therapeutic accelerator installations with energies of one meV and above

(a) The following are the equipment requirements related to leakage radiation to the patient area:

1. Leakage radiation shall be measured under conditions producing maximum leakage radiation and shall be reported as absorbed dose in rads or grays in water. For equipment installed on or after January 1, 1987, measurements shall include x-rays, electrons and neutrons. For equipment installed before January 1, 1987, measurements shall exclude neutrons. The leakage radiation shall be measured in a plane perpendicular to the central axis of the beam located at the normal treatment distance or passing through the isocenter. The leakage radiation at any point on this plane outside the useful beam but within two meters of the central axis of the beam shall not exceed 0.1 percent of the maximum radiation of the useful beam, measured at the point of intersection of the central axis and the plane;

2. Measurements for leakage radiation shall be averaged over an area up to, but not exceeding, 100 square centimeters at the positions specified. For equipment installed on or after January 1, 1987, measurements of the portion of the leakage radiation dose contributed by neutrons shall be averaged over an area up to, but not exceeding, 200 square centimeters. For equipment installed before January 1, 1987, measurements shall exclude neutrons;

3. For each system the registrant shall determine, or obtain from the manufacturer, the amount of leakage radiation at the positions specified in 1 above. Records of leakage radiation shall be maintained at the facility for inspection by the Department.

(b) The following are the equipment requirements for leakage radiation outside the patient area:

1. Except in the area specified in (a) above as the patient area, the x-ray leakage measured as absorbed dose in rads or grays in water, at any point one meter from the path of the charged particles before they strike the target or the window, shall not exceed 0.1 percent of the maximum absorbed dose in the circular plane specified in (a) above;

2. Except in the area specified in (a) above as the patient area, neutron leakage measured as absorbed dose in rads or grays in water, at any point

one meter from the path of the charged particles before they strike the target or the window, shall not exceed 0.5 percent of the maximum absorbed dose in the circular plane specified in (a) above;

3. The registrant shall determine, or obtain from the manufacturer, the actual leakage radiation existing at the positions specified in 1 and 2 above for specified operating conditions. Radiation measurements excluding neutrons shall be averaged over an area up to, but not exceeding, 100 square centimeters at the positions specified. For equipment installed on or after January 1, 1987, neutron measurement shall be averaged over an area up to, but not exceeding, 200 square centimeters. For equipment installed prior to January 1, 1987, measurement of neutrons shall be excluded.

(c) The following are the equipment requirements for beam limiting devices:

1. For equipment installed on or after January 1, 1987, adjustable or interchangeable beam limiting devices shall be provided and such devices shall transmit no more than 0.6 percent of the useful beam at the normal treatment distance for the portion of the useful beam which is to be attenuated by the beam limiting device. The neutron component of the useful beam shall not be included in this requirement; and

2. For equipment installed prior to January 1, 1987, the beam limiting device shall meet the requirements of 1 above except that such device shall transmit no more than two percent of the useful beam.

(d) The following are the equipment requirements for filters:

1. If the absorbed dose rate information required by (p) below relates exclusively to operation with a field flattening or beam scattering filter in place, such filter shall be removable only by the use of tools;

2. In systems installed on or after January 1, 1987, which utilize a system of wedge filters, interchangeable field flattening filters or interchangeable beam scattering filters:

i. Irradiation shall not be possible until a selection of a filter has been made at the treatment control panel;

ii. An interlock system shall be provided to prevent irradiation if the filter selected is not in the correct position;

iii. A display shall be provided at the treatment control panel showing the filter in use;

iv. Each filter which is removable from the system without the use of tools shall be clearly marked with an identification number and accompanying documents shall contain a corresponding drawing or other description of the filter, showing dimensions and materials. The identification number shall appear on the wedge filter as well as on its tray. The identification number shall be referable to wedge angle and wedge factor; and

v. An interlock shall be provided to prevent irradiation if any filter selection operation carried out in the treatment room does not agree with the filter selection operation carried out at the treatment control panel.

3. The only filter requirement for equipment installed prior to January 1, 1987 shall be that required by 2iv above.

(e) Beam quality data sufficient to assure that the following beam quality requirements are met shall be determined or obtained from the manufacturer by the registrant:

1. For radiotherapy systems capable of electron beam therapy the absorbed dose in water resulting from x-rays in a useful electron beam shall be determined at a point on the central axis of the beam 10 centimeters greater than the practical range of the electrons. This shall not exceed the values stated in the following table. Linear interpolation shall be used for values not stated;

TABLE

Maximum Energy of Electron Beam in meV	X-Ray absorbed Dose as a Fraction of Maximum Absorbed Dose
1	0.03
15	0.05
35	0.10
50	0.20

2. Compliance with 1 above shall be determined using:

i. A measurement within a phantom with the incident surface of the phantom at the normal treatment distance and normal to the central axis of the beam;

ii. The largest field size available which does not exceed 15 centimeters by 15 centimeters; and

iii. A phantom whose cross-sectional dimensions exceed the measurement radiation field by at least five centimeters and whose depth is sufficient to perform the required measurement.

3. The absorbed dose at a surface located at the normal treatment distance, at the point of intersection of that surface with the central axis of the useful beam during x-ray irradiation, shall be measured at intervals not to exceed 12 months and the results of such measurements shall be maintained with the records of calibration;

4. The measurements required by 3 above shall conform to the following requirements:

- i. Measurements shall be made within a phantom using an instrument which will allow extrapolation to the surface absorbed dose;
- ii. Measurements shall be made using a phantom whose size and placement meet the requirements of 2iii above;
- iii. Measurements shall be made after removal of all beam modifying devices which can be removed without the use of tools, except for beam scattering or beam flattening filters; and
- iv. Measurements shall be made for the largest field size available which does not exceed 15 centimeters by 15 centimeters.

5. The registrant shall determine, or obtain from the manufacturer, the maximum percentage absorbed dose due to stray neutrons in the useful beam for specified operating conditions.

(f) All therapy systems shall be provided with radiation detectors in the radiation head.

1. Equipment installed on or after January 1, 1987 shall be provided with at least two radiation detectors. The detectors shall be incorporated into two monitoring systems arranged either as a primary/primary combination or as a primary/secondary combination;

2. Equipment installed prior to January 1, 1987 shall be provided with at least one radiation detector. This detector shall be incorporated into a primary system. Failure of this detector shall automatically cause the beam to be terminated; and

3. Each detector and system into which the detector is incorporated shall meet the following requirements:

- i. Each detector shall be removable only with tools and shall be interlocked to prevent incorrect positioning;
- ii. Each detector shall be capable of independently monitoring and controlling the useful beam;
- iii. Each detector shall form part of a dose monitoring system from whose readings in dose monitor units the absorbed dose at a reference point in the treatment volume can be calculated;
- iv. For equipment installed on or after January 1, 1987, the primary dose monitoring system shall have a full beam transmission detector which is placed on the patient side of any fixed added filters other than a wedge filter;
- v. For equipment installed on or after January 1, 1987, the design of the dose monitoring system of 3iii above shall assure that:

(1) The malfunctioning of one system shall not affect the correct functioning of the second system; and

(2) The failure of any element which may be common to both systems shall terminate the useful beam.

vi. Each dose monitoring system shall have a legible display at the treatment control panel. Each display shall:

- (1) Maintain a reading until intentionally reset to zero;
- (2) Utilize a design such that increasing dose is displayed by increasing numbers and shall be so designed that, in the event of an overdosage of radiation, the absorbed dose may be accurately determined under all normal conditions of use or foreseeable failures; and
- (3) In equipment installed on or after January 1, 1987 have only one scale and no scale multiplying factors.

vii. In the event of power failure, the dose monitoring information required in 3vi above displayed at the control panel at the time of failure shall be retrievable in at least one system.

(g) Beam symmetry requirements are the following:

1. For equipment installed on or after January 1, 1987 and which is inherently capable of producing useful beams with asymmetry exceeding five percent, at least four different parts of the radiation beam shall be monitored before the beam passes through the beam limiting device. If the difference in dose rates between any two of these different parts exceeds five percent an indication of this condition is to be made at the control panel. If the difference in dose rates between any two of these different parts exceeds 20 percent, the irradiation is to automatically terminate; and

2. The beam symmetry requirements of 1 above shall be met if the user can demonstrate to the satisfaction of the Department that adequate fail-safe protection against the beam asymmetry is incorporated into the inherent design of the accelerator.

(h) Equipment requirements for the selection and display of dose monitor units are the following:

1. Irradiation shall not be possible until a selection of a number of dose monitor units has been made at the treatment control panel;

2. The pre-selected number of dose monitor units shall be displayed at the treatment control panel until reset manually for the next irradiation; and

3. After termination of irradiation, it shall be necessary to manually cycle the pre-selected dose monitor units through zero before treatment can be initiated.

(i) Equipment requirements for termination of irradiation by the dose monitoring system are the following:

1. Each of the required monitoring systems shall be capable of terminating irradiation independently;

2. Each primary dose monitoring system shall terminate irradiation when the pre-selected number of dose monitor units has been detected by the system;

3. Each secondary dose monitoring system shall terminate irradiation when 10 percent or 25 monitor units above the pre-selected number of dose monitor units has been detected by the system;

4. For equipment installed on or after January 1, 1987, the indicator on the control panel shall show which monitoring system has terminated the beam.

(j) Interruption switches shall be provided which make it possible to interrupt irradiation and equipment movements at any time from the operator's position at the treatment control panel. Following an interruption, it shall be possible to restart irradiation by operator action without any reselection of operating conditions. If any change is made of a pre-selected value during an interruption the equipment shall go to termination condition.

(k) Termination switches shall be provided at the operator's position at the treatment control panel, which make it possible to terminate irradiation and equipment movements, or to go from an interruption condition to termination condition.

(l) The following are the equipment requirements for timer systems:

1. A timer system shall be provided which has a display at the treatment control panel. It shall be graduated in minutes and seconds and/or fractions of minutes. It shall have a pre-set time selector and an elapsed time indicator;

2. The timer shall terminate irradiation when a pre-selected time has elapsed if the dose monitoring systems fail to do so;

3. The timer shall not permit an exposure if set at zero;

4. There shall be an elapsed-time indicator which is activated when radiation is emitted and which retains its reading after irradiation is interrupted or terminated; and

5. After irradiation is terminated and before irradiation can be re-initiated, it shall be necessary to cycle the pre-set time selector through zero time, to reset the pre-set time selector, and to reset the elapsed-time indicator to zero.

(m) Equipment capable of both x-ray therapy and electron therapy shall have the following equipment requirements for selection of radiation type:

1. Irradiation shall not be possible until a selection of radiation type has been made at the treatment control panel;

2. An interlock system shall be provided to insure that the equipment can emit only the radiation type which has been selected, except as noted in 4 below;

3. An interlock system shall be provided to prevent irradiation if any operations selected in the treatment room do not agree with the operations selected at the treatment control panel;

4. An interlock system shall be provided to prevent irradiation with x-rays when electron applicators are fitted except to obtain a port film and to prevent irradiation with electrons when accessories specific for x-ray therapy are fitted; and

5. The radiation type selected shall be displayed at the treatment control panel before and during irradiation.

(n) The following are the equipment requirements for the selection of energy for equipment capable of generating radiation beams of different energies:

1. Irradiation shall not be possible until a selection of energy has been made at the treatment control panel;

2. An interlock system shall be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations carried out at the treatment control panel;

3. The nominal energy selected shall be displayed at the treatment control panel before and during irradiation; and

4. For equipment installed on or after January 1, 1987, an interlock system shall be provided to terminate irradiation if the energy of the

electrons striking the x-ray target or electron window deviates by more than plus or minus 20 percent or plus or minus 3 meV, whichever is smaller, from the selected nominal energy.

(o) The following are the equipment requirements for selection of mode of therapy for equipment capable of both stationary beam therapy and moving beam therapy:

1. Irradiation shall not be possible until a selection of stationary beam therapy or moving beam therapy has been made at the treatment control panel;

2. An interlock system shall be provided to insure that the equipment can operate only in the mode which has been selected;

3. An interlock system shall be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations carried out at the treatment control panel;

4. An interlock system shall be provided to interrupt irradiation if the movement stops during moving beam therapy;

5. Moving beam therapy shall be so controlled that the required relationship between the number of dose monitor units and movement is obtained; and

6. The mode of operation shall be displayed at the treatment control panel.

(p) Equipment installed on or after January 1, 1987, shall be provided with a system from whose readings the absorbed dose rate at a reference point in the treatment volume can be calculated. The radiation detectors specified in (f) above may form part of this system. In addition, the quotient of the number of dose monitor units by time shall be displayed at the treatment control panel.

(q) The registrant shall determine, or obtain from the manufacturer, the location of the following with reference to an accessible point on the radiation head and under all possible orientations of the useful beam:

1. The x-ray target or the virtual source of x-rays; and

2. The electron window, the scattering foil, or the virtual source of electrons.

(r) When pre-selection of any of the operating conditions requires action in the treatment room and at the treatment control panel, selection at one location shall not give a display at the other location until the requisite selected operations in both locations have been completed.

(s) Shadow trays shall be designed to minimize patient entrance skin dose consistent with achieving their primary purpose of safely supporting beam-modifying accessories while transmitting the light field.

(t) The following are the facility and shielding requirements for therapeutic x-ray and therapeutic accelerator installations with energies of one meV and above:

1. The systems shall have shielding adequate to meet the requirements of N.J.A.C. 7:28-5 and 6;

2. Except for entrance doors or beam interceptors, all the required barriers shall be fixed barriers;

3. The treatment control panel shall be located outside the treatment room;

4. Windows, mirrors, closed-circuit television, or other equivalent viewing systems shall be provided to permit continuous observation of the patient during irradiation and shall be so located that the operator may observe the patient from the treatment control panel. When the primary viewing system is by electronic means (for example, television), a secondary viewing system shall be provided for use in the event of failure of the primary system;

5. Provision shall be made for two-way aural communication between the patient and the operator at the treatment control panel;

6. Treatment room entrances shall be provided with warning lights in readily observable positions near the outside of all access doors which will indicate when the useful beam is "on";

7. Interlocks shall be provided such that all entrance doors shall be closed before treatment can be initiated or continued. If the radiation beam is interrupted by any door opening, it shall only be possible to restore the machine to operation by closing the door and reinitiating exposure by manual action at the control panel; and

8. At least one "Panic" emergency shut-off button shall be located in the treatment room and one by the control panel. The "Panic" button shall be clearly visible, easily accessible and be capable of immediately terminating machine operation.

(u) The following are the calibration requirements for therapeutic x-ray and therapeutic accelerator installations with energies of one meV and above:

1. The calibration of systems shall be performed before the system is first used for irradiation of a patient, and thereafter at time intervals which do not exceed 12 months and after any change which might, in

the opinion of the qualified radiological physicist, significantly alter the calibration, spatial distribution, or other characteristics of the therapy beam;

2. The calibration shall be performed with an established calibration protocol which meets or exceeds the requirements set by the American Association of Physicists in Medicine;

3. The calibration shall be performed by a qualified radiological physicist;

4. The calibration shall be performed with a dosimetry system whose calibration shall be directly traceable to a national standard and which shall have been calibrated within the preceding three years;

5. The calibration shall be such that the dose at a reference point in soft tissue may be calculated within plus or minus 5 percent;

6. The full calibration of the therapy beam shall include, but not be limited to, the following determinations:

i. Verification that the equipment is operating in compliance with the design specifications for accuracy of the light localizer, the side light and backpointer alignment with the isocenter;

ii. Verification that the equipment is operating in compliance with the design specifications for acceptable variation in the axis of rotation for the table, gantry and jaw system, and beam flatness and symmetry at specified depths;

iii. The absorbed dose rate at representative depths in a phantom for the range of field sizes used for each effective energy, and for representative distances used for radiation therapy;

iv. The congruence between the radiation field and the field indicated by the localizing device;

v. The uniformity of the radiation field and its dependency upon the direction of the useful beam;

vi. Verification of depth-dose data and isodose curves applicable to the specific machine; and

vii. Verification of the applicability and transmission factors of all accessories such as wedges, shadow trays, compensators, etc.

7. Records of the calibration performed pursuant to 1 above shall be maintained by the registrant and made available for inspection by the Department for five years after completion of the calibration; and

8. A copy of the latest full calibration shall be available for calculating patient treatment parameters.

(v) Spot checks meeting the following requirements shall be performed on all therapeutic x-ray and therapeutic accelerator installations with energies of one meV and above:

1. The qualified radiological physicist will determine those parameters to be spot-checked and the procedure to be used when performing those spot checks. The spot-check procedure shall be in writing and shall specify the frequency at which tests or measurements are to be performed, not to exceed one month, and the acceptable tolerance for each parameter measured in the spot-check. A qualified radiological physicist need not actually perform the spot-check measurement. If a qualified radiological physicist does not perform the spot-check measurement, the results of the spot-check measurement shall be reviewed by a qualified radiological physicist within 15 days;

2. The measurements taken during spot-checks shall demonstrate the degree of consistency of the operating characteristics which can affect the radiation output of the system or the radiation delivered to a patient during a therapy procedure;

3. The cause for a parameter exceeding tolerances set by the qualified radiological physicist shall be promptly investigated and corrected before the system is used for patient irradiation;

4. Whenever a spot-check indicates a significant change in the operating characteristics of a system, as specified in the spot-check procedures, the system shall be recalibrated as required in (u) above; and

5. Records of spot-check measurements performed shall be maintained by the registrant for a period of five years and made available for inspection by the Department.

(w) Operating procedures for therapeutic x-ray and therapeutic accelerator installations with energies of one meV and above are as follows:

1. Therapeutic systems shall not be left unattended unless the system is secured against unauthorized use;

2. No individual other than the patient shall be in the treatment room during treatment of a patient;

3. If a patient must be held in position during treatment, mechanical supporting or restraining devices shall be used; and

4. The system shall not be used in the administration of radiation therapy unless the requirements of (u) and (v) above have been met.

7:28-14.5 Teletherapy apparatus utilizing radioactive material

(a) The following are the equipment requirements for teletherapy apparatus utilizing radioactive material:

1. The source housing and collimating device shall be so constructed that, at one meter from the source when the beam control mechanism is in the "off" position, the maximum exposure rate shall not exceed 10 milliroentgens per hour and the average shall not exceed two milliroentgens per hour;

2. The leakage radiation measured at one meter from the source when the beam control mechanism is in the "on" position shall not exceed 0.1 percent of the useful beam exposure rate at one meter;

3. Adjustable or removable beam-limiting diaphragms shall allow transmission of not more than five percent of the useful beam;

4. In the "on" position, the moving part shall always come to rest with the source and the beam collimating device accurately aligned. If a liquid "on-off" device is used, repeated operation of the device shall not cause a variation of more than five percent in exposure rate in the "on" position;

5. The control mechanism shall be of a positive design, capable of acting in any position of the housing;

6. The "on-off" shutter mechanism shall be so designed as to return automatically to the "off" position in the event of any breakdown or interruption of the activating force and shall stay in the "off" position until activated from the control panel;

7. The equipment, in addition to the automatic closing device, shall be so designed that it can be manually turned off with a minimum risk of exposure. The moving parts shall be so designed that it is highly improbable for projections, breakages, loose screws, dirt or failure of any part to impede the closing of the source;

8. There shall be a warning device at the source housing and on the control panel that plainly indicates whether the apparatus is "on" or "off". This device shall be activated by the moving part that changes the apparatus from the "off" to the "on" position;

9. The following are the equipment requirements for timer systems:

i. A timer system shall be provided which has a display at the treatment control panel. It shall be graduated in minutes and seconds and/or fractions of minutes. It shall have a pre-set time selector;

ii. The timer shall terminate irradiation when a pre-selected time has elapsed;

iii. The timer shall permit pre-setting and determination of exposure times to an accuracy of one second or less;

iv. The timer shall not permit an exposure if set at zero; and

v. An elapsed-time indicator shall be provided which is activated when radiation is emitted and retains its readings after irradiation is interrupted or terminated.

10. The equipment shall be provided with a locking device to prevent unauthorized use.

(b) The following are the structural design requirements for teletherapy equipment:

1. Shielding of the therapy room shall be a permanent part of the building;

2. All wall, floor, and ceiling areas that can be struck by the useful beam, plus a border of one foot, shall be provided with primary protective barriers. All wall, floor, and ceiling areas that because of mechanical or electrical restrictions cannot be struck by the useful beam shall be provided with secondary protective barriers. The radiation levels outside these barriers shall satisfy the requirements of N.J.A.C. 7:28-6, "Permissible Dose Rates, Radiation Levels and Concentrations;"

3. Interlocks shall be provided so that when any door to the teletherapy room is opened the teletherapy apparatus shall shut off automatically. After such a shut-off, it shall be possible to restore the apparatus to full operation only from the control panel;

4. Windows, mirror systems, or closed-circuit television viewing screens used for observing the patient shall be so located that the operator can see the patient and the control panel from the same position;

5. Provisions shall be made for two-way aural communications between the patient and the operator at the treatment control panel;

6. Each teletherapy room shall be equipped with a radiation monitoring device which continuously monitors the teletherapy beam condition by measurement of radiation and which is equipped with a back-up battery power supply for emergency operation. This device shall energize a visible signal to make the operator continuously aware of teletherapy beam condition; and

7. At least one "Panic" emergency shut-off button shall be located in the treatment room and one by the control panel. The "Panic" button

shall be clearly visible, easily accessible and be capable of immediately terminating machine operation and returning the source to the "off" position.

(c) The requirements for performing full calibration measurements of teletherapy units are as follows:

1. Full calibration measurements shall be performed on each teletherapy unit:

i. Prior to the first use of the unit for treating a patient; and

ii. Prior to treating a patient;

(1) Whenever spot-check measurements indicate that the output value differs by more than five percent from the value obtained at the last full calibration corrected mathematically for physical decay;

(2) Following replacement of the radiation source or following re-installation of the teletherapy unit in a new location;

(3) Following any repair of the teletherapy unit that include removal of the source or major repair of the components associated with the source exposure assembly; and

iii. At intervals not exceeding one year.

2. Full calibration measurements required by 1 above shall include determination of:

i. The exposure rate or dose rate to an accuracy within plus or minus three percent for the range of field sizes and for the distance, range of distances or the axis distance used in radiation therapy;

ii. The congruence between the radiation field and the field indicated by the light beam localizing device;

iii. The uniformity of the radiation field and its dependence upon the orientation of the useful beam;

iv. Timer accuracy; and

v. The accuracy of all distance measuring devices used for treating humans.

3. Full calibration measurements shall be made in accordance with the procedures recommended by the Scientific Committee on Radiation Dosimetry of the American Association of Physicists in Medicine (Physics in Medicine and Biology, Vol. 16, No. 3, 1971, pp. 379-396), except as this requirement may be amended by the Nuclear Regulatory Commission, 10 CFR 35;

4. The exposure rate or dose rate values determined in 2i above shall be corrected mathematically for physical decay for intervals not exceeding one month; and

5. Full calibration measurements required by 1 above and physical decay corrections required by 4 above shall be performed by an expert qualified by training and experience in accordance with (f) below.

(d) The requirements to perform periodic spot-check measurements of teletherapy units are as follows:

1. Spot-check measurement shall be performed on each teletherapy unit at intervals not exceeding one month;

2. Spot-check measurements required by 1 above shall include determination of:

i. Timer accuracy;

ii. The congruence between the radiation field and the field indicated by the light beam localizing device;

iii. The accuracy of all distance measuring devices used for treating humans;

iv. The exposure rate, dose rate, or a quantity related in a known manner to these rates for one typical set of operating conditions; and

v. The difference between the measurement made in iv above and the anticipated output, expressed as a percentage of the anticipated output (that is, the value obtained at last full calibration corrected mathematically for physical decay).

3. Spot-check measurements required by 1 above shall be performed in accordance with procedures established by an expert qualified by training and experience in accordance with (f) below. A qualified expert need not actually perform the spot-check measurements. If a qualified expert does not perform the spot-check measurements, the results of the spot-check measurements shall be reviewed by a qualified expert within 15 days.

(e) The following are the requirements for calibrating instruments used for full calibration and spot-check measurements:

1. Full calibration measurements required by (c) above shall be performed using a dosimetry system that has been calibrated by the National Bureau of Standards or by a Regional Calibration Laboratory accredited by the American Association of Physicists in Medicine. The dosimetry system shall have been calibrated within the previous two years and after any servicing that may have affected system calibration; and

2. Spot-check measurements required by (d) above shall be performed using a dosimetry system that has been calibrated in accordance with 1

above. Alternatively, a dosimetry system used solely for spot-check measurements may be calibrated by direct intercomparison with a system that has been calibrated in accordance with 1 above. This alternative calibration method shall have been performed within the previous one year and after each servicing that may have affected system calibration. Dosimetry systems calibrated by this alternative method shall not be used for full calibration measurements.

(f) The requirements for a person to be considered an expert qualified by training and experience to calibrate a teletherapy unit and establish procedures for, and review the results of, spot-check measurements are that the qualified expert:

1. Is certified by the American Board of Radiology in Therapeutic Radiological Physics, Radiological Physics, Roentgen-Ray and Gamma-Ray Physics, or X-ray and Radium Physics; or

2. Has the following minimum training and experience:

i. A Master's or Doctor's degree in physics, biophysics, radiological physics or health physics;

ii. One year of full-time training in therapeutic radiological physics; and

iii. One year of full-time experience in a radiotherapy facility including personal calibration and spot-check of at least one teletherapy unit.

(g) The requirements for installation of a permanent radiation monitor in teletherapy rooms and the requirements to use portable survey instruments or audible alarm dosimeters when the permanent radiation monitoring system fails shall be as follows:

1. In each teletherapy room there shall be a permanent radiation monitor for continuous monitoring of beam status;

2. Each radiation monitor shall be capable of providing visible notice of a teletherapy unit malfunction that may result in an exposed or partially exposed source. The visible indicator of high radiation levels shall be located so as to be observable by a person entering the treatment room;

3. Each radiation monitor shall be equipped with an emergency power supply separate from the power supply to the teletherapy unit. This emergency power supply may be a battery system;

4. Each radiation monitor shall be tested for proper operation each day before the teletherapy unit is used for treatment of patients; and

5. If a radiation monitor is inoperable for any reason, any person entering the teletherapy room shall use a properly operating portable survey instrument or audible alarm personal dosimeter to monitor for any malfunction of the source exposure mechanism that may have resulted in an exposed or partially exposed source. Survey instruments or dosimeters shall be tested daily before use.

(h) The following are the requirements for inspection and servicing of the source exposure mechanism:

1. Each teletherapy unit used to treat humans shall be fully inspected and serviced during source replacement or at intervals not to exceed five years, whichever comes first, to assure proper functioning of the source exposure mechanism; and

2. Inspection and servicing of the teletherapy unit shall be performed by persons specifically licensed to do so by the Nuclear Regulatory Commission or a Nuclear Regulatory Commission Agreement State.

(i) Records of the measurements, tests, corrective actions, inspection and servicing of the teletherapy unit, and instrument calibrations made pursuant to (e) above and records of the qualified expert's training and experience made pursuant to (f) above shall be maintained for inspection by the Department.

1. The following records shall be preserved for five years after completion of the full calibration or after inspection and servicing:

i. Full calibration measurements reports made pursuant to (c) above;

ii. Records of calibration of the instruments used to make the measurements required by (i) above;

iii. Records of inspection and servicing of the teletherapy unit made pursuant to (h) above; and

iv. Records of the qualified expert's training and experience made pursuant to (f) above.

2. Records of spot-check measurements and corrective actions made pursuant to (d) above and records of calibration of instruments used to make spot-check measurements pursuant to (e) above, shall be preserved for two years after completion of the spot-check measurements and corrective actions.

#### 7:28-14.6 Therapy simulator installations

(a) Medical radiographic units used solely for the purpose of identifying the area to be treated with therapeutic doses of radiation shall meet the following requirements:

1. The tube housing shall be of a diagnostic type;

2. Diaphragms shall be provided for collimating the useful beam and shall provide the same degree of protection as required of the housing;

3. The total filtration permanently in the useful beam shall be not less than 2.5 millimeter aluminum equivalent, or the half-value layer shall be not less than 2.5 millimeters aluminum equivalent;

4. An automatic device shall be provided to terminate the exposure after preset time or exposure;

5. The exposure switch shall be a dead-man type and shall be arranged so that it can be operated when the operator is within a shielded area. The timer switch button when depressed shall not energize the x-ray tube when the timer is in the "off" or zero position. Exposure switches for "spot-film" devices used in conjunction with fluoroscopic tables shall be exempted from this shielding requirement, provided the requirements of (b)5 below are satisfied; and

6. Operating procedures for therapy simulator installations using radiographic units are as follows:

i. Only individuals required for the therapy simulating radiographic procedure shall be in the therapy simulating room during exposure; and

ii. The exposure of individuals shall be controlled by the use of shielding and protective clothing as necessary to insure that they are not exposed to radiation doses in excess of those permitted by N.J.A.C. 7:28-6, "Permissible Dose Rates, Radiation Levels and Concentrations." They shall use personnel monitoring equipment as required by N.J.A.C. 7:28-7.4, "Use of personnel monitoring equipment."

(b) Medical fluoroscopic units used solely for the purpose of identifying the area to be treated with therapeutic doses of radiation shall meet the following requirements:

1. The tube housing shall be of a diagnostic type;

2. The distance from the target to the panel or to the table top shall not be less than 12 inches;

3. A cone shall extend from the tube housing to a point as near as is practical to the panel or table top. The cone's walls shall provide the same degree of protection as is required of the housing;

4. An adjustable diaphragm system shall be provided on all fluoroscopes, except those with image intensifiers, to restrict the size of the useful beam so that the fluoroscopic screen has an unilluminated border when the diaphragm system is open to the fullest extent and the screen is 15 inches from the table top or panel;

5. The tube mounting and the fluoroscopic screen shall be linked together so that during use the fluoroscopic screen always fully intercepts the useful beam;

6. Adjustable diaphragms or shutters to restrict the size of the useful beam shall provide a minimum of 1.5 millimeters lead equivalent protection;

7. The total filtration permanently in the useful beam shall be equal to at least 2.5 millimeters aluminum equivalent, or the half-value layer shall be not less than 2.5 millimeters aluminum equivalent;

8. The fluoroscopic screen shall be covered with a transparent protective material such that under normal operating conditions the dose rate measured five centimeters from the viewer's side of the screen shall not be more than 20 milliroentgens per hour without a patient and with the screen eight inches from the table top or panel;

9. With apparatus using an image intensifier, a protective shield shall be provided so that the useful beam does not produce a radiation hazard to the operator or other personnel in a fluoroscopic room;

10. A manually reset, cumulative timing device shall be used which will automatically indicate elapsed exposure time and either turn off the apparatus automatically or give an audible signal when the total exposure exceeds a predetermined limit given in one or a series of exposures. The device shall have a maximum range of five minutes;

11. For routine fluoroscopy, the exposure rate measured at the panel or table top shall not exceed five rems per minute;

12. For routine fluoroscopy, the exposure rate measured at the panel or table top shall not exceed 10 rems per minute for fluoroscopic units provided with automatic mode and no optional high level control;

13. A bucky slot cover and shielding between patient and fluoroscopist shall be used and shall provide protection equivalent to at least 0.5 millimeters of lead. Such accessory shielding shall not substitute for the wearing of a protective apron as required by 14iii below; and

14. Operating procedures for therapy simulator installations using fluoroscopic equipment are as follows:

i. Fluoroscopic equipment shall be operated only by authorized instructed individuals;

ii. Protective gloves and an apron of at least 0.25 millimeters lead equivalent shall be worn by the fluoroscopist during every examination; and

iii. Only individuals required for the therapy simulating fluoroscopic procedure shall be in the therapy simulating room during exposure. The exposure of such individuals shall be controlled by the use of shielding and protective clothing as necessary to insure that they are not exposed to radiation doses in excess of those permitted by N.J.A.C. 7:28-6, "Permissible dose rates, radiation levels and concentrations". They shall use personnel monitoring equipment as required by N.J.A.C. 7:28-7.4 "Use of personnel monitoring equipment".

(c) Permanent structural shielding and/or protective barriers shall be used as necessary to insure that no person other than the patient receives a dose in excess of the limits specified in N.J.A.C. 7:28-6 "Permissible dose rates, radiation levels and concentrations".

**(a)**

**Bureau of Radiation Protection  
Radio Frequency Radiation  
Workplace Exposure**

**Proposed Amendment: N.J.A.C. 7:28-42.1**

Authority: N.J.S.A. 13:1D-1 et seq., and N.J.S.A. 26:2D-1 et seq. specifically 26:2D-7.

DEP Docket No. 023-86-05

Proposal Number: PRN 1986-218.

Copies of a **basis and background document** for the proposed amendment shall be made available, upon request, at the Department of Environmental Protection address set forth below.

Submit comments by July 2, 1986 to:

Dr. Gerald Nicholls  
Bureau of Radiation Protection  
Department of Environmental Protection  
380 Scotch Road  
Trenton, New Jersey 08628

The agency proposal follows:

**Summary**

The New Jersey Commission on Radiation Protection adopted new rules designated N.J.A.C. 7:28-42, Radio Frequency Radiation, in July 1984. These rules established a Radio Frequency Protection Guide which provides general population radiation exposure limits for frequencies between 300 kilohertz (kHz) and 100 gigahertz (GHz). The limits were derived from American National Standard Institute "Safety Levels With Respect to Human Exposure to Radio Frequency Electromagnetic Fields 300 kHz to 100 GHz," ANSI C951-1982.

The rules, which became effective upon publication in the New Jersey Register on August 6, 1984 (see 16 N.J.R. 2120), apply only to non-occupational exposure. There presently is no regulatory requirement, either at the Federal or State level, for protection from radio frequency radiation hazards in the workplace. The Federal Occupational Safety and Health Administration's (OSHA) standard on this subject is unenforceable because it is merely an advisory standard.

The proposed amendment, therefore, extends the scope of N.J.A.C. 7:28-42, Radio Frequency Radiation, to include the workplace. This action is being taken to prevent potential harm to the public health from exposure to radio frequency radiation in the workplace in the absence of an enforceable Federal Regulation.

Use of radio frequency radiation in the workplace has become pervasive and surveys on the national level indicate that exposures above the limits set forth in the Radio Frequency Protection Guide (RFG) are possible. Limiting workplace exposures to RFG levels will provide adequate protection to potentially exposed individuals. The exposure limits are derived from American National Standard Institute safety levels with respect to human exposure to radio frequency electromagnetic fields 300 kHz to 100 GHz (ANSI C95.1-1982).

**Social Impact**

The benefits to society and industry resulting from the use of radio frequency radiation are well known. Industrial applications and processes utilizing radio frequency radiation have made possible important production efficiencies which have assisted in controlling production costs. Medical applications include research, analysis, diagnostic and therapeutic processes which significantly enhance health care. Food processing, communications, air safety and public safety applications have also benefited society.

The specific purpose of the proposed amendment is to provide protection against radio frequency radiation hazards in the workplace. The amendment provides safety levels against which the radiation levels in the workplace may be measured.

**Economic Impact**

The proposed amendment provides clear guidelines against which radiation levels in the workplace may be measured. It will provide employers with a legal standard and thus enable the design of effective radiation protection programs. Elimination of uncertainties as to creditable protection levels will lead to efficient and economical hazard reduction measures and thus to reduction of product cost to the public.

**Environmental Impact**

The effect of the proposed amendment upon the environment will be minimal. To the extent that radiation emissions from a workplace might adversely affect the health of the public in areas adjacent to a source site, limitation of radiation levels will enhance the environment.

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

## SUBCHAPTER 42. RADIO FREQUENCY RADIATION

## 7:28-42.1 Scope

(a) This subchapter governs [non-occupational] exposure to radio frequency radiation from fixed radio frequency devices.

(b) (No change.)

**HEALTH****(b)****NARCOTIC AND DRUG ABUSE CONTROL****Controlled Dangerous Substances****Addition of Quazepam and Midazolam to Schedule IV****Proposed Amendment: N.J.A.C. 8:65-10.4**

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

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

Proposal Number: PRN 1986-203.

Submit comments by July 21, 1986 to:

Lucius A. Bowser, R.P., M.P.H.  
Chief, Drug Control Program  
CN 362  
Trenton, New Jersey 08625  
609-984-1308

The agency proposal follows:

**Summary**

The Department of Health proposes to amend the schedules of the Controlled Dangerous Substances Act to add two new substances of the benzodiazepine class to Schedule IV. Quazepam and Midazolam have been approved by the U.S. Food and Drug Administration to be marketed for medical purposes. The proposed amendment brings the State Act into conformity with the Federal regulations. These two products have addictive liabilities less than substances found in Schedule III but higher than those found in Schedule IV.

These substances were placed into Schedule IV of the Federal Controlled Substance Act by the U.S. Department of Justice, Drug Enforcement Administration in an order published in the Federal Register, cited as 51 FR 10190, dated Tuesday, March 25, 1986, which became effective March 25, 1986.

Abuse and misuse of these substances could lead to physical and psychological dependence. Placement into Schedule IV would control their use and misuse and still permit them to be used for valid medical purposes.

**Social Impact**

The control of these two new substances, Quazepam and Midazolam, into Schedule IV would permit a practitioner to prescribe or administer, pharmacists to dispense, and patients to utilize them for their intended purposes. There would be a slight impact on practitioners and pharmacists in that these substances would become subject to the security, re-

cordkeeping and inventory requirements established for other Schedule IV substances. There would be no additional burdens placed on practitioners or pharmacies as the mechanisms for these requirements are well established and workable since the State Act's inception since 1970.

**Economic Impact**

The control of Quazepam and Midazolam into Schedule IV would have only a slight impact on the patient as the products have only recently been approved for medical purposes by the U.S. Food and Drug Administration. The amendment would not have any additional impact on practitioners or pharmacies because of the recordkeeping requirements already in effect for scheduled substances.

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

8:65-10.4 Controlled dangerous substances; Schedule IV

(a) (No change.)

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

...	
methylphenobarbital (mephobarbital)	2250
<b>midazolam</b>	<b>2884</b>
nimetrazepam	2837
...	
prazepam	2764
<b>quazepam</b>	<b>2881</b>
temazepam	2925
...	

**(a)**

**DRUG UTILIZATION REVIEW COUNCIL  
Interchangeable Drug Products  
Proposed Amendments: N.J.A.C. 8:71**

Authorized By: Drug Utilization Review Council, James Perhach, Ph.D., Chairman.  
Authority: N.J.S.A. 24:6E-6(b).  
Proposal Number: PRN 1986-201.

A public hearing concerning this proposal will be held on June 24, 1986, at 10:00 A.M. at:  
Conference Room D-1  
Conference Center, 4th floor  
Hughes Justice Complex  
25 Market St.  
Trenton, N.J. 08625

Submit comments by July 2, 1986 to:  
Thomas T. Culkin, PharmD, MPH  
Executive Director  
Drug Utilization Review Council  
New Jersey Department of Health  
CN 360  
Trenton, N.J. 08625  
609-984-1304

The agency proposal follows:

**Summary**

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

For example, the proposed verapamil tablets could then be used as a less expensive substitute for either Calan or Isoptin, branded prescription medicines. Similarly, the proposed potassium chloride extended release tablets could be substituted for the more costly branded product, Slow-K.

The Drug Utilization Review Council is mandated by law to ascertain whether these proposed medications can be expected to perform as well as the branded products for which they are to be substituted. Without such assurance of "therapeutic equivalency", any savings would accrue at a risk to the consumer's health. After receiving full information on these proposed generic products, including negative comments from the manufacturers of the branded products, the advice of the Council's own technical experts, and data from the generics' manufacturers, the Council will decide whether any of these proposed generics will work just as well as their branded counterparts.

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

**Social Impact**

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

Many of the proposed items are simply additional manufacturers for products already listed in the List of Interchangeable Drug Products. These proposed additions would expand the pharmacist's supply options.

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

**Economic Impact**

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

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

Full text of the proposal follows:

Allopurinol tablets 100 mg, 300 mg	Purepac
Amiloride tabs 5 mg	Par
Amitriptyline tabs 10, 50, 75, 100 mg	Purepac
Amitriptyline/perphenazine 2/10, 2/25 mg	Bolar
Amitriptyline/perphenazine 4/10, 4/25 mg	Bolar
Antipyrine/benzocaine otic soln	Thames
Chlorpromazine conc. 30 mg/ml, 100 mg/ml	Roxane
Chlorpropamide tabs 100, 250 mg	Halsey
Chlorthalidone tabs 25 mg	Purepac
Chlorthalidone tabs 50 mg	Purepac
Cholestyramine for susp 4 g/packet	Pharm. Basics
Clonidine HCl tabs 0.1, 0.2, 0.3 mg	Biocraft
Clonidine HCl tabs 0.1, 0.2, 0.3 mg	Danbury
Clonidine HCl tabs 0.1, 0.2, 0.3 mg	Purepac
Clonidine tablets 0.1, 0.2, 0.3 mg	Bolar
Dexchlorpheniramine maleate tabs 2 mg	Sidmak
Diazepam tabs 2 mg, 5 mg, 10 mg	Cord
Diazepam tabs 2, 5, 10 mg	Duramed
Diazepam tabs 2, 5, 10 mg	Purepac
Diazepam tabs 2, 5, 10 mg	Quantum
Dipyridamole tabs 25, 50, 75 mg	Purepac
Disopyramide caps 100, 150 mg	Bolar
Doxepin HCl caps 10, 25, 50, 75, 100 mg	Mylan
Estropiate tabs 1.5, 3.0 mg	Pharm. Basics
Fluocinolone acetonide lotion 0.1%	Thames
Fluocinolone acetonide top soln 0.01%	Thames
Furosemide tabs 80 mg	Roxane
Haloperidol tabs 0.5, 1, 2, 5, 10 mg	Purepac
Hydralazine HCl tabs 10, 100 mg	Barr
Hydralazine HCl tabs 10, 25, 50, 100 mg	Halsey
Hydrocortisone lotion 1%	Thames
Hydromorphone tabs 2 mg, 4 mg	Roxane
Hydroxyzine HCl tabs 10, 25, 50 mg	Sidmak
Ibuprofen tabs 300, 400, 600 mg	Purepac
Ibuprofen tabs 800 mg	Boots
Indomethacin caps 25, 50 mg	Bolar
Indomethacin caps 25, 50 mg	Purepac
Isosorbide dinitrate SL tabs 10 mg	Barr

Isosorbide dinitrate oral tabs 20, 30 mg  
Lactulose syrup 10 g/15 ml  
Lidocaine HCl oral soln, 2%  
Lithium carbonate caps 300 mg  
Lorazepam tabs 0.5, 1.0, 2.0 mg  
Lorazepam tabs 0.5, 1.0, 2.0 mg  
Lorazepam tabs 1 mg, 2 mg  
Lorazepam tabs 2 mg  
Lorazepam tabs 2 mg  
Meclizine tabs 12.5, 25 mg  
Methyldopa tabs 125, 250, 500 mg  
Methyldopa tabs 125, 250, 500 mg  
Methyldopa tabs 125, 250, 500 mg  
Methyldopa tabs 250, 500 mg  
Methyldopa/HCTZ 250/15, 250/25  
Methyldopa/HCTZ tabs 250/15, 250/25  
Methyldopa/HCTZ tabs 500/30, 500/50  
Metoclopramide tabs 10 mg  
Metoclopramide tabs 10 mg  
Metronidazole tabs 250, 500 mg  
Nifedipine caps 10 mg  
Nitrofurantoin macrocrys. caps 50, 100 mg  
Nitroglycerin transdermal patch 15 mg  
Nitroglycerin transdermal patch 5 mg  
Nystatin 100MU/Triamcinolone crm & oint  
Nystatin 100MU/Triamcinolone crm & oint  
Nystatin 100MU/Triamcinolone crm & oint  
Nystatin oral tabs 500,000 U  
Potassium Cl extend. rel. tabs 8, 10 mEq  
Potassium Cl extended rel tabs 8 mEq  
Potassium Cl powder 20 mEq/packet  
Potassium bicarb efferves tab 25 mEq  
Potassium bicarb. effervescent tab 25 mEq  
Prednisolone acetate 0.2%/10% sulfacet.  
Propoxyphene naps/APAP tabs 100/650  
Propoxyphene napsylate 100/APAP 650  
Propranolol HCl tabs 10, 20, 40 mg  
Propranolol HCl tabs 10, 20, 40, 60, 80  
Propranolol HCl tabs 10, 20, 40, 80 mg  
Propranolol HCl tabs 10, 20, 40, 80 mg  
Propranolol HCl tabs 10, 20, 40, 80 mg  
Propranolol HCl tabs 10, 20, 40, 80 mg  
Propranolol tabs 10, 20, 40, 60, 80 mg  
Propranolol/HCTZ tabs 40/25, 80/25 mg  
Spironolactone tabs 25 mg  
Sucralfate tabs 1.0 g  
Temazepam caps 15, 30 mg  
Tolazamide tabs 100, 250, 500 mg  
Tolazamide tabs 250, 500 mg  
Tolazamide tabs 500 mg  
Tolbutamide tabs 250, 500 mg  
Trazodone HCl tabs 50, 100 mg  
Trifluoperazine tabs 5 mg  
Valproic acid caps 250 mg  
Valproic acid syrup 250 mg/5 ml  
Verapamil HCl tabs 80, 120 mg  
Verapamil tabs 80, 120 mg  
Verapamil tabs 80, 120 mg

Barr  
Alra  
Roxane  
Bolar  
Duramed  
Par  
Pharm. Basics  
Bolar  
Purepac  
Sidmak  
Bolar  
Lederle  
Purepac  
Duramed  
Purepac  
Mylan  
Purepac  
Bolar  
Watson  
Watson  
Miles  
Bolar  
Bolar  
Bolar  
Fougera  
Pharmaderm  
Savage  
Quantum  
Alra  
Copley  
Alra  
Alra  
Altergon  
Pharmafair  
Purepac  
Cord  
Lederle  
Purepac  
Danbury  
Watson  
Mylan  
Bolar  
Purepac  
Purepac  
Pharm. Basics  
Bolar  
Bolar  
Cord  
Mylan  
Bolar  
Danbury  
Bolar  
Par  
Alra  
Danbury  
Bolar  
Purepac

## HUMAN SERVICES

### DIVISION OF PUBLIC WELFARE

The following proposals are authorized by Geoffrey S. Perselay, Acting Commissioner, Department of Human Services.

Submit comments by July 2, 1986 to:

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

(a)

#### Public Assistance Manual Transfer of Resources

##### Proposed Amendment: N.J.A.C. 10:81-3.38

Authority: N.J.S.A. 44:7-3, 44:7-6, 44:10-2 and 44:10-3.

Proposal Number: PRN 1986-221.

The agency proposal follows:

##### Summary

The proposed amendment would increase from one year to two years the period of ineligibility following a disposal of resources for the purpose of qualifying for assistance or of avoiding repayment. The statute, at N.J.S.A. 44:7-3, provides directly for the disqualification of persons who have made a transfer of property to defeat program purposes but it does not specify a time period. The time period, clearly necessary for proper administration of the program, is specified under the rulemaking authority conveyed at N.J.S.A. 44:10-3. The proposed amendment brings the time period into alignment with that specified in the Medicaid statute, N.J.S.A. 30:4D-3i(7) and with that applied in the General Assistance Program.

##### Social Impact

The entire section on improper disposal is more preventive than curative in maintaining the integrity of the program. With the section in place, few, if any, people dispose of resources with improper intent. Accordingly, little or no change in the behavior of anyone is expected from this revision.

##### Economic Impact

The change in the time period of ineligibility, so as to retain alignment with the other programs is not expected to produce any significant change in dollar flow to any person or to the public treasury.

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

10:81-3.38 Liquidation of non-exempt real property, suits and claims, and transfer of resources

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

(c) Assignment or transfer of property: Applicants for AFDC must not have made a voluntary assignment or transfer of property within [one year] **two years** prior to the time of initial application for the purpose of qualifying for assistance.

1. Whenever investigation indicates that a person applying for assistance has transferred or assigned any property, whether real or personal, within [one year] **two years** prior to the initial application, the motive and circumstances surrounding such transfer or assignment shall be evaluated, and a determination made as to whether such transfer or assignment was made for the purpose of qualifying for assistance.

2.-5. (No change.)

(b)

#### Public Assistance Manual Funeral and Burial Payments

##### Proposed New Rule: N.J.A.C. 10:81-7.21 through 7.28

##### Proposed Repeal: N.J.A.C. 10:81-7.21 through 7.29

Authority: N.J.S.A. 44:7-6, 44:7-13 and 44:10-3.

Proposal Number: PRN 1986-222.

The agency proposal follows:

**Summary**

The enactment, on September 8, 1985, of Assembly Bill No. 2846, now Chapter 282, Laws of 1985, revised N.J.S.A. 44:7-13 so as to allow public assistance agencies to make higher payments for funerals and burials of deceased public assistance recipients. The proposed new rules reflect the provisions of the revised statute relative to the Aid to Families with Dependent Children (AFDC) program. The method of computation of the payments is simplified in that contributions from next of kin and other interested parties are to be treated in the same way as the assets of the decedent, that is, they are to be deducted directly from the payment due from the agency. Currently, the first \$350.00 of contributions serves to increase the payment for funeral and burial expenses without deduction from the agency payment. The statutory revision also ended the requirements that county welfare agencies (CWA's) make separate payments to cemeteries and funeral directors.

This proposal also provides a general revision and reorganization of N.J.A.C. 10:81-7.21 through 7.29 so as to improve clarity and regulatory continuity. The only new material of substance is presented in N.J.A.C. 10:81-7.25.

**Social Impact**

There will be a favorable social impact in that recipients will be assured that adequate provision will be made for their funeral and burial expenses. Another favorable impact will arise for the next of kin who are making final arrangements in that their ability to make satisfactory arrangements will no longer be so severely limited by lack of resources.

**Economic Impact**

There will be a favorable economic impact on funeral directors who will receive considerably higher payments for their services in providing funerals for former recipients of AFDC. To a lesser extent it will have a favorable impact on cemeteries and on suppliers to mortuaries and cemeteries. It will also have a favorable economic impact on those who would have made contributions for funeral and burial costs but will no longer do so because there is no longer any incentive for contributions from friends and relatives. The annual cost to the public treasury is estimated to be \$1,916,000 of which \$1,437,000 will be from the State and the balance of \$479,000 will come from the various county welfare agencies.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 10:81-7.21 through 7.29.

Full text of the proposed new rule follows.

10:81-7.21 Payment of funeral and burial expenses; all segments

(a) Funeral and burial expenses may be provided for AFDC recipients (all segments) and certain others as identified in N.J.A.C. 10:81-7.22. Payments for such expenses are not a benefit automatically payable at death, but are a means of supplementing the resources, when necessary, of the deceased recipient, of his or her family and of volunteer contributors.

(b) Payment, if made, will be made by the chargeable CWA which is the first occurring of the following as may exist: the CWA which granted assistance for the decedent for the month of death; the CWA which would, but for the death, have made the next grant of assistance; or the CWA which made the most recent grant of assistance.

10:81-7.22 Persons who may be eligible

(a) Claims for payment of funeral and burial expenses may be received and considered with respect to:

1. A person who was in active receipt of assistance at the time of death;
2. A person for whom eligibility can be otherwise determined, provided that an application for assistance was made prior to death. This includes stillborn infants and deceased newborns who would have been included in a previously existing AFDC case. It also includes parents and infants for whom application for AFDC had been made in anticipation of eligibility at the birth of a child;
3. A former recipient of AFDC whose admission to any tax-supported institution within this State, other than a penal or correctional institution, was the only reason for the suspension or termination of the assistance grant, and whose death occurred while confined to such institution.

10:81-7.23 Funeral and burial contracts

(a) The right and responsibility to arrange and contract for funeral and burial services rests with the next of kin of the decedent. In the absence of any next of kin, arrangements may be made by any interested party such as a friend, clergyman, or nursing home or hospital administrator. These regulations shall not control or impair a contract between a funeral

director and the next of kin or other party except to the extent that the contract results in or may result in a claim against the CWA or against any assets legally owed to the CWA.

1. In the complete absence and only in the complete absence of any next of kin and when no other person or agency is available to make the arrangements, the CWA may do so. The availability of funds is not to be a factor in determining whether the CWA will make the arrangements. The CWA will select funeral directors for such contracting in consultation with the county association of funeral directors.

i. A contract negotiated by a CWA shall be in accord with all parts of these regulations including the cost even though the cost may not be met from public funds.

ii. A contract negotiated by a CWA may be concluded orally but shall be confirmed by letter from the CWA to the funeral director.

(b) Regardless of whether or not it is one of the contracting parties, the CWA will not authorize any cremation. Nor will it authorize any postmortem examination or any other procedure not a part of regular funeral and burial services.

10:81-7.24 Definitions and conditions

(a) Public burying ground: The CWA will not participate in the cost of either the funeral or the burial of any person who was or is to be buried in any publicly owned cemetery or burial ground.

(b) Prior notice: When either of the contracting parties contemplates that a county welfare agency will be asked to pay any part of the cost of a funeral and burial or cremation, either or both parties shall notify and consult with the county welfare agency before the services take place. The probable allowance or disallowance of the claim shall be discussed at that time, but the agency is under no obligation to make a commitment of payment. The requirement for prior notice may be waived by the agency upon a showing of good cause (as determined by the agency) which is not prejudicial to the validity of the claim.

(c) Submission of petition:

1. The funeral director or other claimant shall, within 30 days following burial or cremation, submit to the county welfare agency a petition on Form PA-11 or a substantially similar document which certifies to services rendered, to payments contracted, received and expected; and to compliance with all applicable laws and regulations. Petitions submitted beyond the 30 day period may be considered upon a showing of good cause (as determined by the agency) which is not prejudicial to the validity of the claim.

2. A claim filed with a county welfare agency for funeral, burial or cremation is not a demand for payment owing under a contract but is merely a petition for an allowance to be granted or denied consistent with these regulations. It has the effect of a demand, however, when the agency was the contracting party.

(d) Combined resources; definition: The combined resources of a decedent means the aggregate net total value of all of the following:

1. Cash on hand or in the hands of others as property of the decedent including personal needs accounts in long term care facilities (but excluding cash in the custody, possession, or control of the CWA);
2. Other resources, such as securities, real estate, antique furniture, and automobiles;
3. Life insurance or death or funeral benefits from public or private sources which have been received, or which are receivable by the estate of the decedent, by the decedent's spouse, children, father or mother because of the death of the decedent;
4. Payments of the same nature as in 3 above which have been received by or which are receivable by any other person excepting such amounts as are lawfully claimed by such person as a bona fide assignee for value or as a claimant for equitable refund of premiums paid;
5. Sums which have been paid or are promised to be paid on account of the death of the decedent by any other person or organization, excepting such sums as have been paid or will be paid to the county welfare agency;
6. Funds owed the decedent at the time of death.

10:81-7.25 Authorization of payment

(a) Allowances: The allowance for funeral services, exclusive of cemetery costs, is the total amount charged or \$1,970.00, whichever is less. When ground burial is made of uncremated remains, the cemetery allowance also applies. The cemetery allowance is the sum of all cemetery charges or \$460.00 whichever is less. The maximum total of allowances for a decedent is the sum of the funeral allowance and the cemetery allowance, as applicable.

1. The county welfare agency may, in any case in which it determines that any of the resources in N.J.A.C. 10:81-7.24(d) should be waived or omitted to avoid hardship or inequity, present a recommendation with supporting reasons to the State office for disposition.

(b) Amount of payment: The payment to be made is the maximum total of allowances as reduced by the combined resources of the decedent and as further reduced by the sum of all contributions from next of kin and other interested parties.

(c) Payments shall be made first from any funds received by the CWA from or on behalf of the decedent and secondly, if necessary, from assistance funds. Payments from assistance funds are subject to 75 percent State matching. There is no Federal reimbursement.

10:81-7.26 Time of payment

(a) The amount to be allowed on any claim shall, in the absence of known irregularity, be paid as promptly as possible after such amount is determined and, in any event, within 30 days thereafter. The CWA shall provide notice of its determination to all parties to the funeral contract and to any others who have both a need for the information and the right to receive it.

1. In the event that a determination cannot be made within 10 calendar days after receipt of a petition for payment solely because information about a determination by one or more other agencies is not available, the CWA shall make a tentative determination based on the assumption of favorable action by the other agencies. The CWA will remit the difference within 30 days following the tentative determination. Upon receipt of information about the determination(s) of the other agencies, the CWA will make a final determination and remit any balance due to the petitioner within 30 days of the final determination.

10:81-7.27 Irregularities

(a) Disputed claims: In the event of a dispute or disagreement about a claim which cannot be readily resolved between the agency and the claimant, the CWA will submit the matter to the State office for review and advice.

(b) Duplicate or inconsistent claims: In the event that the CWA becomes aware of the filing of any claim with another person or agency which is in duplication of or is inconsistent with any claim received by the CWA, the CWA shall:

1. Advise the other person or agency of the circumstances and take all appropriate steps to assert and secure the CWA's rights; and

2. In the absence of a prompt local resolution of the matter, report it to the State office for review and advise; and

3. Determine whether any violation of a criminal nature may have occurred and, if so, report the matter in writing to the County Prosecutor.

(c) Later discovery: In the event that the CWA later learns of the existence of resources which should have been available but were not known or made available, it will immediately take all appropriate steps to secure its rights to refund or recovery.

10:81-7.28 Other agency death benefits

(a) Social Security lump sum death benefit: A lump sum death benefit of \$255.00 will be paid by the SSA to a person eligible to receive it. In the absence of an eligible recipient, no payment will be made.

1. Eligible persons in order of priority are:

i. Surviving widow(er) who lived in the same household;

ii. Surviving widow(er) who is (or would have been upon application) eligible in the month of death to receive benefits based on the wage record of the deceased;

iii. Surviving children who are (or would have been applicable) eligible in the month of death to receive benefits based on the wage record of the deceased.

(b) Veteran's benefits;

1. Eligibility: Payment of burial expenses is available on behalf of a deceased veteran discharged under conditions other than dishonored when such person was a wartime veteran, served during the Korean or Vietnam conflicts or was a peacetime veteran with certain entitlements.

2. Amount of benefits:

i. Generally, payment toward a veteran's funeral expenses will not exceed \$300.00. This payment is only available for a veteran who at the time of death was receiving or was eligible to receive a Veteran's Administration (VA) pension or a service related disability compensation. An amount not exceeding \$150.00 may be paid for any veteran, as a plot or interment allowance when the veteran is not buried in a national cemetery. A higher burial allowance is available if the death was service-connected.

ii. Burial and plot allowances will not be provided to the extent that they were paid by the deceased veteran's employer or by a State agency or a political subdivision of the State.

3. Filing of claims: A claim may be filed with any Veteran's Administration office. It may be filed within two years after cremation or permanent burial.

10:81-7.29 (Reserved)

(a)

**General Assistance Manual  
Funeral and Burial Payments**

**Proposed Amendment: N.J.A.C. 10:85-4.8**

Authority: N.J.S.A. 44:7-13 and 44:8-111(d).

Proposal Number: PRN 1986-223.

The agency proposal follows:

**Summary**

The enactment, on September 8, 1985, of Assembly Bill No. 2846, now Chapter 282, Laws of 1985, revised N.J.S.A. 44:7-13 so as to allow public assistance agencies to make higher payments for funerals and burials of deceased public assistance recipients the proposed amendment at N.J.A.C. 10:85-4.8 reflects the provisions of the revised statute relative to the General Assistance (GA) program. The method of computation of the payments is simplified in that contributions from next of kin and other interested parties are to be treated in the same way as the assets of the decedent, that is, both will be deducted directly from the agency payment. Currently, the first \$350.00 of contributions serves to increase the payment for funeral and burial expenses without deduction from the agency payment. Editorial revisions are also included to improve clarity and regulatory accuracy but with no other impact.

**Social Impact**

There will be a favorable social impact in that General Assistance recipients will be assured that adequate provision will be made for their funeral and burial expenses. Another favorable impact will arise for the next of kin who are making final arrangements in that their ability to make satisfactory arrangements will no longer be so severely limited by lack of resources.

**Economic Impact**

There will be a favorable economic impact on funeral directors who will receive considerably higher payments for their services in providing funerals for former recipients of General Assistance. To a lesser extent it will have a favorable impact in cemeteries and on suppliers to mortuaries and cemeteries. Finally, this amendment will also have a favorable economic impact on those who would have made contributions for funeral and burial costs but will no longer do so because there is no longer any incentive for friends and relatives to make contributions. The annual cost to the public treasury is estimated at \$338,000 of which \$254,000 will be from the State treasury and the balance of \$84,000 will be from among the various municipal welfare agencies.

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

10:85-4.8 Funeral and burial expenses

(a) Rules concerning availability of State aid are as follows.

1. Restrictions on costs. For purposes of State aid, the Division of Public Welfare authorizes the payment of funeral and burial expenses (including cremation) provided that:

i. Total cost is not in excess of \$900.00;

ii. All resources, (life insurance, RSDHI death benefits, contributions by relatives or others, and so forth), are explored and taken into account toward the total cost; and

iii. The amount to be paid from General Assistance funds shall not exceed \$550.

2. Eligible persons: When the provisions of (a)1 above are met, payment of funeral and burial expenses may be made in behalf of the following persons:]

(a) **The municipal welfare department shall make payments from General Assistance funds for the expenses of the funeral and burial of the persons identified in 1 below in accordance with the limitations set forth in 2 below.**

**1. An eligible person is:**

- i. A person who [is] was an active recipient of General Assistance at the time of death; or
- ii. A person whose eligibility had been established within 15 days prior to death, but for whom no payment of General Assistance had been issued; or
- iii. A person who [dies] died while a patient in a general hospital [or in any private institution to which he/she had been admitted for temporary care,] and who had been receiving General Assistance at the [point] time of admission to [such] the hospital [or private institution]; or
- iv. A person who had [formerly] received General Assistance at any time within six months prior death [and who at the time of death is determined to be without resources in an amount sufficient to defray burial expenses].

**2. Authorization of payments:**

- i. **Allowances:** The allowance for funeral services, exclusive of cemetery costs, is the actual amount charged or \$1,970.00 whichever is less. When ground burial is made of uncremated remains, the cemetery allowance also applies. The cemetery allowance is the sum of all cemetery charges or \$460.00, whichever is less. The maximum total of allowances for a decedent is the sum of the funeral allowance and the cemetery allowance as applicable.
- ii. **Payment:** The payment to be made is the maximum total of allowances as reduced by all of the assets of the decedent, including cash on hand, funds in the hands of others, the value of real and personal property, and public and private death benefits; and as further reduced by the sum of all contributions from next of kin and other interested parties.

(b) (No change.)

(a)

**Service Programs for Aged, Blind or Disabled Persons  
Special Payments Handbook; Aged, Blind and Disabled  
Funeral and Burial Payments**

**Proposed Amendment: N.J.A.C. 10:100-3.6 and 3.7**

Authority: N.J.S.A. 44:7-12, 44:7-13, 44:7-38 and 44:7-43.

Proposal Number: PRN 1986-224.

The agency proposal follows:

**Summary**

The enactment, on September 8, 1985, of Assembly Bill No. 2846, now Chapter 282, Laws of 1985, revised N.J.S.A. 44:7-13 so as to allow public assistance agencies to make higher payments for funerals and burials of deceased public assistance recipients. The proposed amendments at N.J.A.C. 10:100-3.6 and 3.7 reflects the provisions of the revised statute relative to the Supplemental Security Income (SSI) and Medicaid Only (MO) programs. The method of computation of the payments is simplified in that contributions from next of kin and other interested parties are to be treated in the same way as the assets of the decedent, that is, both are deducted directly from the total amount due from the agency. Currently, the first \$350.00 of contributions serves to increase the payment to the funeral director without deduction from the agency payment. The statutory revision also ended the requirement that county welfare agencies make separate payments to cemeteries and funeral directors.

**Social Impact**

There will be a favorable social impact in that recipients will be assured that adequate provision will be made for their funeral and burial expenses. Another favorable impact will arise for the next of kin who are making final arrangements in that their ability to make satisfactory arrangements will no longer be so severely limited by lack of resources.

**Economic Impact**

There will be a favorable economic impact on funeral directors who will receive considerably higher payments for their services in providing funerals for former recipients of Supplemental Security Income and Medicaid Only. To a lesser extent it will have a favorable impact on cemeteries and on suppliers to mortuaries and cemeteries. It will also have a favorable economic impact on those who would have made contributions for funeral and burial costs but will no longer do so because there is no longer any incentive for friends and relatives to make contributions. The annual cost to the public treasury is estimated at \$1,804,000. Of that, the State will bear \$1,353,000; the county welfare agencies, \$451,000.

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

## 10:100-3.6 Condition of payment

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

[(e)] The CWA shall not participate in the payment of any funeral and/or burial for which the total cost, as computed in accordance with N.J.A.C. 10:81-7.25, exceeds \$900.00.

(f) The CWA shall not participate in the cost of any funeral and/or burial of any decedent whose combined resources exceed \$550.]

[(g)](e) **Combined resources; definition:** The combined resources of a decedent means the aggregate net total value of all of the following:

1.-6. (No change.)

7. When the decedent and his[ ] or her spouse had been determined eligible for SSI or Medicaid Only as a couple, any amount of [combined] resources of the decedent and the surviving spouse in excess of [\$1500] **the program resource limit for one person.**

## 10:100-3.7 Authorization of payments

[(a)] The maximum amount of payment which the chargeable CWA may authorize to the cemetery and for the mortuary combined is \$550 and is reduced by the combined resources as defined in N.J.A.C. 10:100-3.6(g). The CWA will make separate payments to the cemetery, not to exceed \$200, and for the mortuary, not to exceed \$350.]

(a) **Allowances:** The allowance for funeral services, exclusive of cemetery costs, is the actual amount charged or \$1,970.00, whichever is less. When ground burial is made of uncremated remains, the cemetery allowance also applies. The cemetery allowance is the sum of all cemetery charges or \$460.00, whichever is less. The maximum total of allowances for a decedent is the sum of the funeral allowance and the cemetery allowance, as applicable.

(b) **Payment:** The payment to be made is the maximum total of allowances as reduced by the combined resources of the decedent and as further reduced by the sum of all contributions from next of kin and other interested parties.

1. For those decedents who were found eligible for burial and/or funeral payment consideration solely by reason of assigned assets (N.J.A.C. 10:100-3.4(a)3), the sum of the cemetery and funeral payments to be authorized shall not exceed the liquidated value of such assets and in no case more than [\$550] **the maximum of payments indicated in (a) above.**

[(b)](c) Time of payment: Payment shall be made by the chargeable CWA in accordance with the same schedule as is applicable in AFDC (see N.J.A.C. 10:81-7.26[(e)]).

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

**INSURANCE****DIVISION OF ADMINISTRATION**

The following proposals are authorized by Jasper J. Jackson, Acting Commissioner, Department of Insurance.

Submit comments by July 2, 1986 to:

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

(b)

**Rating Organizations; Private Passenger  
Automobile Rate Filings**

**Proposed Repeal: N.J.A.C. 11:3-17****Proposed New Rules: N.J.A.C. 11:3-17**

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:29A-4, 17:29A-14.

Proposal Number: PRN 1986-215.

The agency proposal follows:

**Summary**

On November 1, 1985 the Department of Insurance adopted a new rule N.J.A.C. 11:3-17 with substantive and technical changes which the Department felt did not require additional public notice and comment.

After the rule was published on December 2, 1985 at 17 N.J.R. 2905(a), the Department received a comment from a rating organization regarding

several changes in the rule made by the Department. This rating organization argued that the changes made to the rule were substantive and required additional public notice and comment.

The Department has carefully reviewed these arguments. In consideration of this rating organization's right to receive notice and to comment, the Department is proposing a repeal of the rule adopted on December 2, 1985 and is substituting a new proposal in its place.

At present, rates for 80 percent of the New Jersey private passenger automobile market are set by a rating organization known as the Insurance Services Office (ISO). As a result, there is insufficient price diversity in the automobile insurance rate marketplace. It is necessary to recall that the primary purpose for the formation of rating organizations, also known as "bureaus," was to sever insurers that did not have a sufficient volume of business to engage in independent ratemaking. However, over time, large and medium size companies with a volume of business sufficient to engage in credible independent ratemaking became members of ISO. Such use of a bureau may result in approval of rates different from those justified by the actual statistical and financial experience of these companies.

The proposed new subchapter addresses this problem and guarantees compliance with the statutory standard that rates are not unreasonably high, inadequate or unfairly discriminatory. N.J.S.A. 17:29A-4, 17:29A-14.

Sections 1, 2, and 3 set forth the purpose, scope and definitions of the rule respectively. In particular, the phrase "substantially different" has been defined to mean a difference of plus or minus five percent from the organization's statewide rate level approved by the Department.

Section 4 sets forth data requirements. Under this section, a rating organization making a rate filing on behalf of all its members and subscribers must submit, at a minimum, the most recent three years of loss, expense, financial, statistical and other data of its members and subscribers. In addition, a rating organization must simultaneously submit separate data for each individual member insurer that has a two percent or greater share of New Jersey's voluntary private passenger automobile market. This data includes premiums at present rates, loss development, incurred losses, Insurance Expense Exhibits, investment income, trend, territorial and other data.

Section 4 also provides a rating organization with instructions on how to calculate an individual company's market share.

Section 5 sets forth the procedures used by the Commissioner for reviewing the data submitted in accordance with section 4 of this subchapter. Under subsection (a), the Commissioner will review the rating organization's filing made on behalf of all its members and subscribers to determine whether the filing is in accordance with the statutory standard of N.J.S.A. 17:29A-14. Under subsection (b), the Commissioner will also review the data submitted for the individual companies with two percent or more of the New Jersey voluntary private passenger automobile market to determine what the statewide rate level should be for each of these companies.

Subsections (c) and (d) set forth the results of the Commissioner's application of the statutory standard of N.J.S.A. 17:29A-14 to the proposed rate level and the "substantially different" test to the approved or would be approved rate level.

#### **Social Impact**

The proposed new rules will benefit the public by promoting price diversity and renewed competition in the automobile insurance rate marketplace. Review of individual rate filings will result in an increase in the Department's work load. Submission of individual data may increase the work load of the rating bureau and those companies whose utilization of bureau rates are deemed violative of relevant statutory guidelines.

#### **Economic Impact**

The public will benefit economically when a lower rate is deemed appropriate for a company seeking to utilize the bureau rate. The bureau may experience an increase in expenses if called on to file and delete data of individual companies. Any additional expenses incurred by the department in evaluating individual filings will be absorbed by the general operating budget.

Full text of the proposed new rules follows.

### **SUBCHAPTER 17 RATING ORGANIZATIONS: PRIVATE PASSENGER AUTOMOBILE FILINGS**

#### **11:3-17.1 Purpose**

The purpose of this subchapter is to promote price diversity and competition in the automobile insurance rate marketplace, and to guarantee

compliance with the statutory standard that rates are not unreasonably high, inadequate, or unfairly discriminatory. N.J.S.A. 17:29A-4.

#### **11:3-17.2 Scope**

This subchapter shall apply to rating organizations filing a petition for the approval of private passenger automobile rates.

#### **11:3-17.3 Definitions**

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

"Substantially different" means a difference of plus or minus five percent from the rating organization's statewide rate level approved by the Department.

#### **11:3-17.4 Private passenger automobile rate filings**

(a) Upon filing of a petition for the approval of private passenger automobile rates for all members and subscriber companies, the rating organization, in addition, shall submit simultaneously the information as set forth below for each individual member or subscriber that has a two percent or greater share of New Jersey's voluntary private passenger automobile market and has authorized the rating organization to make rates on its behalf. Any filing made by a rating organization must contain, at a minimum, the most recent three years of loss, expense, financial, statistical and other data of its members and subscribers. The data required below for individual member and subscriber companies shall be for the same number of experience periods as set forth in the rating organization's filing made on behalf of all its members and subscribers.

1. Provide separate data that was used in the development of the statewide rate level including:

- i. Premiums at present rates or on present level;
- ii. Loss development data broken out and split between paid and outstanding losses;
- iii. Incurred losses showing the number of claims and exposures;
- iv. Insurance Expense Exhibit (IEE) data underlying the expected loss ratio; and
- v. Investment income data showing compliance with the Department's rules and procedures for computing investment income.

2. Provide separate trend data broken out to show:

- i. Paid losses by quarter;
- ii. Number of paid claims by quarter; and
- iii. Number of exposures by quarter.

3. Provide separate territorial data broken out to show:

- i. Number of claims;
- ii. Dollar amount of incurred losses;
- iii. Exposures by territory; and
- iv. Statewide total of exposures.

(b) Market share percentage shall be calculated by dividing the insurer's most recent calendar year direct written premiums reported in the Annual Statement, page 14, lines 19.1, 19.2 and 21.1, by the total direct written premiums for all insurers in this State for the same Annual Statement lines.

(c) The total direct written premiums for all insurers in New Jersey for the specific lines shall be published annually by the Department of Insurance in the New Jersey Register on or before June 1.

#### **11:3-17.5 Review procedures**

(a) The Commissioner shall review the rating organization's rate filing made on behalf of all its members and subscribers to determine whether this filing is in accordance with the statutory standards of N.J.S.A. 17:29A-14.

(b) The Commissioner shall also review the individual company data submitted in accordance with N.J.A.C. 11:3-17.4(a), 1, 2 and 3 to determine the individual statewide rate level for each company for whom data is submitted.

(c) If the Commissioner determines that the rating organization's proposed rate level is not unreasonably high, inadequate or unfairly discriminatory, the Commissioner shall issue an order approving the rate. In addition, if the Commissioner determines that the rate level for any of the individual companies is substantially different from the rating organization's approved rate level, the Commissioner shall issue an order disapproving the use of the rating organization's approved rate by these individual companies.

(d) If the Commissioner determines that the rating organization's proposed rate level is unreasonably high, inadequate or unfairly discriminatory, the Commissioner shall issue an order disapproving the rate and advising the rating organization as to what rate level the Com-

missioner would approve. In addition, the Commissioner shall advise as to which of the individual companies, based on the "substantially different" test, would be precluded from using the rating organization rate that the Commissioner would approve.

(a)

**Surplus Lines Insurance Guaranty Fund Surcharge  
Proposed New Rule: N.J.A.C. 11:17-1**

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e); 17:22-6.40 et seq.,  
17:22-6.70 et seq. and 17:30A-1 et seq.

Proposed Number: PRN 1986-214.

The agency proposal follows:

**Summary**

On May 6, 1985 the Department of Insurance proposed a new subchapter, N.J.A.C. 11:17-1 at 17 N.J.R. 1045(b). The new subchapter was proposed in accordance with the New Jersey Surplus Lines Insurance Guaranty Fund Act (the "Act", N.J.S.A. 17:22-6.70 et seq.).

The Act was intended to "provide a mechanism for the payment of covered claims under certain insurance policies issued by eligible surplus lines insurers; to avoid excessive delays in the payment of the covered claims against insolvency of an eligible non-admitted insurer; and to avoid financial loss to claimants or policyholders because of the insolvency of an eligible, non-admitted insurer."

The Act authorized imposition of a surcharge on policy premiums for certain surplus lines coverages issued or renewed by an eligible surplus lines insurer on or after the effective date of the Act. The Commissioner of Insurance had determined that a surcharge be imposed in order to protect New Jersey purchasers of surplus lines insurance issued by eligible unauthorized insurers from the potential impact of insurer insolvencies. In his Order dated January 14, 1985, then Commissioner Kenneth D. Merin set forth the specific surcharge amount of four percent, an inception date of February 1, 1985, and general conditions of handling the collection and forwarding of surcharge monies to the New Jersey Surplus Lines Insurance Guaranty Fund (the "Fund").

In order to provide further guidance to New Jersey surplus lines agents charged with the responsibility of implementing collection and forwarding of the surcharge, Acting Commissioner Jasper J. Jackson issued an Order dated February 28, 1985. The February 28 Order provided more detailed procedural guidelines to agents pending adoption of parallel rules promulgated in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

The proposed new rule created a new chapter in Title 11 of the New Jersey Administrative Code under a new subtitle for surplus lines and set forth the elements of the two orders mentioned above for public comment.

Several comments on the May 6, 1985 proposal were submitted from various parties, including surplus lines agents, brokers and a national trade association. These comments were carefully reviewed and analyzed. In consideration of one of the concerns expressed by the commenter, the Department has made a substantive change to the original proposal which requires new public notice and comment. This reproposal reflects that change.

N.J.A.C. 11:17-1.1 of the repropoed new rule provides a purpose statement; N.J.A.C. 11:17-1.2 sets forth the scope of the repropoed new rule. N.J.A.C. 11:17-1.3 contains definitions for the repropoed subchapter.

N.J.A.C. 11:17-1.4 describes the four percent surcharge and its identification to the insured. Section four also sets for the base gross premium amount upon which the surcharge is levied, and provides for return of any surcharge on unearned premiums to the policyholder.

N.J.A.C. 11:17-1.5 contains the general procedures for agent handling of surcharge monies. The original proposal required the surplus lines agent to deposit the collected surcharge in an interest bearing account within one business day of receipt. This reproposal changes the time frame for depositing the surcharge to "five to ten days." N.J.A.C. 11:17-1.6 deals with the forwarding of surcharge monies to the Fund, and provides for late penalties.

N.J.A.C. 11:17-1.7 deals with the filing and contents of a quarterly surcharge statement to be prepared by surplus lines agents. N.J.A.C. 11:17-1.8 sets for the recordkeeping and general compliance responsibility of surplus lines agents. The form to be used is a part of Appendix A.

**Social Impact**

The repropoed new subchapter codifies the Commissioner's Orders of January 14 and February 28, 1985, and will ease compliance by surplus lines agents with the requirements of the New Jersey Surplus Lines Insurance Guaranty Fund Act. Insureds will benefit from the institution of procedural safeguards in the monitoring and reporting of surcharges which they must pay. The Department of Insurance will be aided in performing its function of ensuring proper collection and allocation of monies.

**Economic Impact**

Surplus lines agents will experience some increased administrative costs as a result of the Commissioner's Orders and the repropoed new rules. Insureds, which are now obligated to pay the premium surcharge on policies issued or renewed after February 1, 1985, will not be affected economically by the provisions of the proposed rule. Department administrative costs will increase in overseeing compliance with the rule. This increase will be absorbed in the general budget.

Full text of the repropoed new rule follows.

SUBTITLE M. SURPLUS LINES

CHAPTER 17  
SURPLUS LINES RULES

SUBCHAPTER 1. SURPLUS LINES INSURANCE GUARANTY  
FUND SURCHARGE

11:17-1.1 Purpose

This subchapter is intended to implement the surcharge provisions of the New Jersey Surplus Lines Insurance Guaranty Fund Act, N.J.S.A. 17:22-6.70 et seq. ("the Act"; P.L. 1984, c.101, as amended), as imposed by the Commissioner's Orders of January 14 and February 28, 1985.

11:17-1.2 Scope

(a) This subchapter applies to all licensed New Jersey surplus lines agents. The premiums surcharge applies to all insurance policies issued by eligible surplus lines insurers for property and casualty lines of direct insurance. The following lines are excepted:

1. Workers' compensation;
2. Title insurance;
3. Surety bonds;
4. Credit insurance;
5. Mortgage guaranty insurance;
6. Municipal bond coverage;
7. Fidelity insurance;
8. Investment return assurance;
9. Ocean marine insurance; and
10. Reinsurance.

11:17-1.3 Definitions

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

"Association" means the New Jersey Property Liability Insurance Guaranty Association created pursuant to P.L. 1974, c.17 (N.J.S.A. 17:30A-1 et seq.).

"Fund" means the New Jersey Surplus Lines Insurance Guaranty Fund created pursuant to P.L. 1984, c.101 (N.J.S.A. 17:22-6.70 et seq.).

"Gross premium" means the direct premium written before any return premium; the total premium charged for insurance coverage.

"Net premium" means the original gross premium less granted return premiums.

"Return premium" means the amount of money due the insured if a policy is cancelled or reduced in coverage.

11:17-1.4 Surcharge; identification; collection

(a) A surcharge of four percent is imposed on all surplus lines policies written or renewed by an eligible surplus lines insurer on or after February 1, 1985.

1. Where the term of the policy is greater than one year and the premium thereon is payable in annual installments, surcharges shall be collected on any premium installment due and payable on or after February 1, 1985.

(b) All surcharges payable under the Act or this subchapter shall be identified to the insured as the "New Jersey Surplus Lines Insurance Guaranty Fund Surcharge."

1. The "New Jersey Surplus Lines Insurance Guaranty Fund Surcharge" shall appear as a separate item on any cover note, binder,

declaration sheet, renewal notice, policy, endorsement, or any other document on which the policy premium is quoted to the insured.

(c) Surcharges shall be collected on gross premiums, including additional gross premiums charged for coverage changes or basic premiums adjustments.

1. Collection shall be at the time of payment of premium and delivery of the cover note, certification of insurance, policy or other initial confirmation of insurance;

2. No premium receipts tax, commissions or other assessments shall be levied or collected with respect to any surcharges imposed under the Act or this subchapter.

3. The surcharge which is applicable to any return premium shall be refunded to the policyholder.

11:17-1.5 Handling of surcharge monies

(a) All surcharges collected by surplus lines licensees must be deposited, within five to ten business days of receipt, in a separate, insured, interest-bearing trust account established in a bank or other financial institution located in this State.

1. The trust account shall be captioned with the individual or trade name of the licensee; and

2. The trust account shall be captioned with the statement "in trust for the New Jersey Surplus Lines Insurance Guaranty Fund."

(b) All interest credited to the trust account shall be due and payable to the Fund on or before the end of the month next following the close of the calendar quarter in which the interest has been credited to the trust account.

1. Late interest payments shall be subject to the same interest charge as provided in N.J.A.C. 11:17-1.6(b)1.

11:17-1.6 Transmittal of surcharge monies to the Fund; late payments

(a) Surcharge monies shall be due and payable to the Fund on or before the end of the month next following the close of the calendar quarter in which the surcharges are received by the surplus lines licensee.

(b) Payments received more than three days after the end of the month in which payment is due shall be deemed late.

1. Late payments shall be subject to an interest charge based on the average 90-day Treasury bill rate as published by the Federal Reserve in *Selected Interest Rates*, for such bills auctioned during the week immediately preceding either the date of receipt of the payment or the date such payments are due, whichever is greater; and

2. Interest will be assessed for the period between the end of the month in which payments are due and the date of the month by which payments are actually received by the Fund. Interest will be computed at the rate set in this rule by applying one twelfth of that rate for each month or part thereof for which payment is late.

(c) Late payment charges shall be assessed by the Fund in accordance with its plan of operation, which shall include provisions for collection of late payments by the Fund. The Fund shall review all late submissions, calculate the amount of late payment interest penalties and send an assessment notice to the licensee of any penalty amount due and a copy of that notice shall go to the Surplus Lines Examining Division.

11:17-1.7 Quarterly Surcharge Statement

(a) Each surplus lines licensee shall file, along with the surcharge and interest amounts described in this subchapter, a "Quarterly Surcharge Statement." The Quarterly Surcharge Statement, included in this subchapter as Appendix A, and of which copies are available at the Surplus Lines Examining Office, Department of Insurance, shall be filed in duplicate as follows:

1. By mailing the original, along with a copy of a check or money order in the amount of surcharges and interest due, to the:

New Jersey Department of Insurance  
Surplus Lines Examining Office  
201 East State Street  
CN 325  
Trenton, New Jersey 08625

2. By also mailing a copy of the Quarterly Surcharge Statement, along with the original check or money order payable to the "New Jersey Surplus Lines Insurance Guaranty Fund" in the amount of surcharges and interest due, to the:

New Jersey Surplus Lines Insurance Guaranty Fund  
220 South Harrison Street  
East Orange, New Jersey 07018

(b) The Quarterly Surcharge Statement shall be due on or before the end of the month next following the close of the calendar quarter and shall contain the following information:

1. Name, address and telephone number of the licensee and the surplus lines agent (SLA) number;

2. Name and address of the bank or other institution in which the surcharge trust account is established, along with the account number and specific bank branch;

3. Gross premiums received during the quarter;

4. Return premiums paid during the quarter;

5. Net premium (that is, (3-4));

6. Surcharge amount due;

7. Interest amount due;

8. Total due to Fund; and

9. A certification signed by the licensee that the information contained in the statement is true and correct.

11:17-1.8 Surplus lines agent recordkeeping and responsibility

(a) Each surplus lines agent shall maintain in his or her office in this State sufficient documentation and records to enable the Commissioner to verify the accuracy of the information contained in the Quarterly Statement for a period of three years following the expiration or cancellation of any policies of insurance subject to a surcharge under the Act and this subchapter.

(b) Records to be maintained shall show, among other things required by law:

1. Date of delivery of the cover note, certificate of insurance, policy or other initial confirmation of insurance;

2. Date of receipt of the surcharge from the insured;

3. Date of cancellation of any policy for which a return premium is due or owing; and

4. Date of payment and amount of any return premium and associated return surcharge.

(c) Failure of a licensee to maintain proper records, to collect and remit surcharges and trust account interest, to collect and remit surcharges in a timely manner, to file true and correct Quarterly Surcharge Statements, or to file true and correct Quarterly Surcharge Statements in a timely manner, shall be deemed to be unworthy conduct, and shall be cause for disciplinary proceedings pursuant to N.J.S.A. 17:22-6.16, N.J.S.A. 17:22-6.61 and N.J.S.A. 17:22-6.76.

Appendix A  
QUARTERLY SURCHARGE STATEMENT  
SURPLUS LINES INSURANCE

for the calendar quarter ending \_\_\_\_\_, 19\_\_\_\_.

1. Name and address of licensee and SLA number.
2. Name and address of the bank or other financial institution in which the surplus lines trust account is established (identify the specific bank branch, if any).
3. Surplus Lines surcharge trust account number.
4.
  - a) New Jersey gross direct premiums received during quarter. \$ \_\_\_\_\_
  - b) New Jersey additional premiums received during quarter. \$ \_\_\_\_\_
  - c) Total gross premiums received during quarter. \$ \_\_\_\_\_  
(Line 4(a) plus Line 4(b)).
5. New Jersey return premiums paid during quarter. \$ \_\_\_\_\_
6. Total New Jersey net premiums (Line 4(c) minus Line 5). \$ \_\_\_\_\_
7. Surcharge amount due (4% times amount on Line 6). \$ \_\_\_\_\_
8. Interest amount due. \$ \_\_\_\_\_

CERTIFICATION

I hereby certify that the above information is true and correct. I am aware that if any of the above information is willfully false, I am subject to punishment.

\_\_\_\_\_  
Original Signature of Licensed Surplus Lines Agent (no stamps or other facsimile signatures)

\_\_\_\_\_  
Name of Licensed Surplus Lines Agent (typed or printed)

# COMMERCE AND ECONOMIC DEVELOPMENT

## (a)

### NEW JERSEY COMMISSION ON SCIENCE AND TECHNOLOGY

#### Commission on Science and Technology Innovation Partnership Grant Program

#### Proposed New Rule: N.J.A.C. 12A:100-1

Authorized By: New Jersey Commission on Science and Technology  
Edward E. Barr, Chairman.

Authority: P.L. 1985, c.102.

Proposal Number: PRN 1986-216.

Submit comments by July 2, 1986 to:

Edward Cohen, Executive Director  
New Jersey Commission on Science and Technology  
122 West State Street  
CN 832  
Trenton, New Jersey 08625

The agency proposal follows:

#### Summary

In the act establishing the New Jersey Commission on Science and Technology (hereafter referred to as "The Commission"), P.L. 1985, Ch. 102, section 2.c. calls for the adoption of regulations to govern the Commission's innovation partnership grants. In order to comply with this law, the Commission proposed a set of new rules which govern the procedure for application of an Innovation Partnership Grant.

#### Social Impact

The proposed new rules are designed to ensure fair treatment of all potential applicants for the Commission's innovation partnership grants. Applications for grants will be evaluated using stated criteria which are relevant to the aims of the program. Applications will be judged by a panel of experts from related industries and out-of-state universities. Insofar as these new rules provide a fair opportunity for individuals to benefit from academic-industrial partnerships, they will have a positive social impact.

Innovation partnerships also will benefit New Jersey citizens by encouraging the creation of new small businesses. These small businesses will in turn create jobs and demand for services from existing industries.

#### Economic Impact

The proposed new rules will provide for the efficient operation of the Commission's innovation partnership grant program, which aims at increasing advanced technological employment and contributing towards economic development in the state. The Commission has identified innovation partnership grants as an effective means of encouraging the industrial and academic community to work together to exploit new commercially-viable scientific developments. Thus, the economic impact of these regulations is expected to be wholly positive. The Commission will determine the amount of funds to be expended on innovation partnership grants on a yearly basis. Funding will be dependent upon support allocated by the legislature.

Full text of the proposed new rules follows.

#### TITLE 12A CHAPTER 100 NEW JERSEY

#### COMMISSION ON SCIENCE AND TECHNOLOGY

#### SUBCHAPTER 1. INNOVATION PARTNERSHIP GRANT PROGRAM

##### 12A:100-1.1 Scope and purpose

(a) The New Jersey Commission on Science and Technology is responsible for facilitating a technology-based development strategy that will benefit the industries, businesses and educational institutions of the state. The basic approach of the Commission is to provide mechanisms that will encourage and enable the industrial and academic community to work together on research projects of common interest and, in turn, enhance the economic development of the state. Among the means which

the Commission has identified as effective for stimulating this research and economic development activity are innovation partnership grants.

(b) The Commission sponsors innovation partnership grants at qualifying New Jersey academic institutions in specified science and technology fields identified by the Commission and its expert panels as having outstanding potential for economic growth in New Jersey.

(c) An innovation partnership shall be designed to produce tangible results within a 12 month period and shall involve a financial investment by the academic institution, the industry sponsor, and the Commission on Science and Technology.

##### 12A:100-1.2 Definitions

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

"Innovation partnership" means a specifically directed research project undertaken as a cooperative venture between an academic researcher and an industrial sponsor. The objective of these partnerships is to explore new areas of research in a given technology for the purpose of producing new concepts, materials, devices, processes or knowledge that will:

1. Enhance the research program and overall reputation of the academic institution;
2. Assist and advance the activities of the industries involved in the technology;
3. Permit the commercialization of cooperative research.

"Qualifying academic institution" means a regionally accredited research institution of higher education in New Jersey, offering doctoral degrees in science and engineering in fields pertinent to the Commission's sponsorship.

##### 12A:100-1.3 Program description

(a) Innovation partnership grants will provide support for academic researchers conducting basic, applied, or generic research in specified fields, and will be matched by funds provided by a New Jersey-based industry or business. The investment of the Commission will be used to support the cost of equipment, supplies and the faculty and graduate students assigned to the research project. It is expected that the facilities required for the project will be provided by the academic institution or industry sponsor and that no more than 10 percent of the project overhead will be charged to the Commission.

(b) The individual innovation partnership grants to be made by the Commission will be for at least \$10,000 and no more than \$250,000 and will cover no more than a 12 month research effort.

(c) The Commission is particularly interested in innovation partnerships that will involve newly formed or expanding New Jersey-based companies for whom the support of the Commission and the cooperation of an academic research institution is necessary for continued business growth and development.

##### 12A:100-1.4 Submission of grant proposal

(a) The Commission will receive proposals for innovation partnership grants in specified fields from institutions of higher education in New Jersey with graduate research programs in related fields. Three copies of the proposal must be submitted.

(b) While grant proposals shall be submitted by an academic institution and officially sanctioned by its institutional representatives, the Commission encourages industries and businesses to propose projects to academic researchers and to assist, where necessary, with the preparation of the project proposal.

##### 12A:100-1.5 Contents of grant proposal

(a) All grant proposals submitted for consideration by the Commission shall be signed by the designated institutional officer and the principal investigator, and shall include the following:

1. The project title;
2. A brief introduction that summarizes the objectives of the project;
3. A brief discussion of the scientific principles that support the proposed research;
4. A description of the proposed research plan;
5. A description of the expected project outcome;
6. A discussion of the significance, implication and utility of the expected project results;
7. A listing of names and locations of the industry sponsors of the project;
8. The name, title, department, institution, address and telephone number of the principal investigator;
9. The names and curriculum vitae of the key personnel to be assigned to the project;
10. A project budget;

11. A listing and approximate cost of the equipment to be purchased for the project; and

12. A description of the resources to be provided by the sponsoring industries and academic institutions.

**12A:100-1.6 Review criteria**

(a) The grant proposals submitted in response to any request-for-proposal will be reviewed under Commission staff coordination, by a panel of experts from related industries and out-of-state universities. The criteria that will be used to rank and evaluate each of the proposals are as follows:

1. Technical and scientific merit of the project;
2. The creativity and inventiveness of the proposed research;
3. The unique nature of the research and the degree to which state-of-the-art techniques and processes are to be used;
4. The ability of the project to strengthen the overall research program of the institution and to have a positive long term effective on the institution's scientific capabilities and reputation;
5. The commercial applicability and usefulness of the proposed project outcome; and
6. The degree of interest shown by industry and the apparent availability of matching funds.

**12A:100-1.7 Matching fund requirements**

(a) The Commission requires that any funds it commits to support the work of an individual or group of researchers through an innovation partnership shall be matched in at least an equal amount by an industry sponsor.

(b) The industry sponsor shall be a New Jersey-based company or business with a vested interest in the outcome of the project. The industry sponsor can be a company or industry based in another state if it can be shown that the outcome of the project will be of benefit to New Jersey.

**12A:100-1.8 Acceptable categories of matching funds**

(a) The following are considered acceptable categories of matching funds:

1. Cash or in-kind contributions to the sponsoring academic institutions for the expenses of the research project (salaries, supplies, equipment, graduate student tuition expense, indirect cost recovery);
2. Equipment donations (the certified value of the contribution to the academic institution should be identified) or vendor discounts on equipment purchases (beyond any prevailing educational discount for equipment to support one of the Commission's programs);
3. Supplies or materials required for the project;
4. Support or sponsorship of graduate students assigned to the project and working at the facilities of the industry sponsor.

**12A:100-1.9 Commitment of matching funds**

(a) When a grant proposal for an innovation partnership grant is submitted to the Commission, the intended sources of industry matching funds should be clearly identified.

(b) If and when a grant award is made, the sponsoring academic institution must provide to the Commission a copy of a letter from the industry sponsor, confirming the financial commitment of the sponsor to the project. The total amount of the grant will not be released to the institution until such confirmation of commitment is received by the Commission. Instead, the institution will receive 50 percent of the Commission's award and be allowed six months after the date of the award to identify and obtain commitments from an innovation partner.

(c) Should no innovation partner be identified within six months, the institution will be required to return all awarded monies to the Commission.

(d) All final project reports and financial statements must identify the amount and allocation of the industry matching funds.

**12A:100-1.10 Accounting and auditing**

(a) When an award is made, the recipient institution shall commit itself to the matching requirements of N.J.A.C. 12A:100-1.5 as a part of the terms and conditions of the grant document.

(b) No grants received under the Commission's programs will be commingled with any other funds derived from State sources. Separate financial accounts will be maintained for funds matching State funds. Audits will follow procedures established by the State Auditor, in accordance with P.L. 1985, c. 102.

## LAW AND PUBLIC SAFETY

(a)

### BOARD OF NURSING

#### Delegation of Selected Nursing Tasks

#### Proposed New Rule: N.J.A.C. 13:37-6.2

Authorized By: New Jersey State Board of Nursing, Sylvia C. Edge, R.N., M.A., President.

Authority: N.J.S.A. 45:11-23, 11-24 and 1-21.

Proposal Number: PRN 1986-204.

Submit comments by July 2, 1986 to:

Sister Teresa L. Harris, Executive Secretary

Board of Nursing

1100 Raymond Boulevard, Room 319

Newark, New Jersey 07102

The agency proposal follows:

#### Summary

The proposed new rule allows the delegation of selected nursing tasks by a registered professional nurse to another licensed nurse or ancillary nursing personnel who has achieved adequate skill and competency to perform that task through verifiable training and education. The registered nurse will provide sufficient supervision and remain accountable for assuring that a safe delegation has been accomplished. She also shall not delegate any nursing task which requires the substantial knowledge and skill derived from completion of a nursing education program, the specialized skill, judgment and knowledge of a registered nurse or an understanding of nursing principles necessary to recognize and manage complications which may result in harm to the health and safety of the patient. The rule codifies what has always been the long standing practice through out the nursing community in that it is accepted common practice for ancillary nursing personnel to work under the supervision of a registered nurse and to assist the registered nurse as needed in the care of the patient. This proposed new rule is a substantial revision of a proposal which was previously published in the October 7, 1985 New Jersey Register at 17 N.J.R. 2354(a). The proposed rule addresses the questions and requests for clarification submitted in response to the Board's earlier proposal.

#### Social Impact

The proposal will have a favorable impact on the public. It has long been the traditional role of the registered nurse to supervise ancillary nursing personnel and to delegate to them certain nursing activities which may be safely performed by them. The proposal does no more than to codify existing nursing practice and to conclusively establish that the failure of a registered nurse to properly exercise his or her responsibilities of supervision and delegation could result in disciplinary action as professional misconduct under N.J.S.A. 45:1-21. Out of 40 states surveyed, at least 35 states have a similar rule, law or policy in place which allows the registered nurse to delegate and supervise ancillary nursing personnel in the performance of certain nursing tasks when they are sufficiently trained and educated to perform them. While there may be a degree of risk associated with delegating nursing tasks to ancillary personnel, it is expected that the reasonable safeguards established in this proposed rule will assure to the public that an acceptable minimum level of patient care will be maintained and that the responsibility for their care will fall to a licensed professional. The proposed rule recognizes that it is the function of registered nurse to provide care supportive to or restorative of life and well being and to execute the prescribed medical regimen and to coordinate the implementation of care among other health care workers in order to assure patient safety and well being.

#### Economic Impact

There will be no significant economic impact upon the public since this rule simply codifies into regulation that which has long been the traditional role of nursing to supervise and delegate to ancillary nursing personnel the performance of certain nursing tasks. Delegation will continue to allow care to be provided in a cost effective manner. Minimum patient care is maintained by imposing reasonable safeguards which will require adequate supervision, verifiable training and education and the accountability of the registered nurse to see that a safe delegation has been made.

Full text of the proposed new rule follows.

13:37-6.2 Delegation of selected nursing tasks

(a) The registered professional nurse is responsible for the nature and quality of all nursing care including the assessment of the nursing needs, the plan of nursing care, the implementation, and the monitoring and evaluation of the plan. The registered professional nurse may delegate selected nursing tasks in the implementation of the nursing regimen to licensed practical nurses and ancillary nursing personnel. Ancillary nursing personnel shall include but not limited to: aides, assistants, attendants and technicians.

(b) In delegating selected nursing tasks to licensed practical nurses or ancillary nursing personnel, the registered professional nurse shall be responsible for exercising that degree of judgment and knowledge reasonably expected to assure that a proper delegation has been made. A registered professional nurse may not delegate the performance of a nursing task to persons who have been adequately prepared by verifiable training and education. No task may be delegated which is within the scope of nursing practice and requires:

1. The substantial knowledge and skill derived from completion of a nursing education program and the specialized skill, judgment and knowledge of a registered nurse;

2. An understanding of nursing principles necessary to recognize and manage complications which may result in harm to the health and safety of the patient.

(c) The registered professional nurse shall be responsible for the proper supervision of licensed practical nurses and ancillary nursing personnel to whom such delegation is made. The degree of supervision exercised over licensed practical nurses and ancillary nursing personnel shall be determined by the registered professional nurse based on an evaluation of all factors including:

1. The condition of the patient;

2. The education, skill and training of the licensed practical nurse and ancillary nursing personnel to whom delegation is being made;

3. The nature of the tasks and the activities being delegated;

4. Supervision may require the direct continuing presence or the intermittent observation, direction and occasional physical presence of a registered professional nurse. In all cases, the registered professional nurse shall be available for on-site supervision.

(d) A registered professional nurse shall not delegate the performance of a selected nursing task to any licensed practical nurse who does not hold a current valid license to practice nursing in the State of New Jersey. A registered professional nurse shall not delegate the performance of a selected nursing task to ancillary nursing personnel who have not received verifiable education and have not demonstrated the adequacy of their knowledge, skill and competency to perform the task being delegated.

(e) Nothing contained in this rule is intended to limit the current scope of nursing practice.

(f) Nothing contained in this rule shall limit the authority of a duly licensed physician acting in accordance with N.J.S.A. 45:9-1 et seq.

**STATE BOARD OF PHYSICAL THERAPY**

The following proposals are authorized by New Jersey State Board of Physical Therapy, Helen Ransky, L.P.T., Chairman.

Submit comments by July 2, 1986 to:

Patricia E. Stuart  
Executive Secretary  
New Jersey State Board of Physical Therapy  
1100 Raymond Boulevard  
Newark, New Jersey 07102

**(a)**

**Fees and Charges**

**Reproposal: N.J.A.C. 13:39A-1.4**

Authority: N.J.S.A. 45:9-37.18(f), 45:9-37.24 and 45:1-3.2.

Proposal Number: PRN 1986-209.

The agency proposal follows.

**Summary**

This is a reproposal of a new rule previously published on October 7, 1985 at 17 N.J.R. 2356. The prior proposal was codified as N.J.A.C. 13:39A-1.5.

This reproposal sets forth a schedule of fees to be charged by the New Jersey State Board of Physical Therapy for examination, licensure and other services that may be provided by the Board. This schedule makes it clear that renewal fees are to be collected on a biennial basis, pursuant to N.J.S.A. 45:1-7. Further, it makes it clear that the examination charge includes a charge for the administration of the examination as well as the fee for the issuance of a temporary license. The schedule also establishes a uniform fee for the issuance of an initial license; whether obtained after examination or by endorsement. Since this schedule incorporates the fee for a temporary license in the examination, the proposal clarifies that the temporary license fee set forth on the schedule refers to licenses issued pursuant to N.J.S.A. 45:9-37.29(b) to practice on a temporary basis to assist in a medical emergency or to engage in a special project or teaching assignment.

**Social Impact**

The fees set forth in the proposed new rule will provide to the Board sufficient revenues to discharge its statutory obligations in a manner consistent with longstanding Board office procedures.

**Economic Impact**

Applicants for licensure by examination will directly feel the economic impact of this proposal since it will represent an increase over fees presently charged. These fees, however, have been set to recoup the cost of standardized examinations, examination administration and office overhead contributions.

Full text of the proposed new rule follows:

13:39A-1.4 Fees and charges

(a) The following fees shall be charged by the New Jersey State Board of Physical Therapy:

- 1. Examination fee for Physical Therapist (includes temporary license) ..... \$125.00
- 2. Examination fee for Physical Therapist Assistant (includes temporary license) ..... \$110.00
- 3. Initial licensure fee for Physical Therapist and Physical Therapist Assistant ..... \$100.00
- 4. Fee for issuance of a temporary license pursuant to N.J.S.A. 45:9-37.29(b) to practice on a temporary basis to assist in a medical emergency or to engage in a special project or teaching assignment ..... \$ 60.00
- 5. Biennial renewal licensure fee for Physical Therapist and Physical Therapist Assistant ..... \$ 60.00
- 6. Restoration charge for lapsed license ..... \$ 60.00
- 7. Provision of duplicate license or wall certificate ..... \$ 10.00
- 8. Provision of certification of eligibility for examination (for persons not yet seeking the issuance of a temporary license) or certification of licensure status ..... \$ 25.00
- 9. Recordation of name change and issuance of replacement license and wall certificate ..... \$ 25.00

**(b)**

**Authorized Practice**

**Reproposal: N.J.A.C. 13:39A-2.2**

Authority: N.J.S.A. 45:9-37.18(f) and 45:1-21.

Proposal Number: PRN 1986-212.

The agency proposal follows:

**Summary**

The proposed new rule defines and clarifies what the newly created Board of Physical Therapy will deem to be authorized practice by physical therapists. The Board had earlier proposed a rule, by publication in the New Jersey Register on October 7, 1985, at 17 N.J.R. 2356, which would have authorized a physical therapist to conduct physical therapy examinations and physical therapy instruction and modify a plan for physical therapy treatment without physician direction. During the period for public comment, the Board received numerous letters reflecting a recurrent concern, that physical therapists would be permitted to initiate treatment without physician diagnosis or involvement. Neither the earlier proposal, nor this proposed new rule, authorizes physical therapists to initiate treatment without physician direction.

Additional concern was voiced with respect to the earlier proposal's authorization of modification of physical therapy treatment plan. In recognition of these concerns, the Board now proposes to add qualifying language to that authorization, which will make it clear that the treating therapist may only undertake to modify a treatment plan, if the intended modification is consistent with the physician's direction. For example, if the prescriber directs that a patient should be treated with heat for a period of four weeks, the therapist, in the exercise of his or her professional judgment may select from a variety of modalities available to deliver therapeutic heat. Similarly, the frequency of visits may be revised depending on the patient's progress, without the necessity of an additional physician visit, since a specific number of visits had not been specified. The new proposal, however, does make it clear that, to the extent that the therapist wishes to change the plan of treatment in a manner which is not consistent with the initial prescription, additional physician direction must be sought.

Finally, the Board received several letters voicing concern over the Board's inclusion of electro-physiologic testing within the definition of physical therapy examination at N.J.A.C. 13:39A-2.1, since pursuant to N.J.A.C. 13:39A-2.2, as it had been originally proposed, electromyographic studies would have been permitted, prior to evaluation of the patient by a physician. Although many physical therapists do have training in the conduct of electromyographic testing, the expense involved in the conduct of such testing mitigates against authorizing such testing as part of an examination, before a physician may be involved. Accordingly, in this proposal the Board has made it clear that physician direction must be obtained before a therapist may engage in electromyographic testing.

Additionally, the Board's comments, appearing at 17 N.J.R. 2356, relative to its earlier proposal are equally relevant to this version, and are thus reprinted herein.

"Although physical therapists may not initiate patient treatment without a physician review and clearance, the Board's construction of N.J.S.A. 45:9-37.11 et seq. would permit physical therapists to engage in examination of a patient without physician referral, so long as treatment is not rendered. Thus, consumers will be able to seek the services of a physical therapist without first having a physician recommend that course. The Board believes that such a modification of the present practice is authorized by N.J.S.A. 45:9-37.13. The Legislature has provided that physician direction must be obtained prior to the initiation of therapy. No such requirement is found at N.J.S.A. 45:9-37.14 with respect to physical therapy examination and instruction.

#### Social Impact

The Social Impact statement accompanying the original proposal is equally apt here:

"It is believed that the proposed rule will expand the options available to consumers who may desire physical therapy services by permitting them to obtain physical therapist examination without a physician referral. Patients, thus, will not be as dependent on the physician's choice of therapist and will be free to utilize a physical therapist whom they feel is better equipped to meet their needs. Any patients who are not desirous of exercising this option, of course, may still rely on the advice of their physician."

The revisions which the Board is now proposing are designed to address what a substantial number of commentators (most of whom were physicians) believed to be an unsafe and ill-advised expansion of permissible independent practice by physical therapists. The proposed new rule assures that substantive modification of a treatment plan may only be undertaken with the direction of a physician. Further, the Board's exclusion of electromyographic testing from an independently conducted examination serves to safeguard against the conduct of unnecessary, invasive and expensive testing unless authorized by a physician.

#### Economic Impact

As stated in the Economic Impact statement accompanying the initial proposal, the Board's hopes that the adoption of this rule will serve to infuse competition into the health care market place. By requiring physician clearance prior to the initiation of treatment, a cost, of course, will be borne by the consumer. The exclusion of electromyographic testing from an independent examination will, however, relieve the consumer of the burden of paying for testing which his or her physician may deem unwarranted.

Full text of the proposed new rule follows:

#### 13:39A-2.2 Authorized practice by a licensed physical therapist

(a) A licensed physical therapist may initiate physical therapy treatment and conduct electromyographic testing (to the extent that his or her training and experience has prepared him or her to perform such testing) but only after having received physician direction.

(b) A licensed physical therapist may engage in the following activities and practices without physician direction:

1. Physical therapy examination, excluding electromyographic testing;
2. Physical therapy instruction;
3. Modification of physical therapy treatment previously initiated upon physician direction provided that the modification is consistent with that physician direction (for example, the physical therapist, in the exercise of his or her discretion, may determine to utilize a variety of modalities to effectuate the direction given by the physician.) If the physical therapist wishes to alter a therapeutic plan in a manner not consistent with the initial physician direction, contact must be made with the patient's physician for the purpose of obtaining additional direction.

### (a)

#### Unlawful Practices by Licensees Scope of Physical Therapy

#### Reproposal: N.J.A.C. 13:39A-3.3

Authority: N.J.S.A. 45:9-37.18(f) and 45:1-21.

Proposal Number: PRN-1986-205.

The agency proposal follows:

#### Summary

The proposed rule delineates and clarifies those activities which the Board of Physical Therapy will deem to be outside the scope of physical therapy. The Board had previously proposed a rule, by publication in the New Jersey Register on October 7, 1985 at 17 N.J.R. 2358, with respect to this same topic. During the period for public comment, the Board received several letters concerning what was perceived to be an unwarranted and detrimental expansion of the scope of physical therapy to include the performance of breast and pelvic internal examinations. Though it had not been the Board's intention to authorize such examination, the qualifying language permitted such examination if specifically related to the patient's diagnosis and physical therapy treatment. Consequently, the Board has determined to delete that qualifying language, so that the new proposal will operate as a total bar to such examinations.

Additionally, several letters voiced concern with regard to the Board's inclusion of electro-physiologic testing within the definition of physical therapy examination (N.J.A.C. 13:39A-2.1), since that inclusion would permit the conduct of electromyographic testing, an invasive and expensive procedure, without physician evaluation. The Board has determined that such testing should not be permitted without prior direction by a physician. To that end the Board has proposed a new version of N.J.A.C. 13:39A-2.2. Revisions are thus proposed as to N.J.A.C. 13:39A-3.3 to complement N.J.A.C. 13:39A-2.2.

#### Social Impact

The proposed new rules clarifies what practices are to be deemed outside the scope of permissible practices, thus protecting consumers from practitioners who are not appropriately trained to render such services.

#### Economic Impact

Little, if any economic impact, is anticipated with regard to this proposal since the identified activities are presently deemed to be outside the scope of the practice of physical therapy.

Full text of the proposed new rule follows:

#### 13:39A-3.3 Scope of physical therapy

(a) The following acts and practices shall be deemed to be outside the scope of physical therapy and upon proof that a licensee is engaging in such conduct he or she may be subject to disciplinary action:

1. The initiation of physical therapy treatment and the conduct of electromyographic testing without the direction of a physician as defined at N.J.A.C. 13:39A-2.1;
2. The conduct of a breast or pelvic internal examination;
3. The taking of radiological studies;
4. The representation of physical therapy treatment to be a cure or remedy for disease or organic condition unrelated to physical disability for which physical therapy services have been sought.

(a)

**Credentialing of Applicants for Licensure as  
Physical Therapist Assistants  
Examination Standards****Proposed New Rules: N.J.A.C. 13:39A-5.3, 5.4, 5.6,  
5.7, 5.8 and 5.9****Reproposal: N.J.A.C. 13:39A-5.2**Authority: N.J.S.A. 45:9-37.12, 45:9-37.18(b), 45:9-37.18(f),  
45:9-37.25 and 45:9-37.28.

Proposal Number: PRN 1986-206.

The agency proposal follows:

**Summary**

The proposed rules set forth the credentials which the applicants for licensure as physical therapist assistants must present to the Board. Specifically, the rule provides for recognition of graduates of accredited physical therapist assistant programs in the United States and identifies the elements of a physical therapist program which will be accepted in lieu of graduation from a physical therapist assistant program. Additionally, passing scores on examinations for physical therapists and physical therapist assistants are expressly codified along with the standard deviation. Both N.J.A.C. 13:39A-5.2 and 5.4 make it clear that applicants must pass all portions of the examination at the same sitting. N.J.A.C. 13:39A-5.6 acknowledges that the Board will recognize standardized examination scores attained in other jurisdictions. At N.J.A.C. 13:39A-5.7, the Board seeks to impose a requirement that applicants who were trained in a country in which English is not the primary language must demonstrate successful passage of the TOEFL examination, an examination designed to test the applicants' comprehension of the English language. At N.J.A.C. 13:39A-5.8, the Board articulates the applicant's right to take a second examination without the necessity of filing an additional application. Finally, N.J.A.C. 13:39A-5.9 provides that a failure to appear at a scheduled examination will be deemed to be a failure.

**Social Impact**

The proposed rules clarify the policies of the Board with respect to educational credentials and examination standards. Significantly, the Board has determined that applicants must pass the entire examination at one sitting. Through this requirement, the Board will be ensuring that persons who will be deemed eligible for licensure possess the necessary knowledge and proficiency to safely meet the needs of members of the public who will be seeking their services. As an additional protection to the public, the Board is desirous of imposing a requirement that physical therapists trained in foreign jurisdictions where English is not the primary language, take and pass the TOEFL examination. Comprehension of the English language is, in the Board's view, an important and necessary skill in the rendition of physical therapy services.

**Economic Impact**

Since these rules, for the most part, recognize current policies, little, if any, economic impact is anticipated. Applicants required to take the TOEFL will, of course, incur an additional expense, not now being required of such applicants.

**Full text** of the proposed new rules follows:

13:39A-5.2 Examination standards for applicants for licensure as physical therapists

Applicants for licensure as physical therapists submitting satisfactory proof of educational attainment as set forth in N.J.A.C. 13:39A-5.1 shall be admitted to take the written examination administered by the Board or such standardized examination as the Board may select pursuant to N.J.S.A. 45:9-37.25. Upon satisfactory passage of such examination, an applicant shall be deemed eligible for licensure. Satisfactory passage of the examination shall be attained upon receipt of a converted score of 70 percent which corresponds to 1.5 standard deviations below the mean raw score of the national norm. Applicants must pass every portion of the examination at the same sitting and will not be permitted to take only those portions of the examination which previously have been failed.

13:39A-5.3 Educational credentials for applicants for licensure as physical therapist assistants

(a) Applicants for examination as physical therapist assistants shall submit to the Board satisfactory proof of:

1. Graduation from a physical therapist assistant program which has been approved for the education and training of physical therapist assistants by an accrediting agency recognized by the Council on Post-secondary Accreditation and the United States Department of Education, or;

2. Successful completion, in an approved physical therapy program, of at least 90 credits, of which 45 or more shall be in courses relating to the practice of physical therapy and at least 30 of which shall be in courses of general academic study. English General College Equivalent A level courses will be accepted toward the necessary credits in general education.

13:39A-5.4 Examination standards for applicants for licensure as physical therapist assistants

Applicants for licensure as physical therapist assistants submitting satisfactory proof of educational attainment as set forth in N.J.A.C. 13:39A-5.3 shall be admitted to take the written examination administered by the Board or such standardized examination as the Board may select pursuant to N.J.S.A. 45:9-37.25. Upon satisfactory passage of such examination, an applicant shall be deemed eligible for licensure. Satisfactory passage of the examination shall be attained upon receipt of a converted score of 70 percent which corresponds to 1.5 standard deviations below the mean raw score of the national norm. Applicants must pass every portion of the examination at the same sitting and will not be permitted to take only those portions of the examination which previously have been failed.

13:39A-5.6 Recognition of scores on standardized examinations administered in other states

The Board will recognize standardized examination scores obtained as a result of an examination administered in another state or jurisdiction in satisfaction of its examination requirement provided that the applicant has obtained a converted score of 70 percent which corresponds to 1.5 standard deviations below the mean raw score of the national norm and has passed all portions of the examination at the same sitting.

13:39A-5.7 Language comprehension requirements

Any applicant for licensure as a physical therapist or a physical therapist assistant who has received his or her physical therapy training in a country wherein the primary language is other than English, shall submit to the Board evidence of attainment of a score of at least 600 on the Test of English as a Foreign Language (TOEFL) examination, within the two years immediately preceding the filing of the application for licensure. Such evidence must be submitted prior to the issuance of a physical therapist or physical therapist assistant license, but need not be submitted prior to the scheduling of an examination or the issuance of a temporary license.

13:39A-5.8 Re-examination of applicants for licensure as physical therapists and physical therapist assistants

An examinee who fails the examination on his first attempt, may re-take the examination once in this state, without filing another application, provided he is rescheduled for the examination within two years of his initial date of application and he pays the required examination fee to the Board. If any examinee fails the examination on his second attempt, in the Board's discretion, he may be required to re-submit an application before being rescheduled for another examination.

13:39A-5.9 Non-appearance at examination

Failure to appear at any scheduled examination shall be deemed to be a failure unless, in the Board's discretion, good cause has been shown for the absence.

(b)

**Temporary Licenses****Proposed New Rules: N.J.A.C. 13:39A-6**

Authority: N.J.S.A. 45:9-37.18(f) and 45:9-37.29.

Proposal Number: PRN 1986-208.

The agency proposal follows:

**Summary**

The proposed new rules set forth the conditions under which temporary licenses will be issued, pursuant to N.J.S.A. 45:37.29(a) and (b).

With respect to applicants for examination, the rules at N.J.A.C. 13:39A-6.2 and 6.3, make it clear that the applicant may take the examination twice, while practicing under a temporary license. Any failure of standardized examination administered in another jurisdiction and failures to appear as scheduled will be deemed a failure for purposes of

determining whether a holder of a temporary license is entitled to renew a temporary license. The onus is placed upon applicants to advise the Board of out-of-state failures.

The standards for the issuance of temporary visiting licenses to out-of-state therapists are also articulated. While N.J.S.A. 45:9-37.29(b) does not specify that the applicant for a visiting license must possess authority to practice in another state, the Board deems such a requirement to be implicit in the section (see Senate Labor, Industry and Professions Committee Statement Assembly No. 2057-L.1983 c.296).

#### Social Impact

The provisions relating to the continued validity of temporary licenses after two failures are designed to protect the public from practice by applicants who have twice shown themselves to be unable to pass the examination. The Board deems out-of-state failures of the standardized examination to be equally illustrative of an applicant's lack of competency, and thus the public deserves the same protection.

With respect to the issuance of licenses to those visiting New Jersey temporarily, the Board deems out-of-state authorization to practice to be a prerequisite necessary to be adequately protective of the public interest.

#### Economic Impact

The proposed new rules will have an impact on persons practicing pursuant to a temporary license, in that out-of-state failures will now be recognized as a trigger for automatic expiration. Thus temporary licensees may now be barred from employment, where they would otherwise have been permitted to continue.

N.J.A.C. 13:39A-6.5 is not anticipated to have any significant economic impact since application for temporary visiting licenses are infrequently submitted.

Full text of the proposed new rules follows:

#### 13:39A-6.1 Temporary license

Any person deemed eligible to sit for an examination for licensure as a physical therapist or physical therapist assistant, may apply for the issuance of a temporary license, by indicating such on the application for examination. No additional fee shall be required for the issuance of a temporary license.

#### 13:39A-6.2 Expiration of temporary license

A temporary license issued to a person who has applied for licensure automatically expires upon notice to the applicant that he has failed the examination in this State or the same standardized examination in any other state in which he has taken the examination.

#### 13:39A-6.3 Renewal; consequences of second failure

The holder of a temporary license receiving notice that he has failed the first examination for which he has been scheduled, in this State or any other State, may renew his temporary license for a period not to exceed six months, by indicating such in writing. However, if the holder of the temporary license retakes the examination administered in this State or the same standardized examination administered in any other State and fails it, within the six-month period, he will be required to surrender his license to the Board. Holders of temporary licenses are required to give notice to the Board of their intention to take the examination in other states or jurisdictions and the results of those out-of-state examinations must be reported.

#### 13:39A-6.4 Failure to appear at a scheduled second examination

If an applicant holding a temporary license fails to appear on the scheduled date of his second examination, the temporary license shall automatically expire on that date. That license, however, can be reinstated if the Board, in the exercise of its discretion, concludes that good cause has been shown for the absence.

#### 13:39A-6.5 Temporary visiting licenses

Any person having made application to the Board pursuant to N.J.S.A. 45:9-37.29(b) for the issuance of a temporary license to practice physical therapy in this State on a temporary basis to assist in a medical emergency or to engage in a special project or teaching assignment relating to the practice of physical therapy, may be issued a temporary visiting license without examination, which shall remain valid for a period not to exceed one year, provided that said person can demonstrate to the Board that he is licensed, registered or otherwise authorized to engage in the practice of physical therapy in another state or jurisdiction and that permitting his practice in this state would not be inconsistent with the public interest. A temporary visiting license, upon its expiration, may be renewed, at the discretion of the Board, for an additional year. Any

holder of a temporary visiting license is required to give notice to this Board if his authority to engage in the practice of physical therapy is revoked, suspended or otherwise limited by any state, agency or authority.

## LEGALIZED GAMES OF CHANCE CONTROL COMMISSION

The following proposals are authorized by the Legalized Games of Chance Control Commission, William J. Reed, Executive Officer.

Submit comments by July 2, 1986 to:

William J. Reed, Executive Officer  
Legalized Games of Chance Control Commission  
1100 Raymond Boulevard  
Newark, New Jersey 07102

(a)

### Prohibited Prizes

#### Proposed Amendment: N.J.A.C. 13:47-6.19

Authority: N.J.S.A. 5:8-6.

Proposal Number: PRN 1986-210.

The agency proposal follows:

#### Summary

The proposed amendment will prohibit the awarding of weapons, live animals and personal services as prizes in any game of chance. The amendment will, however, now allow the awarding of gift certificates as prizes in any game of chance.

#### Social Impact

The amendment will have a favorable social impact since it will insure that only those items which the Commission deems appropriate can be offered as prizes in games of chance.

#### Economic Impact

The amendment will have a favorable economic impact since gift certificates, which were previously deemed prohibited, are now allowed.

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

#### 13:47-6.19 Prohibited prizes†

No licensee shall offer, distribute or give any prize consisting of real estate or an interest therein, bonds, shares of stock, securities or evidences of indebtedness, [gift certificates,] **weapons, live animals, personal services** or any merchandise refundable in any of the foregoing or in money or cash.

†Alcoholic beverages may not be awarded as a prize. See ruling of Director of Alcoholic Beverage Control, dated May 25, 1954, Bulletin 1017, Page 12.

(b)

### Regulations Concerning Rentals

#### Proposed Amendment: N.J.A.C. 13:47-14.3

Authority: N.J.S.A. 5:8-6.

Proposal Number: PRN 1986-211.

The agency proposal follows:

#### Summary

The proposed amendment provides that premises licensed as commercial bingo halls may be rented or used nine times per week, not more than twice on any one day and only once on Sunday in municipalities where bingo is conducted on Sunday.

#### Social Impact

The amendment will have a favorable social impact since it will provide nine opportunities per week for the public to engage in bingo games.

#### Economic Impact

The amendment will have a favorable economic impact since providing nine opportunities per week for the playing of bingo games will generate

funds which will be applied toward educational, charitable, religious, patriotic and public-spirited purposes by the qualified organizations.

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

### 13:47-14.3 Regulations concerning rentals

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

(c) No renter shall rent, or allow the use of, any premises for bingo to be conducted by a licensed organization unless such renter is either itself a qualified organization holding a valid license issued by a municipality in this State for the conduct of bingo for a period including the date of such rental or use or a licensed renter holding a valid license issued by the Commission for the specific premises. **In the case of a licensed renter holding a valid license issued by the Commission for the specific premises, the premises may be rented or used nine times per week, not more than twice on one day and only once on Sunday in municipalities where the conduct of bingo is permitted on Sunday.**

(d)-(r) (No change.)

## PUBLIC UTILITIES

### (a)

#### BOARD OF PUBLIC UTILITIES

#### Office of Cable Television

#### Procedures for Franchise Renewals

#### Proposed Amendments: N.J.A.C. 14:18-1.2

#### Proposed Repeal: N.J.A.C. 14:18-11.21

#### Proposed Recodification: N.J.A.C. 14:18-13

#### Proposed New Rule: N.J.A.C. 14:18-13

Authorized By: Bernard R. Morris, Director, Office of Cable Television.

Authority: N.J.S.A. 48:5A-10, -19, -25.

Proposal Number: PRN 1986-213.

A public hearing concerning this proposal will be held on:

Monday, July 14, 1986 at 10:00 A.M.

Board of Public Utilities

Hearing Room One

1100 Raymond Boulevard

Newark, N.J. 07102

Submit comments by July 21, 1986 to:

Bernard R. Morris, Director

Office of Cable Television

Board of Public Utilities

1100 Raymond Blvd.

Newark, NJ 07102

The agency proposal follows:

#### Summary

This rule is being proposed to insure that cable franchise renewals are processed in a manner consistent with the federal Cable Communications Policy Act of 1984 ("CCPA"), P.L. 98-549, 98 Stat. 2779 (1984) and the state's Cable Television Act, N.J.S.A. 48:5A-1 et seq. (L. 1972 c.186, as amended). The state act does not fully address the subject of renewal, but permits the local ordinance to contain provisions for automatic renewals, waivable on notice and in accordance with procedures in N.J.A.C. 14:18-11.21(b). All other renewal matters are governed by N.J.A.C. 14:18-11.21(a).

Section 626 of the CCPA establishes an expectation of franchise renewal and sets forth general requirements for denying renewal:

"Sec. 626.(a) During the 6-month period which begins with the 36th month before the franchise expiration, the franchising authority may on its own initiative, and shall at the request of the cable operator, commence proceedings which afford the public in the franchise area appropriate notice and participation for the purpose of—

"(1) identifying the future cable-related community needs and interests; and

"(2) reviewing the performance of the cable operator under the franchise during the then current franchise term.

"(b)(1) Upon Completion of a proceeding under subsection (a), a cable operator seeking renewal of a franchise may, on its own initiative or at the request of a franchising authority, submit a proposal for renewal.

"(2) Subject to section 624, any such proposal shall contain such material as the franchising authority may require, including proposals for an upgrade of the cable system.

"(3) The franchising authority may establish a date by which such proposal shall be submitted.

"(c)(1) Upon submittal by a cable operator of a proposal to the franchising authority for the renewal of a franchise, the franchising authority shall provide prompt public notice of such proposal and, during the 4-month period which begins on the completion of any proceedings under subsection (a), renew the franchise or, issue a preliminary assessment that the franchise should not be renewed and, at the request of the operator or on its own initiative, commence an administrative proceeding after providing prompt public notice of such proceeding, in accordance with paragraph (2) to consider whether—

"(A) the cable operator has substantially complied with the material terms of the existing franchise and with applicable law;

"(B) the quality of the operator's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix, quality, or level of cable services or other services provided over the system, has been reasonable in light of community needs;

"(C) the operator has the financial, legal, and technical ability to provide the services, facilities, and equipment as set forth in the operator's proposal; and

"(D) the operator's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

"(2) In any proceeding under paragraph (1), the cable operator shall be afforded adequate notice and the cable operator and the franchise authority, or its designee, shall be afforded fair opportunity for full participation, including the right to introduce evidence (including evidence related to issues raised in the proceeding under subsection (a)), to require the production of evidence, and to question witnesses. A transcript shall be made of any such proceeding.

"(3) At the completion of a proceeding under this subsection, the franchising authority shall issue a written decision granting or denying the proposal for renewal based upon the record of such proceeding, and transmit a copy of such decision to the cable operator. Such decision shall state the reasons therefor.

"(d) Any denial of a proposal for renewal shall be based on one or more adverse findings made with respect to the factors described in subparagraphs (A) through (D) of subsection (c)(1), pursuant to the record of the proceeding under subsection (c). A franchising authority may not base a denial of renewal on a failure to substantially comply with the material terms of the franchise under subsection (c)(1)(A) or on events considered under subsection (c)(1)(B) which occur after the effective date of this title unless the franchising authority has provided the operator with notice and the opportunity to cure, or in any case in which it is documented that the franchising authority has waived its right to object, or has effectively acquiesced.

"(e)(1) Any cable operator whose proposal for renewal has been denied by a final decision of a franchising authority made pursuant to this section, or has been adversely affected by a failure of the franchising authority to act in accordance with the procedural requirements of this section, may appeal such final decision or failure pursuant to the provisions of section 635.

"(2) The court shall grant appropriate relief if the court finds that—(A) any action of the franchising authority is not in compliance with the procedural requirements of this section; or (B) in the event of a final decision of the franchising authority denying the renewal proposal, the operator has demonstrated that the adverse finding of the franchising authority with respect to each of the factors described in subparagraphs (A) through (D) of subsection (c)(1) on which the denial is based is not supported by a preponderance of the evidence, based on the record of the proceeding conducted under subsection (c).

"(f) Any decision of a franchising authority on a proposal for renewal shall not be considered final unless all administrative review by the State has occurred or the opportunity therefor has lapsed.

"(g) For purposes of this section, the term 'franchise expiration' means the date of the expiration of the terms of the franchise, as provided under the franchise, as it was in effect on the date of the enactment of this title.

"(h) Notwithstanding the provisions of subsections (a) through (g) of this section, a cable operator may submit a proposal for the renewal of a franchise pursuant to this subsection at any time, and a franchising authority may, after affording the public adequate notice and opportunity to comment, grant or deny such proposal at any time (including after

proceedings pursuant to this section have commenced). The provisions of subsections (a) through (g) of this section shall not apply to a decision to grant or deny a proposal under this subsection. The denial of a renewal pursuant to this subsection shall not affect action on a renewal proposal that is submitted in accordance with subsections (a) through (g)."

Section 627 of the CCPA sets conditions for sale of the system when the franchise is revoked or renewal is denied:

"Sec. 627.(a) If a renewal of a franchise held by a cable operator is denied and the franchising authority acquires ownership of the cable system or effects a transfer of ownership of the system to another person, any such acquisition or transfer shall be—

"(1) at fair market value, determined on the basis of the cable system valued as a going concern but with no value allocated to the franchise itself, or

"(2) in the case of any franchise existing on the effective date of this title, at a price determined in accordance with the franchise if such franchise contains provisions applicable to such an acquisition or transfer.

"(b) If a franchise held by a cable operator is revoked for cause and the franchising authority acquires ownership of the cable system or effects a transfer of ownership of the system to another person, any such acquisition or transfer shall be—

"(1) at an equitable price, or

"(2) in the case of any franchise existing on the effective date of this title, at a price determined in accordance with the franchise if such franchise contains provisions applicable to such an acquisition or transfer.

The CCPA divides the renewal process into two phases: a fact finding and evaluation process, followed by a proposal phase. Under the proposed rule, the community's future cable related needs are assessed and the operator's performance is initially reviewed at the municipal level. This process is divided into two rounds. The first round addresses assessment of community needs and operator performance review. If the municipality and cable operator elect not to undergo a needs assessment and performance review, the procedure begins with the submission of consent application by the operator, and any subsequent ordinance will continue existing franchise terms to the extent permitted by law. The latter round is mandatory and incorporates the existing municipal consent process culminating in either a request for proposal in the form of a municipal consent ordinance, or a resolution recommending that a Board make a preliminary assessment of denial.

The second phase prescribed by the CCPA commences under our rules with the submission of a proposal which the company makes to the Board in the form of a Petition for a Certificate of Approval. This petition must be based either upon the consent ordinance or upon a claim of arbitrary refusal and include an application form containing the operator's full proposal. Consistent with existing law, the Board must then either issue the renewal certificate or make a preliminary assessment of denial by scheduling a hearing before a Commissioner, or transmitting the matter to the Office of Administrative Law for a hearing. At any such hearing, the substantive tests established by the CCPA shall govern the proceeding.

N.J.A.C. 14:18-13.7 provides that in the event a franchise is denied or revoked, fair market value or an equitable price shall be determined through at least two appraisals prepared to standards for a Member of the Appraisal Institute (MAI).

One appraiser shall be retained by the Board, and one by the cable operator for independent appraisals. Appraisals shall be completed within 60 days, and filed simultaneously.

In reviewing the appraisals,

(1) identical appraisals shall be conclusive as to fair market value

(2) If slightly different, and the higher appraisal value does not exceed the lower by more than 20%, the average of the two shall be the fair market value;

(3) In the event of a differential greater than 20%, the Board shall compare the two appraisal reports and determine fair market value.

#### Social Impact

The proposed rule affects the Board of Public Utilities and Office of Cable Television, all New Jersey cable television operators, and municipalities franchised for cable TV. The rule gives all involved the first clear direction on conduct of the renewal process since the passage of the Federal Cable Communications Policy Act of 1984. It unites elements of federal and state statutory requirements in a single procedure. The rules also encourage participation of local communities in the needs assessment and evaluation processes and all for public inspection of the records of hearings held as part of these processes, thereby making provisions for public participation in the decision-making regarding cable television franchise renewal.

#### Economic Impact

The proposed rules are procedural, and therefore the economic impact, if any, is limited to cable operators and municipalities. Operation of the optional portion of the preproposal phase will incur additional administrative costs which will vary according to the extent of the study and length of the initial round of hearings, if any. The remainder of the process is essentially unchanged and therefore entails no additional economic impact. The chief costs are discretionary, such as retention of a consultant by the municipality. By establishing procedures for determining fair market value and equitable price when renewal is denied or the certificate revoked, advance notice of the procedures will save the expenses associated with ad hoc determinations and litigation.

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

#### 14:18-1.2 Definitions

...

"Franchising authority" means the Board of Public Utilities, Office of Cable Television, State of New Jersey.

...

"Operator's proposal" means the operator's petition to the Board for a Certificate of Approval following completion of municipal consent proceeding.

...

"Preliminary assessment of denial" means a decision by the Office of Cable Television to schedule a hearing on a Certificate of Approval application pursuant to N.J.S.A. 48:5A-16(b) and 47 U.S.C.A. §546(c)(1).

"Preproposal phase" means any proceedings conducted under these rules held prior to an operator's filing for a renewal of a Certificate of Approval with the Board of Public Utilities.

"Proposal phase" means any proceedings subsequent to the time under these rules when a petition for renewal of a Certificate of Approval is filed with the Board of Public Utilities.

"Renewal" means formal extension or continuation by the Board of any operator's franchise beyond the duration specified by the existing Certificate of Approval.

"Request for Proposal" means a duly adopted municipal consent ordinance incorporating all terms and conditions for renewal, including but not limited to, any generally imposed obligations under state statute and regulations.

#### 14:18-11.21 [Renewal of municipal consents] (Reserved)

(a) If the consent ordinance does not contain specific automatic renewal provisions and the municipality has not amended the ordinance to provide for automatic renewal pursuant to N.J.S.A. 48:5A-25.

1. A CATV company seeking to renew an expiring consent must apply for a municipal consent in compliance with sections 1 through 19 of this subchapter.

2. Any such application must be filed for timely compliance with N.J.S.A. 48:5A-16 and 25 prior to the expiration of the Certificate of Approval.

3. In order to be heard in the same hearings as the renewal applicant, a competing applicant must file with the municipality at least 15 days prior to the scheduled hearing.

(b) The following procedures shall govern the renewal process when the consent ordinance provides for automatic renewal whether or not the ordinance requires a hearing:

1. At least 60 days prior to the expiration of the initial term either the municipality or the CATV company must serve both the other party and the Office of Cable Television with a notice of intention not to accept renewal in order to deny renewal.

2. Prior to giving notice of intention not to accept automatic renewal, a municipality must hold a public hearing with a stenographic record by a certified shorthand reporter upon 30 days' notice to the public and the cable company.

3. A notice of intention not to accept automatic renewal must be based upon substantial evidence in the record leading to a finding that:

i. The CATV company as defined in N.J.S.A. 48:5A-3(g) has been convicted of an indictable crime;

ii. The CATV company has not substantially complied with the material terms of the ordinance and certificate of approval and with applicable law;

iii. There has been a material change in the legal, technical, or financial qualifications of the CATV company that would substantially impair the

continued provision of service by such CATV company;

iv. The signal delivered by the CATV system within control of the CATV company has not generally met technical standards established by the Federal Communications Commission and the Office of Cable Television; or

v. Other good cause has been shown where continued operation would result in substantial detriment to the public good.

4. If a municipality has arbitrarily issued a notice of intention not to accept renewal, the CATV company may file a petition for direct certification pursuant to N.J.S.A. 48:5A-17(d) prior to the expiration of the initial certificate.

5. The Board shall issue a certificate of automatic renewal unless:

i. A notice of intention not to accept renewal has been filed; or  
ii. After full hearing, upon notice to the municipality and the CATV company, the Board makes one of the findings listed in N.J.A.C. 14:18-11.21(b)(3), above.

6. Any renegotiation of the terms of a consent subject to automatic renewal must be completed and submitted to the Board for approval as an amended consent ordinance at least 60 days prior to the expiration of the initial certificate.

(c) In cases where renewal is denied:

1. The Board shall act to minimize the disruption of service to subscribers; and

2. No acquisition of an ownership interest in the system, or sale of the system to any other cable television company as defined by N.J.S.A. 48:5A-3(g) may be required at less than fair market value.]

### SUBCHAPTER 13. RENEWALS

#### 14:18-13.1 Initiation of renewal process

(a) Renewal procedures shall commence in either of two ways:

1. Either the municipality or the cable operator may commence a municipal fact finding process by filing notice with the Office and the other party (municipality or cable operator) between 30 and 36 months prior to the expiration of the Certificate of Approval; or

2. If there are less than 30 months prior to the expiration of the Certificate of Approval, the cable operator shall commence the process by filing an application for municipal consent.

(b) Renewal of Certificates of Approval expiring prior to 31 months from \_\_\_\_\_ (effective date of this rule) for which no proceeding has commenced as of \_\_\_\_\_ (the effective date of this rule) shall be initiated either by:

1. Filing a notice pursuant to (a)1. above within 30 days of \_\_\_\_\_ (the effective date of this rule); or

2. If no such notice is filed within 30 days of the date, by filing a municipal consent application.

#### 14:18-13.2 Optional pre-proposal phase

(a) Upon the filing of a notice pursuant to N.J.A.C. 14:18-13.1, the municipality shall conduct proceedings to assess its future cable-related community needs and interests and to review past performance of the cable operator.

1. Proceedings shall take place before either the governing body of the municipality or before an advisory committee appointed by the governing body. The names of designees and a mailing address for the advisory committee shall be forwarded to the Office of Cable Television.

2. At least one hearing to assess the municipality's future cable related needs and interests and to review shall be held upon at least 15 days' written notice to the public and the cable operator.

3. Any proceedings pursuant to this section shall include transcripts of any public hearings and opportunity for public comment, written or oral. Transcripts shall be made at the expense of the municipality.

(b) In assessing community cable related needs and reviewing operator performance, consideration shall include, but shall not necessarily be limited to the following:

1. Any statewide needs and requirements as may be established by regulations of the Office of Cable Television;

2. Any regional community cable-related needs;

3. Any uniquely local cable-related needs;

4. Performance and substantial compliance with material terms and conditions of the existing franchise based on notice and opportunity to cure under applicable federal law as placed on the record.

5. Any correspondence pursuant to Section 27 of the Cable Television Act.

(c) Within six months of the last hearing date, the body conducting such hearings shall issue a report to the governing body, the cable operator, and the Office of Cable Television.

1. The report shall be available for public inspection.

2. In any event, the report must be issued at least 12 months prior to the expiration of the Certificate.

(d) Upon receipt of the municipal report, the cable operator shall have 30 days in which to file a municipal consent application.

#### 14:18-13.3 Municipal consent

(a) The operator shall file for a municipal consent in the following manner:

1. If the renewal proceeding of N.J.A.C. 14:18-13.1 has commenced, the operator shall file for municipal consent within 30 days of receipt of the municipal report;

2. If consent is being sought under 14:18-13.1(a)2, the cable operator shall file for a municipal consent within 12 months prior to the expiration of the Certificate of Approval.

#### 14:18-13.4 Mandatory pre-proposal phase

(a) The municipality may, in the form of a consent ordinance, issue a request for proposal in the following manner:

1. Consent phase hearings shall commence between 60 and 90 days after the consent application is filed.

2. Any hearings concerning the consent application shall be completed within 120 days after the consent application is filed.

3. The municipal governing body shall render a decision no later than 150 days from the filing.

4. Transcripts shall be made of all hearings at applicant's expense.

5. Any amendments to the consent application shall be in writing.

6. The OCTV shall be provided with copies of all correspondence between the municipality or its officials and the cable operator.

7. The municipality shall completed the needs assessment/performance review proceedings either:

i. By resolution recommending that the Board issue a preliminary assessment of denial specifying the reasons; or

ii. By ordinance granting a municipal consent for renewal, which shall serve as a request for proposal from the operator.

#### 14:18-13.5 Operator proposal

(a) Upon recommendation by the municipality to deny renewal, the cable operator shall have 30 days in which to file with the Board an arbitrary refusal petition in accordance with N.J.S.A. 48:5a-17(d) accompanied by a completed application for a renewal certificate of approval.

1. A copy of the petition must be served on the municipality.

2. The papers shall include a copy of the initial needs assessment/performance review report and the resolution stating reasons for the recommendation of denial.

(b) If a renewal consent ordinance is granted, the operator shall have 30 days in which to file a COA petition with completed application.

1. A copy of the petition and completed application shall be served on the municipality.

2. Filing of the COA petition shall be deemed acceptance of the consent ordinance and its terms and conditions.

(c) Upon receipt of a petition, the Director shall publish notice that a COA renewal petition has been filed.

(d) Upon receipt of a complete COA renewal petition, the Board of Public Utilities shall have 30 days to either issue a Certificate or transmit the matter for hearing to the OAL upon a preliminary assessment of denial. The hearing shall be pursuant to N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:1.

1. The municipality shall be noticed of either the issuance of a Certificate of Approval or a preliminary assessment of denial.

2. In making a preliminary assessment of denial, the Board shall consider the following:

i. Any recommendations by the municipality.

ii. Whether the operator's proposal meets the future community related needs as established by the consent ordinance, if any, and the statewide criteria and standards of rules and regulations, as established by the Office of Cable Television.

#### 14:18-13.6 OAL hearing

(a) Upon the matter being transmitted from the Office of Cable Television, the OAL will hold a hearing to determine if:

1. The cable operator has substantially complied with the material terms of the existing franchise with applicable law;

2. The quality of the operator's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix, quality, or level of cable services or other services provided over the system, has been reasonable in light of community needs;

3. The operator has the financial, legal, and technical ability to provide the services, facilities, and equipment as set forth in the operator's proposal; and

4. The operator's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

**14:18-13.7 Compliance terms and conditions**

(a) In the event renewal of a Certificate is denied and the Board must determine the fair market value of the system, the determination shall be done in the following manner:

1. The Board and the cable operator shall each name an independent appraiser.

2. Each appraiser shall have 60 days in which to prepare an appraisal according to Member Appraisal Institute (MAI) standards.

3. Both appraisals shall be submitted simultaneously to the Board.

4. In reviewing the appraisals:

i. Identical appraisals shall be conclusive as to fair market value;

ii. If a higher appraisal does not exceed the lower by more than 20 percent, the average of the two shall be the fair market value.

iii. If the differential is greater than 20 percent, the Board shall compare the two appraisal reports and determine fair market value.

(b) The procedure in (a) above shall also apply in the event a certificate is revoked for cause, and the Board must determine an equitable price for the system.

**SUBCHAPTER [13.] 14. MISCELLANEOUS PROVISIONS**  
(No change in text.)

## TRANSPORTATION

The following proposals are authorized by Roger A. Bodman, Commissioner, Department of Transportation.

Submit comments by July 2, 1986 to:

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

(a)

### DESIGN

#### Bureau of Traffic Engineering

#### Proposed New Rule: N.J.A.C. 16:27

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

Proposal Number: PRN 1986-200.

The agency proposal follows:

##### Summary

In accordance with the "sunset" and other provisions of Executive Order No. 66(1978), the Department of Transportation proposed to continue the current text of N.J.A.C. 16:27 concerning the operations of the Bureau of Traffic Engineering.

These rules were originally filed and became effective prior to September 1, 1969. Subsequent amendments were filed and became effective on March 21, 1978 and June 4, 1981. Under the Executive Order the chapter expires on June 4, 1986. As a result of expiration, the rules are being proposed as new, without change in text as currently found in the New Jersey Administrative Code.

These rules provide the basic principles and outline procedures concerning the design, installation, erection, standards and usage of traffic control devices. The rules are governed by the current "Manual on Uniform Traffic Control Devices for Streets and Highways" issued by the United States Department of Transportation, Federal Highway Administration, Washington, D.C.

The Department finds these rules necessary, adequate, reasonable, efficient, understandable and responsive to the purpose for which they were originally promulgated and therefore proposes to readopt N.J.A.C. 16:27.

##### Social Impact

The proposal of these rules will continue the procedure to be followed in the controlling of traffic along the State's Highway System. The continuation of these rules will assure that the requirements for and the

control of public safety along the highway system are protected. There will be no significant additional impact since the current procedures are not changed and there are no proposed amendments.

##### Economic Impact

The rules expiring on June 4, 1986 (being proposed as new) will have no new or additional economic impact on municipalities doing business with the Department since the rules are proposed without change. The Department and local municipalities will continue to incur administrative and operational costs for their workforce involved in the traffic signalization and/or channelization process.

Full text of the rules expiring on June 4, 1986, being proposed as new appears in the New Jersey Administrative Code at N.J.A.C. 16:27.

(b)

### THE COMMISSIONER

#### Trucks

#### Proposed Amendments: N.J.A.C. 16:32-1.2 and 1.3

#### Proposed New Rule: N.J.A.C. 16:32-3

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:3-84.

Proposal Number: PRN 1986-207.

The Agency proposal follows:

##### Summary

Both State and federal laws concerning the legal width of trucks have changed significantly in the past few years, as part of broader changes dealing with the regulation of trucks.

The Surface Transportation Assistance Act of 1982 (P.L. 97-424), as amended by P.L. 98-17, partially preempted the regulation of truck dimensions by the states and established 102 inches as the standard legal maximum width on the Interstate highway system and on other highways designated by the U.S. Secretary of Transportation. Further minor modifications in the federal law concerning truck width were made by the Tandem Truck Safety Act of 1984 (P.L. 98-554).

State law on width changed with enactment of P.L. 1983, c. 126, approved April 6, 1983, which first established the 102-inch width limit. Minor modifications to the width provisions were made by P.L. 1983, c. 349, approved September 22, 1983, which made further amendments to the basic truck statute, N.J.S.A. 39:3-84. The basic truck width language, as found in that section, is as follows:

"The maximum outside width of any vehicle or combination of vehicles, including load or contents of any part or portion thereof, except as otherwise provided by this subsection, shall be no more than 102 inches; except that the Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police, may promulgate rules and regulations for those public roads, streets or highways or public or quasi-public property in this State where it is determined that the interest of public safety and welfare require the maximum outside width be no more than 96 inches."

For purposes of clarity and simplicity, the term "wide truck" is used in this discussion and in the proposed amendments to mean trucks wider than 96 inches but not wider than 102 inches in width, exclusive of mirrors and other safety devices.

The Commissioner of Transportation has adopted regulations implementing these laws, beginning with an emergency adoption on April 6, 1983. The current regulations are in N.J.A.C. 16:32, entitled "Designated Routes for Special Categories of Trucks".

The Department has realized from the outset that the present regulatory scheme, which mirrors the regulation of double-trailer truck combinations, would need further development and refinement to account fully for the special characteristics of wide trucks. The Department published a "pre-proposal" on this subject in the October 3, 1983 New Jersey Register (15 N.J.R. 1636). The purpose of the pre-proposal was to set forth the regulatory problems, to suggest four optional regulatory plans and to solicit public comments.

The four options can be briefly described, using the language of the pre-proposal, as: (1) "to restrict the operation of trucks wider than 96 inches to highways designed with 12-foot lanes," (2) "to restrict through movements of wider trucks to a designated system based on the 12-foot criterion, but to allow access to terminals on specified routes," (3) "to allow wider trucks to have freedom of movement on main roads, with some restriction of movement on local roads" and (4) "to allow trucks

wider than 96 inches to have freedom of travel throughout the State, except where a specific prohibition has been imposed by the Commissioner of Transportation."

The Department received a number of comments to the pre-proposal. The New Jersey Motor Truck Association, Inc., 160 Tices Lane, East Brunswick, NJ 08816, supported Option 4 as being consistent with the statutory guidelines and legislative intent of State law and permitting motor carriers to gain the full benefit of federal law. Donald L. Hughes, State Chairman of the Public Affairs Council of the AAA Automobile Clubs of New Jersey, c/o William J. Kohm Associates, Inc., 496 Kinderkamack Road, Oradell, NJ 07649, supported Option 1, arguing that use by wide trucks of travel lanes less than 12 feet wide would create serious safety problems. Chester W. Ambler III, coordinator of the Atlantic City Urban Area Transportation Council, Room 630, 1125 Atlantic Avenue, Atlantic City, New Jersey 088401, supported Option 4, noting the cost to commerce of a more restrictive system and also noting the fact that 102-inch-wide buses may travel throughout the State.

The Department appreciates these comments, which were carefully considered in drafting the current proposal. The Department hopes that these commenters (as well as new ones) will submit comments on the proposal now that it has matured.

The regulatory plan proposed here is a variant of Option 3 above. The main elements of this plan are: (1) a "designated system" of main roads which are available for unrestricted use by wide trucks and which have been selected using an 11-foot lane width criterion, (2) provisions for access to points off this system and (3) a procedure for permitting wide trucks on many local roads with involvement by local officials.

This plan has been developed on the basis of the Department's concern for ensuring the safe operation of wide trucks in New Jersey. In pursuing its statutory duty to devise a regulatory scheme to protect the public safety and welfare, the Department has carefully considered the issues of safety. A careful review of the literature has yielded no conclusive data relating truck width to accident experience. This conclusion does not, however, dispose of the question. Such studies as do exist are based on limited experience and the results cannot be used to determine what accident experience will occur in relation to any specific system proposed, especially in an urbanized state like New Jersey. There is, however, a body of engineering knowledge which relates lane width to suitability for truck traffic, thereby approaching the same question from the opposite direction.

The relationship between lane width and suitability of truck traffic is perhaps expressed most succinctly in the volume entitled *A Policy on Geometric Design of Highways and Streets, 1984*, published by the American Association of State Highway and Transportation Officials. This document, which reflects the engineering judgment of this country's leading highway engineers, discusses the question of lane width as follows:

"Studies on two-lane two-way rural highways show that undesirable conditions (inadequate vehicle clearance and edge-of-pavement clearances) exist on surfaces less than 22-feet wide carrying even moderate volumes of mixed traffic. A 24-foot surface is required to permit desired clearance between commercial vehicles. It is generally accepted that lane widths of 12 feet should be provided on main highways." (p.360)

The Policy addresses the place of truck traffic in designing highways in connection with the design elements appropriate to various classes of highways, including this discussion of "urban arterials":

"Lane widths may vary from 10 feet to 12 feet. The 10 foot widths are used in highly restricted areas having little or no truck traffic. The 11 foot lanes are used quite extensively for urban arterial street designs. The 12 foot lane widths are most desirable and are generally used on all higher speed, free-flowing, principal arterials." (p.569)

In short, accepted highway design practice, which is followed in New Jersey, is to design major highways with 12-foot traffic lanes. Further, adequate lane width is considered especially important where substantial truck traffic is anticipated.

These design principles have caused the Department to conclude that in accepting wide trucks, which are six inches wider than the previous maximum width, prudence dictates that they should be regulated on the basis of lane width, at least until further experience and data are available. Inasmuch as the range of highways now in existence does not always meet today's highest design standards, the Department has concluded that it is realistic and appropriate to accept an 11-foot lane width criterion as the standard for restricting the movement of wide trucks. The other system designation and access provisions proposed here should assure that the lane width criterion, while promoting safe operation of these trucks, does not act as an unreasonable barrier to their commercial use.

Based on these principles, the proposed rule contains the following

three general provisions governing the use of New Jersey streets and highways by wide trucks:

First, there is established an integrated system of "through routes" which wide trucks may use for all purposes. This system consists of most State highways and many county roads.

Second, there is an access provision permitting wide trucks to reach most destinations off the system of through routes.

Third, there is a provision permitting wide trucks to use local routes except where local officials adopt restrictions based on traffic engineering criteria.

The Department believes that these provisions will satisfy the greatest part of the needs of commerce while preserving reasonable safeguards for safety.

The Department solicits comments both as to the general regulatory system proposed and as to the inclusion or exclusion of specific routes. A map of the proposed system of through routes for wide trucks may be obtained from the Department by request.

#### Social Impact

These rule amendments are intended to minimize safety concerns related to the use of these vehicles. In addition, these amendments will provide expanded opportunities for public participation in providing information concerning the suitability of specific highways and streets for wide trucks.

#### Economic Impact

These proposed rules will provide substantial economic benefits to New Jersey shippers and motor carriers by permitting them to utilize 102-inch-wide equipment much more widely. This equipment offers superior efficiency for some kinds of loads and is rapidly becoming the interstate standard for moving these loads. Ability to use this equipment will also enhance New Jersey's position as a transportation center. The Department expects that these rule amendments will not lead to any increase in highway construction and maintenance costs because (1) existing truck weight limits are not affected and (2) the shippers and motor carriers most likely to use 102-inch-wide equipment are those moving "light and bulky" cargo which is normally well within legal weight limits.

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

### CHAPTER 32 TRUCKS

#### SUBCHAPTER 1. DESIGNATED ROUTES FOR [SPECIAL CATEGORIES OF TRUCKS] DOUBLE-TRAILER TRUCK COMBINATIONS

##### 16:32-1.2 [Wide trucks] Width restrictions

[The maximum width of any truck combination operating on any highway in New Jersey is 96 inches, except that the maximum width permitted on the routes designated in N.J.A.C. 16:32-1.1 is 102 inches.]

**The maximum width permitted on the routes designated in N.J.A.C. 16:32-1.1 and N.J.A.C. 16:32-1.3(g) is 102 inches, exclusive of mirrors and other safety devices.**

##### 16:32-1.3 Reasonable access to terminals and other facilities

(a) Any person or terminal operator who wishes to gain access for double-trailer truck combinations [or trucks wider than 96 inches but not more than 102 inches in width] from the system designed in N.J.A.C. 16:32-1.1 to a terminal which is not located on that system must apply in writing for a letter of permission to the Chief, Bureau of Traffic Engineering, New Jersey Department of Transportation, 1035 Parkway Avenue, Trenton, New Jersey 08625. The application should be specific as to the exact location of the terminal and the exact route or routes of access requested.

(b) The determination of reasonable access and the issuance of a letter of permission for access to a terminal will be made based on an overall review of all of the criteria set forth below which are general guidelines only and are not necessarily of equal weight. Criteria number two, three and four[, in the case of double-trailer truck combinations, and criteria number two, three, four and six, in the case of trucks wider than 96 inches,] may be relaxed where the Department has made a determination, after a physical inspection of the requested route, that the surrounding circumstances would permit safe travel by these vehicles along the proposed (or alternate) course of travel.

1.-5. (No change.)

[6. Trucks wider than 96 inches will, whenever possible, be confined to roadways with 12-foot lanes.]

[7.]6. (No change in text.)  
(c)-(d) (No change.)

(e) The Department of Transportation retains the right to rescind permission for access should conditions change or should records indicate that the double-trailer truck combinations [or trucks wider than 96 inches] are causing specific traffic or safety problems.

(f) (No change.)

(g) A double-trailer truck combination [or truck wider than 96 inches] is permitted access from the system designated in N.J.A.C. 16:32-1.1 to facilities providing food, fuel, repairs and rest, within one mile roadway distance from the designated system except upon those roads, highways, streets, public alleys or other public thoroughfares which cannot safely accommodate a double-trailer truck combination [or a truck wider than 96 inches] and are so designated by the Department.

1. Designation of those roads upon which travel is prohibited shall be governed by the criteria outlined in (b) above.

2. Double-trailer truck combinations may only utilize those facilities which provide adequate ingress and egress without the need of backing onto or from a highway, street, road, public alley or other public thoroughfare.

[(h) A household goods carrier is deemed to have permission of access from the system designated in N.J.A.C. 16:32-1.1 to a point of loading or unloading. For the purposes of this provision, a "household goods carrier" is defined as a vehicle being used to transport household goods and effects to or from a private residence or to or from a place of storage.]

**SUBCHAPTER 3. WIDE TRUCKS**

**16:32-3.1 Definitions**

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

"Household goods carrier" means a vehicle being used to transport household goods and effects to or from a private residence or to or from a place of storage.

"Wide truck" means a truck greater than 96 inches but not greater than 102 inches in width, exclusive of mirrors and other safety devices.

**16:32-3.2 General provision**

Wide trucks are permitted to operate in New Jersey only to the extent and under the conditions authorized by the rules in this chapter.

**16:32-3.3 Through routes for wide trucks**

(a) The routes outlined in (c) below are designated through routes for wide trucks. Wide trucks may travel freely for all purposes on these routes.

(b) The routes as outlined were selected on the basis of the following criteria:

1. They are State highways, county "500" series roads or, in limited cases, county "600" series roads.

2. They connect at both ends with other through routes (although spur routes are possible for geographic or other reasons).

3. They have travel lane widths of 11 feet or greater for 90 percent or more of the segment length. For purposes of this rule, lanes which are only 10 feet wide are counted as 11 feet wide when located on four-lane divided highways with shoulders.

4. The general criteria within these rules may be superseded in particular instances by determinations made on the basis of engineering judgment.

(c) The following routes are designated as through routes for wide trucks:

1. All state highway routes with the exception of those listed in (d) below.

2. All county "500" series roads with the exception of those listed in (e) below.

3. Those county "600" series roads listed in (f) below.

4. The New Jersey Turnpike, the Atlantic City Expressway and the Garden State Parkway south of Exit 105. Use of these routes is subject to the regulation of the New Jersey Turnpike Authority, the New Jersey Expressway Authority and the New Jersey Highway Authority, respectively.

(d) The following State highway routes are not designated as through routes for wide trucks, although some of these routes may be usable by wide trucks under the access provisions of N.J.A.C. 16:32-3.4:

ROUTE	LOCATION	DISTANCE IN MILES
US 9	between M.P. 0.00 in Cape May Co.	0.00
	and the Egg Harbor Twp./Somers Pt. Corp Line,	31.40
	Atlantic Co.	31.40
	and between NJ 52 in Somers Pt. City, Atlantic Co.	33.15
	and US 30 in Absecon City, Atlantic Co.	42.80
		8.25
	and between the GSP in Bass River Twp., Burlington Co.	55.00

ROUTE	LOCATION	DISTANCE IN MILES
	and between the GSP in Bass River Twp., Burlington Co.	55.00
	and NJ 166 in Beachwood Twp., Ocean Co.	89.60
		34.60
	and between the GSP in Dover Twp., Ocean Co.	94.50
	and Spruce St. in Lakewood Twp., Ocean Co.	100.30
		5.80
	and between Rt. 525 in Lakewood Twp., Ocean Co.	102.70
	and I-195 in Howell Twp., Monmouth Co.	107.00
		4.30
	US 9 Total	84.35
NJ 12	between Pennsylvania State Line in Kingwood Twp., Hunterdon Co., and Co. 611 in Flemington Boro., Hunterdon Co.	0.00 11.50 11.50
NJ 13	between Hollywood Blvd. in Pt. Pleasant Boro and Co. 632 in Pt. Pleasant Boro, Ocean Co.	0.00 0.58
NJ 15	between NJ 181 in Sparta Twp., Sussex Co. and US 206 in Frankfort Twp., Sussex Co.	14.20 19.62 5.42
NJ 23	between Rt. 517 in Franklin Boro., Sussex Co. at Rt. 565 in Wantage Twp., Sussex Co. and between Co. 519 in Wantage Twp., Sussex Co. and New York State Line in Montague Twp., Sussex Co.	31.83 38.52 47.20 52.53 12.64
NJ 28	between Co. 633 in Bridgewater Twp., Somerset Co. and Chimney Rock Rd. in Bridgewater Twp., Somerset Co.	5.58 6.25 0.67
NJ 29	between US 202 in Delaware Twp., Hunterdon Co. and Rt. 523 in Stockton Boro., Hunterdon Co.	20.00 22.45 2.45
NJ 31	between US 206 in Trenton City, Mercer Co. and Co. 612 in Hopewell Twp., Mercer Co. and between US 202 & NJ 12 in Flemington Boro., Hunterdon Co. and U.S. 46 in White Twp., Warren Co.	0.00 10.20 22.05 49.02 37.17
NJ 33	between Nottingham Way in Hamilton Twp., Mercer Co. and Rt. 526 in Washington Twp., Mercer Co. and between US 130 in East Windsor Twp., Mercer Co. and Rt. 571 in East Windsor Twp., Mercer Co., and between Rt. 571 in Hightstown Boro., Mercer Co. and Woodside Ave. in East Windsor Twp., Mercer Co. and between NJ 33F in Manalapan Twp., Monmouth Co. and NJ 34 in Howell Twp., Monmouth Co.	2.30 7.48 12.44 14.13 14.20 15.17 24.41 35.22 13.47
NJ 34	between NJ 33 in Howell Twp., Monmouth Co. and Rt. 520 in Holmdel Twp., Monmouth Co. and between Co. 3 in Aberdeen Twp., Monmouth Co. and US 9 in Old Bridge Twp., Middlesex Co.	8.77 17.40 21.30 26.79 14.12
NJ 35	between Bay Ave. in Brick Twp., Ocean Co. and Delaware Ave. in Point Pleasant Beach Boro., Ocean Co. and between NJ 34 & NJ 70 in Wall Twp., Monmouth Co. and NJ 38 in Wall Twp., Monmouth Co.	8.81 12.51 16.05 20.25 7.90
NJ 37	between NJ 70 in Lakehurst Boro., Ocean Co. and US 9 in Dover Twp., Ocean Co.	31.52 37.55 6.03
NJ 38	between I-295 in Mt. Laurel Twp., Burlington Co. and Rt. 530 in Mt. Holly Twp., Burlington Co.	9.60 16.78 7.18
US 40	between NJ 45 in Woodstown Boro., Salem Co. and NJ 77 in Upper Pittsgrove Twp., Salem Co.	10.25 16.50

ROUTE	LOCATION	DISTANCE IN MILES	ROUTE	LOCATION	DISTANCE IN MILES
	and between NJ 55 in Franklin Twp., Gloucester Co.	25.85	NJ 78	between Henderson St. in Jersey City, Hudson Co.	66.83
	and N.J. 54 in Buena Vista Twp., Atlantic Co.	35.20		and the New York State Line	67.83
	and between Rt. 557 in Buena Vista Twp., Atlantic Co.	35.29			1.00
	and Pine St. in Buena Vista Twp., Atlantic Co.	37.00	NJ 79	between Hance Blvd. in Freehold Twp., Monmouth Co.	2.45
	and between Allegheny Ave. in Hamilton Twp., Atlantic Co.	43.12		and Rt. 516 in Matawan Boro., Monmouth Co.	11.88
	and Rt. 559 in Hamilton Twp., Atlantic Co.	46.80			9.35
	and between Rt. 559 in Hamilton Twp., Atlantic Co.	47.02	NJ 82	between Kingswood Rd. in Union Twp., Union Co.	3.10
	and U.S. 322 in Hamilton Twp., Atlantic Co.	51.63		and NJ 439 in Union Twp., Union Co.	4.95
		19.35			1.85
NJ 41	between NJ 47 in Deptford Twp., Gloucester Co.	0.00	NJ 83	between NJ 47 in Dennis Twp., Cape May Co.	0.00
	and Rt. 544 in Deptford Twp., Gloucester Co.	3.91		and US 9 in Dennis Twp., Cape May Co.	3.85
	and between 544 in Runnemeade Boro., Camden Co.	4.18		Note: Entire route is excluded	3.85
	and N.J. 168 in Runnemeade Boro., Camden Co.	4.95	NJ 88	between Rt. 623 in Lakewood Twp., Ocean Co.	2.20
		4.68		and NJ 35 in Point Pleasant Boro., Ocean Co.	9.84
NJ 44	between Barbers Ave. in Logan Twp., Gloucester Co.	0.00			7.64
	and I-295 in West Deptford Twp., Gloucester Co.	9.60	NJ 91	between U.S. 1 in North Brunswick Twp., Middlesex Co.	0.00
	Note: Entire route is excluded	9.60		and Van Dyke Rd., in New Brunswick City, Middlesex Co.	
NJ 45	between Co. 605 & 617 in Woodstown Boro., Salem Co.	10.12		Note: Entire route is excluded	2.31
	and NJ 77 in Harrison Twp., Gloucester Co.	17.39	NJ 94	between I-80 in Knowlton Twp., Warren Co.	0.60
		7.27		and Rt. 517 in Vernon Twp., Sussex Co.	38.27
US 46	between Co. 618 in White Twp., Warren Co. and Co. 614 in Independence Twp., Warren Co.	7.28		and between Rt. 517 in Vernon Twp., Sussex Co.	38.62
		20.48		and New York State Line in Vernon Twp., Sussex Co.	45.84
		13.20			45.29
NJ 47	between Atlantic Ave. in Wildwood City, Cape May Co. and Rt. 551 in Westville Boro., Camden Co.	0.00	NJ 109	between Jackson St. in Cape May City, Cape May Co.	0.00
		74.75		and US 9 in Lower Twp., Cape May Co.	3.12
		74.75		Note: Entire route is excluded	3.12
NJ 49	between I-295 in Pennsville Twp., Salem Co.	0.00	US 130	between N.J. Turnpike in Pennsville Twp., Salem Co.	0.00
	and NJ 49 in Salem City, Salem Co.	8.30		and Co. 618 in Carneys Point Twp., Salem Co.	2.20
	and between Co. 658 in Salem City, Salem Co.	9.75		and between Co. 607 in Carneys Point Twp., Salem Co.	5.10
	and W. Commerce St. in Bridgeton City, Cumberland Co.	24.50		and Divided Highway in Logan Twp., Gloucester Co.	8.90
	and between NJ 55 in Millville City, Cumberland Co.	38.00			6.00
	and NJ 50 in Upper Twp., Cape May Co.	53.78	NJ 156	between Rt. 524 in Hamilton Twp., Mercer Co.	0.57
		38.83		and US 130 in Hamilton Twp., Mercer Co.	1.21
NJ 50	between US 9 in Upper Twp., Cape May Co.	0.00			0.64
	and US 30 in Egg Harbor City, Atlantic Co.	26.08	NJ 159	between Co. 614 Spur in Fairfield Boro., Essex Co.	0.55
	Note: Entire route is excluded	26.88		and US 46 in Fairfield Boro., Essex Co.	1.35
NJ 52	between Palen Ave. in Ocean City, Cape May Co.	0.00			0.80
	and US 9 in Somers Pt. City, Atlantic Co.	2.74	NJ 161	between Allwood Rd. in Clifton City, Passaic Co.	0.00
	Note: Entire route is excluded	2.74		and Van Houten Ave. in Clifton City, Passaic Co.	1.10
NJ 53	between NJ 10 in Parsippany Troy Hills Twp., Morris Co.	1.55		Note: Entire route is excluded	1.10
	and I-80 in Denville Twp., Morris Co.	4.50	NJ 163	between US 46 in Knowlton Twp., Warren Co.	0.00
		2.95		and US 46 in Knowlton Twp., Warren Co.	0.46
NJ 57	between US 22 in Lopatcong Twp., Warren Co.	0.00		Note: Entire route is excluded	0.46
	and NJ 182 in Hackettstown Town, Warren Co.	21.10	NJ 166	between US 9 in Beachwood Boro., Ocean Co.	0.80
	Note: Entire route is excluded	21.10		and Co. 4 in Dover Twp., Ocean Co.	1.28
NJ 67	between NJ 5 in Fort Lee Boro., Bergen Co.	0.00		and between NJ 37 in Dover Twp., Ocean Co.	2.00
	and US 9W in Fort Lee Boro., Bergen Co.	1.98		and US 9 in Dover Twp., Ocean Co.	3.75
	Note: Entire route is excluded	1.98			2.23
NJ 70	between M.P. 10 in Evesham Twp., Burlington Co.	10.00	NJ 169	between New York State Line in Bayonne City, Hudson Co.	0.00
	and Rt. 541 in Medford Twp., Burlington Co.	13.90		and Rt. 501 in Bayonne City, Hudson Co.	0.80
	and between US 206 in Southampton Twp., Burlington Co.	18.60			0.80
	and Rt. 530 in Pemberton Twp., Burlington Co.	33.33	NJ 170	between US 206 in Mansfield Twp., Burlington Co.	0.00
	and between Rt. 539 & Rt. 530 in Manchester Twp., Ocean Co.	38.45		and US 206 in Mansfield Twp., Burlington Co.	0.75
	and NJ 34 & NJ 35 in Wall Twp., Monmouth Co.	59.84			0.75
		40.02	NJ 171	between Raritan River Railroad in New Brunswick City, Middlesex Co.	1.05
NJ 71	between Co. 49 in Manasquan Boro., Monmouth Co.	1.72		and Albany St. in New Brunswick City, Middlesex Co.	2.80
	and NJ 35 in Belmar Boro., Monmouth Co.	5.10			1.75
		3.38	NJ 173	between Still Valley Rd. in Greenwich Twp., Warren Co.	0.36
NJ 72	between NJ 70 in Woodland Twp., Burlington Co.	0.00		and Bethlehem Ave. in Bloomsbury Boro., Hunterdon Co.	3.35
	and Rt. 532 in Barnegat Twp., Ocean Co.	15.89		and between Co. 614 in Union Twp., Hunterdon Co.	8.16
	and between Rt. 554 in Barnegat Twp., Ocean Co. and Garden State Pkwy. in Stafford Twp., Ocean Co.	16.20		and Co. 635 in Union Twp., Hunterdon Co.	9.82
		21.20		and between Rt. 513 in Clinton Town, Hunterdon Co.	13.46
		20.89			

ROUTE	LOCATION	DISTANCE IN MILES	ROUTE	LOCATION	DISTANCE IN MILES
	and I-78 in Clinton Town, Hunterdon Co.	14.38 5.57	RT 513	between NJ 12 in Frenchtown Boro, Hunterdon Co. and School House Rd. in Alexandria Twp., Hunterdon Co.	0.00 3.73
NJ 175	between River Rd. in Ewing Twp., Mercer Co. and NJ 29 in Ewing Twp., Mercer Co.	1.78 2.92 1.14		and between NJ 31 in Clinton Twp., Hunterdon Co. and Rt. 517 in Washington Twp., Morris Co.	13.66 26.01
NJ 179	between Old York Rd. in West Amwell Twp., Hunterdon Co. and US 202 in East Amwell Twp., Hunterdon Co.	1.22 5.58 4.36		and between M.P. 26.14 in Washington Twp., Morris Co. and the Chester Twp. Corp. Line	26.14 28.55
NJ 183	between Co. 601 in Stanhope Boro., Sussex Co. and US 206 in Stanhope Boro., Sussex Co.	0.97 2.12 1.15		and between a no name road in W. Milford Twp., Passaic Co. and Co. 696 in W. Milford Twp., Passaic Co.	59.95 61.53 20.07
NJ 184	between US 9 in Woodbridge Twp., Middlesex Co. and Carlock Ave. in Perth Amboy City, Middlesex Co.	0.45 1.13 0.68	RT 514	between US 202 in E. Amwell Twp., Hunterdon Co. and Berry St. in Franklin Twp., Somerset Co.	0.00 22.74
US 202	between Co. 639 in Bridgewater Twp., Somerset Co. and I-287 in Bedminster Twp., Somerset Co. and between US 206 in Bedminster Twp., Somerset Co. and Rt. 525 in Bernardsville Boro., Somerset Co. and between Rt. 511 Alt. in Lincoln Park Boro. Morris Co. and NJ 23 in Wayne Twp., Passaic Co.	27.50 30.60 31.74 37.15 60.54 62.78 10.75		and between Mary Ave. in Woodbridge Twp., Middlesex Co. and US 9 in Woodbridge Twp., Middlesex Co.	32.96 34.36 24.14
US 206	between US 202 in Bedminster Twp., Somerset Co. and I-80 in Roxbury Twp., Morris Co. and between NJ 183 in Stanhope Boro., Sussex Co. and Rt. 521 in Montague Twp., Sussex Co.	78.90 95.30 98.70 129.50 47.20	RT 514 Spur I	between NJ 31 in Raritan Twp., Hunterdon Co. and US 202 in Raritan Twp., Hunterdon Co. and between Co. 613 in Raritan Twp., Hunterdon Co. and Rt. 514 in Raritan Twp., Hunterdon Co.	0.00 0.40 2.43 4.29 2.26
NJ 284	between Lower Unionville Rd. in Wantage Twp., Sussex Co. and Oil City Rd. in Wantage Twp., Sussex Co.	3.40 6.22 2.82	RT 515	between NJ 94 in Vernon Twp., Sussex Co. and the N.Y. State Line	10.77 13.08 2.31
NJ 444	between N.J. 36 in Tinton Falls Boro., Monmouth Co. and the N.Y. state Line in Montvale Boro., Bergen Co.	106.30 172.43 66.13	RT 517	between Rt. 523 in Tewksbury Twp., Hunterdon Co. and Rt. 513 in Washington Twp., Morris Co.	0.00 9.39 9.39
NJ 495	between Pleasant Ave. in Weehawkin Twp., Hudson Co. and the New York State Line	2.00 3.58 1.58	RT 519	between NJ 29 in Delaware Twp., Hunterdon Co. and Stover Ave. in Milford Boro, Hunterdon Co. and between Co. 771 in Frelinghuysen Twp., Hunterdon Co. and M.P. 62.65 in Fredon Twp., Sussex Co.	0.00 17.04 55.03 62.65 24.66
	Total mileage of ineligible sections:	721.42	RT 519 Spur	between M.P. 0.61 in Kingwood Twp., Hunterdon Co. and Rt. 519 in Kingwood Twp., Hunterdon Co.	0.61 4.55 3.94
(e) The following county "500" series routes are not designated as through routes for wide trucks, although some of these routes may be usable by wide trucks under the access provisions of N.J.A.C. 16:32-3.4:			RT 520	between Texas Rd. in Old Bridge Twp., Middlesex Co. and Amboy Rd. in Marlboro Twp., Monmouth Co. and between NJ 18 in Marlboro Twp., Monmouth Co. and a stream in Marlboro Twp., Monmouth Co.	2.06 3.90 4.26 6.61 4.19
ROUTE	LOCATION	DISTANCE IN MILES	RT 521	between NJ 94 in Blairstown Twp., Warren Co. and Mashipacong Rd. in Montague Twp., Sussex Co.	6.35 41.47 35.12
RT 501	between NJ 184 in Woodbridge Twp., Middlesex Co. and the N.Y. State Line	6.96 9.76 2.80	RT 521 Spur	between Rt. 521 in Sandyston Twp., Sussex Co. and a road at M.P. 2.77 Note: Entire Route is not eligible.	0.00 2.77 2.77
RT 503	between Empire Blvd. in Moonachie Twp., Bergen Co. and the S. Hackensack/Hackensack Corp. Line and between Grove St. in Hillsdale Boro., Bergen Co. and the N.Y. State Line in Montvale Twp., Bergen Co.	1.36 3.49 14.03 17.72 5.82	RT 522	between NJ 27 in S. Brunswick Twp., Middlesex Co. and Co. 679 in S. Brunswick Twp., Middlesex Co.	0.00 6.34 6.34
RT 504	between Main Rd. in Montville Twp., Morris Co. and West Parkway in Pequannock Twp., Morris Co. and between 19th St. in Paterson City, Passaic Co. and NJ 20 in Paterson City, Passaic Co.	0.00 3.54 15.14 15.55 3.95	RT 524	between Rt. 539 in Washington Twp., Mercer Co. and Clarksburg Rd. in Millstone Twp., Monmouth Co.	7.88 14.78 6.90
RT 510	between a stream in Mendham Twp., Morris Co. and Old Mendham Rd. in Morris Twp., Morris Co.	7.54 9.42 1.88	RT 524 Spur I	between Rt. 524 in Howell Twp., Monmouth Co. and Rt. 524/547 in Howell Twp., Monmouth Co. Note: Entire route is not eligible.	0.00 3.74 3.74
RT 512	between Rt. 513 in Califon Boro, Hunterdon Co. and Railroad Ave. in Far Hills Boro, Somerset Co. and between US 202 in Far Hills Boro, Somerset Co. and the Morris Co. County Line and between M.P. 24.73 in Passaic Twp., Morris Co. and M.P. 25.39 in Passaic Twp., Morris Co.	0.00 13.70 14.27 21.22 24.73 25.39 21.31	RT 525	between Logan Rd. in Bridgewater Twp., Somerset Co. and I-78 in Bernards Twp., Somerset Co. and between the Dead River in Bernards Twp., Somerset Co. and Mt. Airy Rd. in Bernards Twp., Somerset Co. and between I-287 in Bernards Twp., Somerset Co. and Rt. 510/NJ 24 in Mendham Boro, Morris Co.	1.89 6.20 6.82 8.21 9.74 17.05 13.01
			RT 526	between Village Rd. in W. Windsor Twp., Mercer Co. and Rt. 535 in W. Windsor Twp., Mercer Co.	1.80 3.33 1.53

ROUTE	LOCATION	DISTANCE IN MILES	ROUTE	LOCATION	DISTANCE IN MILES
RT 527	between M.P. 49.67 in Franklin Twp., Somerset Co. and Co. 619 in Franklin Twp., Somerset Co.	49.67 51.11 1.44		and between the Springfield Twp./Chesterfield Twp. Corp. Line, Burlington Co.	7.09 7.64
RT 527 Spur	between Rt. 512 in Bernards Twp., Somerset Co. and US 202 in Bernardsville Boro, Somerset Co.	3.92 8.55 4.63		and between M.P. 13.00 in Bordentown Twp., Burl- ington Co.	13.00 13.81
RT 529	between US 22 in Green Brook Twp., Somerset Co. and Rt. 527 in Watchung Boro, Somerset Co.	8.63 10.56 1.93	RT 548	between N.J. 47 in Maurice River Twp./Cumberland Co. and NJ 49 in Upper Twp., Cape May Co. Note: Entire route is not eligible	0.00 9.18 9.18
RT 530	between Hough St. in Pemberton Boro, Burlington Co. and Anderson St. in Pemberton Twp., Burlington Co. and between Columbus Rd. in Pemberton Twp., Burlington Co. and S. Main St. in So. Toms River Boro, Ocean Co.	6.48 7.49 12.50 33.87 22.38	RT 549	between Duquesne Blvd. in Brick Twp., Ocean Co. and NJ 70 in Brick Twp., Ocean Co. and between Dunbeck Rd. in Brick Twp., Ocean Co. and Co. 621 in Howell Twp., Monmouth Co.	8.33 8.98 12.97 16.46 4.14
RT 532	between Rt. 541 in Medford Lakes Twp., Burlington Co. and US 206 in Tabernacle Twp., Burlington Co. and between Rt. 563 in Woodland Twp., Burlington Co. and NJ 72 in Woodland Twp., Burlington Co.	0.00 4.03 15.39 19.45 8.09	RT 549 Spur I	between NJ 88 in Pt. Pleasant Boro, Ocean Co. and Rt. 549 in Brick Twp., Ocean Co. Note: Entire route is not eligible.	0.00 3.94 3.94
RT 533	between Mercer Mall in Lawrence Twp., Mercer Co. and US 206 in Princeton Twp., Mercer co. and between US 206 in Montgomery Twp., Somerset Co. and Rt. 527 in Bound Brook Boro, Somerset Co.	8.22 10.82 17.24 32.13 17.49	RT 550	between NJ 47 in Maurice River Twp., Cumberland Co. and US 9 in Dennis Twp., Cape May Co. Note: Entire route is not eligible.	0.00 15.86 15.86
RT 534	between Warwick Rd. in Deptford Twp., Gloucester Co. and the Camden Co. Line	4.09 6.89 2.80	RT 550 Spur	between NJ 47 in Dennis Twp., Cape May Co. and Rt. 550 in Dennis Twp., Cape May Co. Note: Entire route is not eligible.	0.00 4.84 4.84
RT 536	between Winslow Rd. in Monroe Twp., Gloucester Co. and Co. 706 in Winslow Twp., Camden Co. and between Co. 720 in Winslow Twp., Camden Co. and NJ 73 in Winslow Twp., Camden Co.	24.27 27.26 27.62 30.60 5.97	RT 552	between M.P. 1.48 in Upper Deerfield Twp., Cumberland Co. and M.P. 1.82 in Upper Deerfield Twp., Cumberland Co. and between Rt. 553 in Upper Deerfield Twp., Cumberland Co. and the Atlantic Co. County Line	1.48 1.82 2.89 21.28 18.73
RT 536 Spur	between US 322/NJ 42 in Monroe Twp., Gloucester Co. and Camden Co. Line and between NJ 73 in Waterford Twp., Camden Co. and the Burlington Co. Line	0.32 1.50 8.57 9.03 1.64	RT 552 Spur	between Wade Blvd. in Millville City, Cumberland Co. and Rt. 552 in Vineland City, Cumberland Co.	0.95 3.40 2.45
RT 537	between US 206 in Springfield Twp., Burlington Co. and Co. 670 in Springfield Twp., Burlington Co. and between Overbrook Dr. in Freehold Twp., Mon- mouth Co. and School Rd. East in Colts Neck Twp., Monmouth Co. and between Wayside Rd. in Tinton Falls Boro, Monmouth Co. and M.P. 62.63 in Tinton Falls Boro, Monmouth Co.	22.09 24.58 54.66 55.15 62.34 62.63 3.27	RT 553	between Cherry St. in Commercial Twp., Cumberland Co. and Church St. in Downe Twp., Cumberland Co. and between Reeves Rd. in Fairfield Twp., Cumberland Co. and Co. 705 in Upper Deerfield Twp., Cumberland Co. and between Rt. 540 in Pittsgrove Twp., Salem Co. and Monongahela Creek in Deptford Twp., Gloucester Co.	0.28 4.68 20.10 21.80 26.83 45.59 24.86
RT 538	between US 322 in Woolwich Twp., Gloucester Co. and Rt. 581 in S. Harrison Twp., Gloucester Co. and between the Elk Twp./Franklin Twp. Corp. Line Gloucester Co. and US 322 in Monroe Twp., Gloucester Co.	0.00 6.12 14.17 25.01 16.96	RT 557	between NJ 47 in Dennis Twp., Cape May Co. and NJ 50 in Estell Manor Twp., Atlantic Co.	0.00 12.72 12.72
RT 539	between the Monmouth Co./Mercer Co. County Line and Perrineville Rd. in E. Windsor Twp., Mercer Co.	48.36 49.38 1.02	RT 561	between M.P. 17.73 in Mullica Twp., Atlantic Co. and US 30 in Hammonton Twp., Atlantic Co. and NJ 73 in Winslow Twp., Camden Co. and Florence Ave. in Berlin Boro, Camden Co.	17.73 20.28 32.49 35.29 5.35
RT 543	between Cedar Lane in Florence Twp., Burlington Co. and Co. 628 in Mansfield Twp., Burlington Co.	21.93 22.97 1.04	RT 561	between M.P. 0.00 in Galloway Twp., Atlantic Co. and Rt. 575 in Galloway Twp., Atlantic Co. and between Old Rt. 561 Alt. in Galloway Twp., Atlantic Co. and Co. 614 in Galloway Twp., Atlantic Co.	0.00 6.02 7.15 10.23 9.10
RT 545	between Co. 667 in Pemberton Twp., Burlington Co. and the Pemberton Twp./New Hanover Twp. Corp. Line, Burlington Co.	0.28 1.55	RT 561 Spur	between US 322 in Folsom Boro, Atlantic Co. and the Atlantic City Expressway in Winslow Twp., Camden Co. Note: Entire route is not eligible.	0.00 6.02
			RT 565	between US 206 in Frankfort Twp., Sussex Co. and NJ 23 in Wantage Twp., Sussex Co.	0.00 9.40 9.40

ROUTE	LOCATION	DISTANCE IN MILES
RT 567	between Rt. 514 in Hillsborough Twp., Somerset Co.	0.00
	and M.P. 3.66 in Branchburg Twp., Somerset Co.	3.66
		3.66
RT 569	between Rt. 533 in Lawrence Twp., Mercer Co.	0.00
	and US 206 in Lawrence Twp., Mercer Co.	1.98
		1.98
RT 571	between Rt. 524 in Millstone Twp., Monmouth Co.	26.86
	and S. Rochdale Rd. in Roosevelt Boro, Monmouth Co.	29.12
		2.26
RT 575	between Rt. 561 Alt. in Galloway Twp., Atlantic Co.	16.78
	and US 9 in Port Republic Twp., Atlantic Co.	21.20
		4.42
RT 577	between NJ 24 in Springfield Twp., Union Co.	3.21
	and Bleeker St. in Millburn Twp., Essex Co.	3.73
	and between the S. Orange/W. Orange Corp. Line, Essex Co.	8.05
	and Gregory Pl. in W. Orange Town, Essex Co.	8.98
RT 579	between Mt. Airy Rd. in Hopewell Twp., Mercer Co.	8.93
	and Rt. 523 in Raritan Twp., Hunterdon Co.	19.25
	and between NJ 12 in Raritan Twp., Hunterdon Co.	22.05
	and Co. 615 in Alexandria Twp., Hunterdon Co.	27.49
	and between Co. 614 in Alexandria Twp., Hunterdon Co.	33.48
	and NJ 173 in Greenwich Twp., Warren Co.	37.30
	19.58	
	Total 500 Route Mileage that is not eligible.	447.36
	Total 500 Route Mileage that is eligible.	1683.81

(f) The following county "600" series roads are designed as through routes for wide trucks:

ROUTE	LOCATION	DISTANCE IN MILES
Co. 601	between US 9 in Middle Twp., Cape May Co.	0.00
	and Co. 619 in Avalon Boro., Cape May Co.	3.80
		3.80
Co. 606	between US 206 in Trenton, Mercer Co.	0.00
	and NJ 33 in Hamilton Twp., Mercer Co.	3.66
		3.66
Co. 607	between Long Beach Twp./Beach Haven Boro.C/L, Ocean Co.	1.22
	and 4th St. in Long Beach Twp., Ocean Co.	17.98
		16.76
Co. 609	between Rt. 553 in Fairfield Twp., Cumberland Co.	0.00
	and NJ 49 in Bridgeton City, Cumberland Co.	2.93
		2.93
Co. 609	between Rt. 527 in New Brunswick City, Middlesex Co.	0.00
	and Rt. 514 Spur in Piscataway Twp., Middlesex Co.	0.57
		0.57
Co. 610	between Rt. 539 in Barnegat Twp., Ocean Co.	0.00
	and NJ 72 in Barnegat Twp., Ocean Co.	2.15
		2.15
Co. 615	between Co. 673 in Sayreville Boro, Middlesex Co.	10.66
	and NJ 35 in South Amboy City, Middlesex Co.	12.17
		1.51
Co. 616	between NJ 35 in Ocean Twp., Monmouth Co.	0.00
	and NJ 71 in Asbury Park City, Monmouth Co.	1.25
		1.25
Co. 618	between Rt. 551 in Carney's Point Twp., Salem Co.	0.00
	and US 130 in Carney's Point Twp., Salem Co.	0.91
		0.91
Co. 619	between Middle Twp./Stone Harbor C/L, Cape May Co.	2.83
	and Co. 623 in Ocean City, Cape May Co.	19.83
		17.00
Co. 623	between US 9 in Upper Twp., Cape May Co.	0.00
	and Co. 619 in Ocean City, Cape May Co.	2.03
		2.03

ROUTE	LOCATION	DISTANCE IN MILES
Co. 625	between US 9 in Dennis Twp., Cape May Co.	0.00
	and Co. 619 in Sea Isle City, Cape May Co.	2.78
		2.78
Co. 629	between NJ 152 in Longport Boro, Atlantic Co.	0.00
	and US 40/322 in Atlantic City, Atlantic Co.	5.40
		5.40
Co. 629	between US 9 in Middle Twp., Cape May Co.	0.00
	and Co. 619 in Stone Harbor, Cape May Co.	4.20
		4.20
Co. 638	between NJ 18 in Tinton Falls Boro, Monmouth Co.	1.40
	and Rt. 547 in Tinton Falls Boro, Monmouth Co.	2.24
		0.84
Co. 649	between NJ 24 in Milburn Twp., Essex Co.	0.00
	and Rt. 508 in Livingston Twp., Essex Co.	4.20
		4.20
Co. 656	between Co. 623 in Ocean City, Cape May Co.	0.00
	and 4th St. in Ocean City, Cape May Co.	3.24
		3.24
Co. 657	between US 9 in Stone Harbor Boro, Cape May Co.	0.00
	and NJ 47 in Middle Twp., Cape May Co.	5.86
		5.86
Co. 673	between Rt. 535 in Sayreville Boro, Middlesex Co.	0.00
	and Co. 615 in Sayreville Boro, Middlesex Co.	0.61
		0.61
	Total 600 Route Mileage Eligible	79.52

(g) It is anticipated that changes in the system of through routes set forth in this section will be made from time to time in amendments to these rules based on:

1. Revised information on the geometric characteristics of specific roadways;
2. Roadway improvements;
3. Engineering investigations;
4. Improved knowledge of the operating characteristics of wide trucks, or a combination of these (and possibly other) factors.

(h) Anyone wishing to provide the Department with information bearing on the possible inclusion or exclusion of a particular roadway should submit that information in writing to the Chief, Bureau of Traffic Engineering, New Jersey Department of Transportation, 1035 Parkway Avenue, Trenton, New Jersey 08625.

16:32-3.4 Access from through routes

(a) Unless otherwise prohibited, wide trucks are permitted to travel up to two roadway miles from any through route designated in N.J.A.C. 16:32-3.3 for purposes of pickup and delivery and for access to facilities providing food, fuel, repairs and rest. Truck movements which are made under the authority of this subsection must conform to any local "truck route" restrictions which have been adopted and posted as provided in N.J.S.A. 40:67-16.1 et seq.

(b) Unless otherwise prohibited, wide trucks in the following categories are permitted free access to points of loading and unloading:

1. Household goods carriers;
2. Truck tractor—semitrailer combinations in which the semitrailer has a length not to exceed 28 1/2 feet and which generally operates as part of a double-trailer truck combination.

16:32-3.5 Local routes

(a) "Local routes," as used in this section, means streets under the jurisdiction of a municipality and roads under the jurisdiction of a county, except county "500" or "600" series routes.

(b) Wide trucks may use local routes for all purposes except where prohibited under this subsection (c) below by the county or municipality having jurisdiction. Truck movements which are made under the authority of this subsection must conform to any local "truck route" restrictions which have been adopted and posted as provided in N.J.S.A. 40:67-16.1 et seq. The Department encourages the utilization of the "truck route" designation and continues to welcome requests for approval of "truck route" designation ordinances so long as the proposed designation applies to all trucks over four tons.

(c) A municipality or county, when it determines it to be within the interests of public safety and welfare, may limit the use of certain local routes to travel by a certain class of vehicles 96" wide by adopting an ordinance pursuant to N.J.S.A. 39:4-197(1)(b) or N.J.S.A. 39:4-201, using the criteria described in (d) below. Any ordinance so adopted shall be submitted to the Commissioner of Transportation for approval. Ordinances should be submitted to the Chief, Bureau of Traffic Engineering, New Jersey

Department of Transportation, 1035 Parkway Avenue, Trenton, New Jersey 08625. The posting of signs under such an ordinance is the responsibility of the county or municipality and such signs must conform with specifications prescribed by the Department.

(d) The Department will review any ordinance adopted pursuant to subsection (c), as well as evidence and data submitted in conjunction with the ordinance, to determine whether the ordinance is based on an adequate engineering analysis of the roadways under the jurisdiction of the governing body enacting the ordinance. Criteria which the Department may use in evaluating the ordinance and supporting evidence and data include: prevailing speed on the roadway, lane widths, shoulders (marked or unmarked), parking practices, the presence of trucks already on the roadway, the availability of alternate routes, and the need for trucks to use that roadway to service the facilities which may be in existence. The Department will give substantial weight to local knowledge of roadways.

(e) In evaluating lane width information, the Department will use the following general guidelines, which are subject to modification in specific

situations.

1. There should be no restrictions imposed on roadways that have travel lane widths of 12 feet or more. Wide trucks should be permitted on 11 to 12 foot wide travel lanes on roadways with posted speeds of 40 to 50 m.p.h. Wide trucks should be permitted to use 10 to 11 foot wide travel lanes on roads with posted speeds of 35 m.p.h. and below. Wide trucks should be permitted on roadways with travel lanes less than 10 feet in width only with special permission.

2. An entire roadway or segment of roadway should not be restricted if only a small percentage of that roadway has narrow lanes or if a narrow bridge exists. It should be noted that sufficient varied types of warning signs are available in the Manual of Uniform Traffic Control Devices to properly notify motorists of this type of roadway condition. Only after a study shows that more than 10 percent of the entire roadway segment under review has lane widths below those previously described should consideration be given to restricting the vehicular width.

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# RULE ADOPTIONS

## ADMINISTRATIVE LAW

(a)

### OFFICE OF ADMINISTRATIVE LAW

#### Uniform Administrative Procedure Rules of Practice Rules of Special Applicability Special Education Hearings: Stay of Implementation Adopted Amendment: N.J.A.C. 1:6A-5.4

Proposed: April 7, 1986 at 18 N.J.R. 584(a).  
Adopted: May 8, 1986 by Ronald I. Parker, Acting Director,  
Office of Administrative Law.  
Filed: May 8, 1986 as R.1986 d.195, **without change**.  
Authority: N.J.S.A. 52:14F-5(e), (f) and (g).  
Effective Date: June 2, 1986.  
Expiration Date: January 1, 1988.

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

**No comments received.**

**Full text** of the adoption follows.

#### 1:6A-5.4 Stay of implementation

(a) (No change.)  
(b) Where a party intends to appeal the decision and prior to the filing of a notice of appeal or a notice of motion for leave to appeal, the party may request a stay of implementation of the decision. The judge may stay implementation of the decision if he or she finds that immediate implementation would be likely to result in serious harm to the pupil or other pupils in the event that the decision is rejected or modified upon appeal.

## AGRICULTURE

### DIVISION OF PLANT INDUSTRY

(b)

#### Insect Control

#### Africanized Honeybee

#### Adopted New Rule: N.J.A.C. 2:22-3.1

Proposed: April 7, 1986 at 18 N.J.R. 585(a).  
Adopted: May 8, 1986 by Arthur R. Brown, Jr., Secretary,  
Department of Agriculture.  
Filed: May 12, 1986 as R.1986 d.200, **without change**.  
Authority: N.J.S.A. 4:6-1 et seq., specifically 4:6-20.  
Effective Date: June 2, 1986.  
Expiration Date: January 18, 1987.

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

**No comments received.**

**Full text** of the adoption follows.

#### SUBCHAPTER 3. AFRICANIZED HONEYBEES

#### 2:22-3.1 Africanized Honeybee; prohibitions

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

in the determination of the Department of Agriculture, presents a risk of the spread of the Africanized Honeybee, shall be prohibited.

(c)

#### Disease of Bees

#### Shipment of Bees into New Jersey

#### Adopted New Rules: N.J.A.C. 2:24-1.1, 1.2 and 1.3 Adopted Amendments: N.J.A.C. 2:24-1.4 and 1.5 Adopted Repeal: N.J.A.C. 2:24-1.3 and 1.6

Proposed: April 7, 1986 at 18 N.J.R. 586(a).  
Adopted: May 12, 1986 by Arthur R. Brown, Jr., Secretary,  
Department of Agriculture.  
Filed: May 12, 1986 as R.1986 d.199, **without change**.  
Authority: N.J.S.A. 4:6-1 et seq., specifically 4:6-20.  
Effective Date: June 2, 1986.  
Expiration Date: February 11, 1990.

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

**No comments received.**

**Full text** of the adoption follows.

#### SUBCHAPTER 1. SHIPMENT OF BEES INTO NEW JERSEY

#### 2:24-1.1 Regulated articles

Bees of the genus *Apis*, in any life stage, fresh or frozen bee sperm, equipment, shipping and storage containers that have been used at an apiary, unprocessed comb, vehicles that have been used to carry regulated articles other than fresh or frozen sperm, and any other product, article or means of conveyance of any character whatsoever, which when determined by the Department of Agriculture presents the risk of the spread of American foulbrood, European foulbrood, tracheal mites, varroa mites, or any other contagious and infectious disease or condition as determined by the Department of Agriculture, shall be permitted importation only if in compliance with N.J.A.C. 2:24-1.2 through 2:24-1.5.

#### 2:24-1.2 Entities with apiary inspection services

(a) No colony, nucleus of bees, used apiary supplies and apparatus coming from a state or country having an apiary inspection service shall be permitted into New Jersey unless accompanied by a valid certificate of inspection from the exporting state or country stating that each colony or supply is free from the conditions listed in N.J.A.C. 2:24-1.1 and that the bees are, in fact, honeybees (*Apis mellifera*) and not Africanized bees (*Apis mellifera scutellata*) and free from the characteristics identifiable therewith in accordance with N.J.A.C. 2:22-3.1

(b) No certificate of inspection shall be honored unless the complete brood nest inspection was made 30 days prior to shipment and tracheal mite inspection was made 90 days prior to shipment from the site the bees or suppliers were immediately prior to shipment into New Jersey.

(c) Each colony must be marked by a duly appointed inspector of the state of origin. Such marks must be changed annually.

(d) No certificate of inspection shall be honored on honeybees from operations containing any infected colonies or from an infected area as determined by the New Jersey Department of Agriculture. If an examination of the bees is undertaken pursuant to N.J.A.C. 2:22-3.1, the certificate of inspection will not be honored unless the findings of the examination are supplied.

(e) No certificate shall be honored unless the sampling procedure is done in accordance to a sampling standard of the industry, or U.S. Department of Agriculture, and recognized by the New Jersey Department of Agriculture.

(f) The certificate of inspection must be mailed and received prior to entrance into New Jersey by the:

Director, Division of Plant Industry  
New Jersey Department of Agriculture  
CN 330

Trenton, New Jersey 08625

#### 2:24-1.3 Queen or package bees

All apiaries shipping queen or package bees into New Jersey shall have recorded with the New Jersey Department of Agriculture, a valid certificate in accordance with N.J.A.C. 2:24-1.2.

2:24-1.4 Transporter

No colony or nucleus of bees of used apiary supplies coming from a state or country having apiary inspection service shall be accepted by any person or common carrier for transportation to a point within this state unless accompanied by a valid certificate of inspection stating that each colony or equipment is free of the conditions listed in N.J.A.C. 2:24-1.1 and 2:24-1.2. A copy of the certificates will be carried by the transporter and shown to the grower.

2:24-1.5 Entities without apiary inspection services

A colony, nucleus of bees or used apiary equipment coming into New Jersey from a state or country having no apiary inspection service shall be immediately reported by the consignee and by the person or carrier delivering them in this state; giving the name and address of the consignee to the Department of Agriculture, which shall cause the shipment to be inspected at such time as shall be prudent and proper after examination and approval by the Department of Agriculture as to the freedom from the conditions listed in N.J.A.C. 2:24-1.1 and 2:24-1.2.

2:24-1.6 (Reserved)

**DIVISION OF REGULATORY SERVICES**

**(a)**

**Commercial Fertilizer and Soil Conditioner  
Update Commercial Values**

**Adopted Amendments: N.J.A.C. 2:69-1.11**

Proposed: April 7, 1986 at 18 N.J.R. 588(a).

Adopted: May 8, 1986 by Arthur R. Brown, Jr., Secretary,  
Department of Agriculture.

Filed: May 12, 1986 as R.1986 d.198, **without change.**

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

Effective Date: June 2, 1986.

Expiration Date: October 3, 1988.

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

**No comments received.**

**Full text** of the adoption follows.

2:69-1.11 Commercial values

(a) (No change.)

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

**(b)**

**DIVISION OF RURAL RESOURCES**

**State Agriculture Development Committee  
Creation of Farmland Preservation Programs**

**Adopted Amendment: N.J.A.C. 2:76-3.12**

Proposed: March 17, 1986 at 18 N.J.R. 508(a).

Adopted: May 8, 1986 by Arthur R. Brown, Chairman, State  
Agricultural Development Committee.

Filed: May 12, 1986 as R.1986 d.196, **with substantive and  
technical changes** not requiring additional public notice and  
comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 4:1C-5f; 4:1C-7a and 4:1C-24.

Effective Date: June 2, 1986.

Expiration Date: August 29, 1989.

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

The following comments were submitted by the Monmouth County  
Agriculture Development Board:

COMMENT: The word "premises" should be defined in the deed of  
easement so as to explain the relationship of the deed's restrictions to  
any "exceptions" (that is, land excluded from the program) on the farm  
unit. It is our understanding that the SADC intends to allow the building  
of one new residential unit on farms where none currently exists. It is  
also our understanding that the "excepting" of the land below an existing  
residential unit would not entitle the owner to erect a second house on

the farm unit of which the exception is (or was) a part. The deed should  
make clear the SADC's intention.

The Board recommends that the SADC require the explicit approval  
of the SADC and County Agricultural Development Board (CADB) for  
all exceptions.

RESPONSE: The Committee had discussed the issue of defining the  
word "premises" during the drafting of the proposed amendments, but  
determined that it was clear that the premises included the land(s) under  
easement. Recordable documents adopted by the SADC which in-  
corporate the deed restrictions clearly describe the premises as the area  
identified by the legal metes and bounds description.

In order to clarify this point, the Committee has incorporated the  
definition of the word "premises" in N.J.A.C. 2:76-3.2 and N.J.A.C.  
2:76-4.2.

"Premises" means the property under easement which is defined by  
the legal metes and bounds description contained in the Agreement.

The Board's comment regarding CADB and SADC approval of all  
exceptions can occur in two stages. Initially, when a landowner is applying  
for enrollment in an eight-year program or applying to sell a development  
easement, the board and Committee are responsible for considering the  
impact the proposed "exception" would have on the continued agricul-  
tural use of the land.

The second stage of review and approval of any exception occurs when  
a landowner is requesting the approval of the board and Committee for  
constructing agricultural labor housing or constructing a new residential  
unit to replace an existing unit.

In order to be consistent with requiring board and Committee approval  
of all exceptions, the Committee has amended sections N.J.A.C.  
2:76-3.12(a)11 and N.J.A.C. 2:76-4.11(a)11 to require board and Commit-  
tee approval for the construction of a residential unit on the premises  
where no residential unit currently exists. In addition, the approval of  
any exception shall only be granted upon the determination that the  
proposed construction would have a positive impact on the continued  
use of the premises for agricultural production.

COMMENT: The SADC should investigate the feasibility and legality  
of wording the deed in such a way that lands subject to a recorded deed  
would always be bound by the most recently adopted restrictions of the  
SADC at the time of recording and, hence, benefit from the accumulated  
wisdom of the SADC and CADBs reflected in future amendments of the  
restrictions.

The new regulations should also note the applicability of the restric-  
tions to applications still under review or to approved applications where  
no deed has been recorded. May applicants who prefer the new restric-  
tions simply substitute the new restrictions for the old, or must a new  
application be filed and, where applicable, a new hearing held?

RESPONSE: When a landowner agrees to enter his or her land into  
an eight-year program or has sold a development easement on the land,  
he or she has agreed to the terms and conditions of the deed restrictions  
to be placed on the land. What appears to be an improvement with respect  
to the SADC and the CADB may not be acceptable to the landowner.

It is possible that the restrictions could become more restrictive in the  
future. In that case, the landowner would not want to be bound to  
something that he or she did not agree to when entering the eight-year  
program or when selling a development easement. The Committee wants  
to assure landowners participating in the program that the deed restric-  
tions will not be amended during the term agreed upon by all parties.

The second portion of this comment is a policy issue which does not  
affect the proposed rule amendments. The Committee has directed staff  
to resolve any questions.

COMMENT: The subdivision restrictions proposed for PDE in  
N.J.A.C. 2:76-6.15(a)(13) should also be included in the deeds of easement  
for MAFPPs. However, paragraph 6.15(a)(13)(ii), which now reads "The  
subdivision shall be consistent with recommended agricultural *manage-  
ment practices*", should be changed to read "recommended *current and  
future agricultural uses*" for both MAFPP and PDE.

RESPONSE: In response to the first part of this comment, the Commit-  
tee has determined that lands in eight-year programs should not be bound  
by the subdivision restriction as identified in N.J.A.C. 2:76-6.15. N.J.A.C.  
2:76-3.5(c) already requires a landowner in a farmland preservation pro-  
gram who is intending to subdivide the lands to advise the CADB prior  
to initiating such action. A landowner intending to subdivide lands in  
a municipally approved program must receive municipal planning board  
approval. Since the municipality is party to the Agreement, the munici-  
pality can alert the CADB that such action is being initiated. In either  
case, the landowner is required to retain the land in agricultural pro-  
duction for the eight year period regardless of the land being subdivided.

In response to the second part of the comment, the Committee disagrees with the Board's proposed amendment. The Committee should not be in the position of recommending the current and future agricultural use of lands in eight-year programs or on lands where a development easement was purchased. Instead, the Committee will be required to review the proposed subdivision on the basis of whether or not the subdivided tract can support the intended use and needed agricultural infrastructure as defined by recommended agricultural management practices.

COMMENT: The Board believes that the County Board and any citizen of the State of New Jersey should be able to institute suit to enforce the provisions of the deed restrictions. Citizens should be required to provide written notice of their intent to sue to the County Board and State Committee (by certified mail) at least 30 days prior to instituting suit in order to allow the possibility of mediation.

RESPONSE: The Committee disagrees with the CADB's request to permit any citizen of the State to institute a suit to enforce the provisions of the deed restrictions. N.J.S.A. 4:1C-33 clearly states that only the Committee or the CADB is authorized to institute, in the name of the State, any proceedings to enforce the conditions and restrictions on lands where a development easement has been purchased. A citizen can notify the CADB of a potential violation, but any action requiring enforcement of the restrictions must be done in accordance with the statutory provisions.

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

#### 2:76-3.2 Definitions

**\*\*Premises\*\* means the property under easement which is defined by the legal metes and bounds description contained in the Agreement.\***

...

#### 2:76-3.12 Deed restrictions

(a) The following deed restrictions shall be agreed to by the board and the landowner(s) when a farmland preservation program is adopted and shall run with the land:

"Grantor promises that the Premises shall at all times for the term of the agreement be owned, used and conveyed subject to:

"1. The Premises shall be retained in agricultural use and production unless the land is withdrawn from the program in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, and all other rules promulgated by the State Agriculture Development Committee, (hereinafter Committee). Agricultural use shall mean the use of land for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing.

"2. Grantor shall comply with agricultural management practices recommended by the Committee, insofar as those practices are applicable to the land and the type of farming conducted on the Premises.

"3. The land and its buildings which are affected hereby may be sold collectively or individually for continued agricultural production and related uses as defined in Section 1, of this agreement.

"4. No sand, gravel, loam, rock, or other minerals shall be deposited on or removed from the Premises excepting only those materials required for the agricultural purpose for which the land is being used. Grantor retains and reserves for himself all oil, gas, and other mineral rights in the land underlying the Premises, provided that any prospective drilling and/or mining will be done by slant from adjacent property or in any other manner which will not materially affect the agricultural operation.

"5. No dumping or placing of trash or waste material shall be permitted on the Premises unless expressly recommended by the Committee as an agricultural management practice.

"6. No activity shall be permitted on the Premises which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor shall any other activity be permitted which would be detrimental to the continued agricultural use of the land.

"7. Grantor may use the Premises to derive income from recreational activities, so long as such activities do not interfere with the actual use of the land for agricultural production.

"8. Nothing shall be construed to convey a right to the public of access to or use of the Premises except as stated in this agreement or as otherwise provided by law.

"9. Nothing shall impose upon the Grantor any duty to maintain the Premises in any particular state, or condition, except as provided for in this agreement.

"10. Grantor may use, maintain, and improve existing buildings on the Premises for agricultural, residential and recreational uses subject to the following conditions:

i. Improvements to agricultural buildings shall be consistent with agricultural uses;

ii. Improvements to residential buildings shall be consistent with agricultural or single and extended family residential uses. Improvements to residential buildings for the purpose of housing agricultural labor are permitted only if the housed agricultural labor is employed on the Premises; and

iii. Improvements to recreational buildings shall be consistent with agricultural or recreational uses.

"11. Grantor may construct any new buildings for agricultural purposes. The construction of any new building which shall serve as a residential use, regardless of its purpose, shall be prohibited except as follows:

i. To provide structures for housing of agricultural labor employed on the Premises \*[only with the approval of the Grantee and the Committee]\*;

ii. To construct one new permanent single family residential unit only if the Premises does not contain at least one permanent residential building; and

iii. To construct a single family residential building anywhere on the Premises in order to replace any existing single family residential unit \*[only with the approval of the Grantee and Committee]\*.

**\*(1) The above exceptions shall not be permitted unless jointly approved in writing by the Grantee and the Committee. Approval for such exceptions shall only be granted upon the determination that the proposed construction would have a positive impact on the continued use of the Premises for agricultural production.\***

"12. Nothing in this agreement shall be deemed to restrict the right of Grantor, to maintain all roads and trails existing upon the Premises as of the date of this agreement. Grantor shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, buildings, or reservoirs as may be necessary.

"13. In the event of any violation of the terms and conditions of this agreement, Grantee or the Committee may institute, in the name of the State of New Jersey, any proceedings to enforce these terms and conditions including the institution of suit to enjoin such violations and to require the restoration of the Premises to its prior condition. Grantee or the Committee do not waive or forfeit the right to take any other legal action necessary to insure compliance with the terms, conditions, and purposes of this agreement by a prior failure to act.

"14. It is understood that this agreement imposes no obligation or restriction on the Grantor's use of the Premises except as specifically set forth in this agreement.

"15. This agreement shall be binding upon the Grantor and upon the Grantee.

"16. Throughout this agreement, the singular shall include the plural, and the masculine shall include the feminine, unless the text indicates otherwise.

"17. The word 'Grantor' shall mean any and all persons who lawfully succeed to the rights and responsibilities of the Grantor, including but not limited to his heirs, executors, administrators, personal or legal representatives, successors and assigns.

"18. Wherever in this agreement any party shall be designated or referred to by name or general reference, such designation shall have the same effect as if the words 'heirs, executors, administrators, personal or legal representatives, successors and assigns' have been inserted after each and every designation."

(b) The Committee or landowner may require more stringent deed restrictions consistent with the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32.

(c) The deed restrictions contained in (a) above shall be liberally construed to effectuate the purpose and intent of the Farmland Preservation Bond Act, P.L. 1981, c.276, and the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32.

(a)

**State Agriculture Development Committee  
Creation of Municipally Approved Farmland  
Preservation Programs****Adopted Amendment: N.J.A.C. 2:76-4.11**

Proposed: March 17, 1986 at 18 N.J.R. 511(a).

Adopted: May 8, 1986 by Arthur R. Brown, Chairman, State  
Agricultural Development Committee.Filed: May 12, 1986 as R.1986 d.197, **with substantive and  
technical changes** not requiring additional public notice and  
comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 4:1C-5f; 4:1C-7a and 4:1C-24.

Effective Date: June 2, 1986.

Expiration Date: August 29, 1989.

**Summary of Public Comments and Agency Responses:**The following comments were submitted by the Monmouth County  
Agriculture Development Board:

COMMENT: The word "premises" should be defined in the deed of easement so as to explain the relationship of the deed's restrictions to any "exceptions" (that is, land excluded from the program) on the farm unit. It is our understanding that the SADC intends to allow the building of one new residential unit on farms where none currently exists. It is also our understanding that the "excepting" of the land below an existing residential unit would not entitle the owner to erect a second house on the farm unit of which the exception is (or was) a part. The deed should make clear the SADC's intention.

The Board recommends that the SADC require the explicit approval of the SADC and County Agricultural Development Board (CADB) for all exceptions.

RESPONSE: The Committee had discussed the issue of defining the word "premises" during the drafting of the proposed amendments, but determined that it was clear that the premises included the land(s) under easement. Recordable documents adopted by the SADC which incorporate the deed restrictions clearly describe the premises as the area identified by the legal metes and bounds description.

In order to clarify this point, the Committee has incorporated the definition of the word "premises" in N.J.A.C. 2:76-3.2 and N.J.A.C. 2:76-4.2.

"Premises" means the property under easement which is defined by the legal metes and bounds description contained in the Agreement.

The Board's comment regarding CADB and SADC approval of all exceptions can occur in two stages. Initially, when a landowner is applying for enrollment in an eight-year program or applying to sell a development easement, the board and Committee are responsible for considering the impact the proposed "exception" would have on the continued agricultural use of the land.

The second stage of review and approval of any exception occurs when a landowner is requesting the approval of the board and Committee for constructing agricultural labor housing or constructing a new residential unit to replace an existing unit.

In order to be consistent with requiring board and Committee approval of all exceptions, the Committee has amended sections N.J.A.C. 2:76-3.12(a)11 and N.J.A.C. 2:76-4.11(a)11 to require board and Committee approval for the construction of a residential unit on the premises where no residential unit currently exists. In addition, the approval of any exception shall only be granted upon the determination that the proposed construction would have a positive impact on the continued use of the premises for agricultural production.

COMMENT: The SADC should investigate the feasibility and legality of wording the deed in such a way that lands subject to a recorded deed would always be bound by the most recently adopted restrictions of the SADC at the time of recording and, hence, benefit from the accumulated wisdom of the SADC and CADBs reflected in future amendments of the restrictions.

The new regulations should also note the applicability of the restrictions to applications still under review or to approved applications where no deed has been recorded. May applicants who prefer the new restrictions simply substitute the new restrictions for the old, or must a new application be filed and, where applicable, a new hearing held?

RESPONSE: When a landowner agrees to enter his or her land into an eight-year program or has sold a development easement on the land,

he or she has agreed to the terms and conditions of the deed restrictions to be placed on the land. What appears to be an improvement with respect to the SADC and the CADB may not be acceptable to the landowner.

It is possible that the restrictions could become more restrictive in the future. In that case, the landowner would not want to be bound to something that he or she did not agree to when entering the eight-year program or when selling a development easement. The Committee wants to assure landowners participating in the program that the deed restrictions will not be amended during the term agreed upon by all parties.

The second portion of this comment is a policy issue which does not affect the proposed rule amendments. The Committee has directed staff to resolve any questions.

COMMENT: The subdivision restrictions proposed for PDE in N.J.A.C. 2:76-6.15(a)(13) should also be included in the deeds of easement for MAFPPs. However, paragraph 6.15(a)(13)(ii), which now reads "The subdivision shall be consistent with recommended agricultural *management practices*"; should be changed to read "recommended *current and future agricultural uses*" for both MAFPP and PDE.

RESPONSE: In response to the first part of this comment, the Committee has determined that lands in eight-year programs should not be bound by the subdivision restriction as identified in N.J.A.C. 2:76-6.15. N.J.A.C. 2:76-3.5(c) already requires a landowner in a farmland preservation program who is intending to subdivide the lands to advise the CADB prior to initiating such action. A landowner intending to subdivide lands in a municipally approved program must receive municipal planning board approval. Since the municipality is party to the Agreement, the municipality can alert the CADB that such action is being initiated. In either case, the landowner is required to retain the land in agricultural production for the eight year period regardless of the land being subdivided.

In response to the second part of the comment, the Committee disagrees with the Board's proposed amendment. The Committee should not be in the position of recommending the current and future agricultural use of lands in eight-year programs or on lands where a development easement was purchased. Instead, the Committee will be required to review the proposed subdivision on the basis of whether or not the subdivided tract can support the intended use and needed agricultural infrastructure as defined by recommended agricultural management practices.

COMMENT: The Board believes that the County Board and any citizen of the State of New Jersey should be able to institute suit to enforce the provisions of the deed restrictions. Citizens should be required to provide written notice of their intent to sue to the County Board and State Committee (by certified mail) at least 30 days prior to instituting suit in order to allow the possibility of mediation.

RESPONSE: The Committee disagrees with the CADB's request to permit any citizen of the State to institute a suit to enforce the provisions of the deed restrictions. N.J.S.A. 4:1C-33 clearly states that only the Committee or the CADB is authorized to institute, in the name of the State, any proceedings to enforce the conditions and restrictions on lands where a development easement has been purchased. A citizen can notify the CADB of a potential violation, but any action requiring enforcement of the restrictions must be done in accordance with the statutory provisions.

TECHNICAL AMENDMENT: The language requiring municipal governing body approval in N.J.A.C. 2:76-4.11(a) appears in the current rule but was omitted in the original proposal. This language has been added.

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

## 2:76-4.2 Definitions

\*"Premises" means the property under easement which is defined by the legal metes and bounds description contained in the Agreement.\*

...

## 2:76-4.11 Deed restrictions

(a) The following deed restrictions shall be agreed to by the board \*, the municipal governing body\* and the landowner(s) when a \*municipally approved\* farmland preservation program is adopted and shall run with the land:

"Grantor promises that the Premises shall at all times for the term of the agreement be owned, used and conveyed subject to:

"1. The Premises shall be retained in agricultural use and production unless the land is withdrawn from the program in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, and all other rules promulgated

by the State Agriculture Development Committee, (hereinafter Committee). Agricultural use shall mean the use of land for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing.

"2. Grantor shall comply with agricultural management practices recommended by the Committee, insofar as those practices are applicable to the land and the type of farming conducted on the Premises.

"3. The land and its buildings which are affected hereby may be sold collectively or individually for continued agricultural production and related uses as defined in Section 1, of this agreement.

"4. No sand, gravel, loam, rock, or other minerals shall be deposited on or removed from the Premises excepting only those materials required for the agricultural purpose for which the land is being used. Grantor retains and reserves for himself all oil, gas, and other mineral rights in the land underlying the Premises, provided that any prospective drilling and/or mining will be done by slant from adjacent property or in any other manner which will not materially affect the agricultural operation.

"5. No dumping or placing of trash or waste material shall be permitted on the Premises unless expressly recommended by the Committee as an agricultural management practice.

"6. No activity shall be permitted on the Premises which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor shall any other activity be permitted which would be detrimental to the continued agricultural use of the land.

"7. Grantor may use the Premises to derive income from recreational activities, so long as such activities do not interfere with the actual use of the land for agricultural production.

"8. Nothing shall be construed to convey a right to the public of access to or use of the Premises except as stated in this agreement or as otherwise provided by law.

"9. Nothing shall impose upon the Grantor any duty to maintain the Premises in any particular state, or condition, except as provided for in this agreement.

"10. Grantor may use, maintain, and improve existing buildings on the Premises for agricultural, residential and recreational uses subject to the following conditions:

i. Improvements to agricultural buildings shall be consistent with agricultural uses;

ii. Improvements to residential buildings shall be consistent with agricultural or single and extended family residential uses. Improvements to residential buildings for the purpose of housing agricultural labor are permitted only if the housed agricultural labor is employed on the Premises; and

iii. Improvements to recreational buildings shall be consistent with agricultural or recreational uses.

"11. Grantor may construct any new buildings for agricultural purposes. The construction of any new building which shall serve as a residential use, regardless of its purpose, shall be prohibited except as follows:

i. To provide structures for housing of agricultural labor employed on the Premises \*[only with the approval of the Grantee and the Committee]\*;

ii. To construct one new permanent single family residential unit only if the Premises does not contain at least one permanent residential building; and

iii. To construct a single family residential building anywhere on the Premises in order to replace any existing single family residential unit \*[only with the approval of the Grantee and Committee]\*.

**\*(1) The above exceptions shall not be permitted unless jointly approved in writing by the Grantee and the Committee. Approval for such exceptions shall only be granted upon the determination that the proposed construction would have a positive impact on the continued use of the Premises for agricultural production.\***

"12. Nothing in this agreement shall be deemed to restrict the right of Grantor to maintain all roads and trails existing upon the Premises as of the date of this agreement. Grantor shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, buildings, or reservoirs as may be necessary.

"13. In the event of any violation of the terms and conditions of this agreement, Grantee or the Committee may institute, in the name of the State of New Jersey, any proceedings to enforce these terms and conditions including the institution of suit to enjoin such violations and to

require the restoration of the Premises to its prior condition. Grantee or the Committee do not waive or forfeit the right to take any other legal action necessary to insure compliance with the terms, conditions, and purposes of this agreement by a prior failure to act.

"14. It is understood that this agreement imposes no obligation or restriction on the Grantor's use of the Premises except as specifically set forth in this agreement.

"15. This agreement shall be binding upon the Grantor and upon the Grantee.

"16. Throughout this agreement, the singular shall include the plural, and the masculine shall include the feminine, unless the text indicates otherwise.

"17. The word 'Grantor' shall mean any and all persons who lawfully succeed to the rights and responsibilities of the Grantor, including but not limited to his heirs, executors, administrators, personal or legal representatives, successors and assigns.

"18. Wherever in this agreement any party shall be designated or referred to by name or general reference, such designation shall have the same effect as if the words 'heirs, executors, administrators, personal or legal representatives, successors and assigns' have been inserted after each and every designation."

(b) The Committee or landowner may require more stringent deed restrictions consistent with the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32.

(c) The deed restrictions contained in (a) above shall be liberally construed to effectuate the purpose and intent of the Farmland Preservation Bond Act, P.L. 1981, c.276, and the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32.

## (a)

### Jersey Fresh Quality Grading Program Products and Manner of Use

#### Adopted Amendments: N.J.A.C. 2:71-2.2, 2.3, 2.4, 2.5, 2.6 and 2.7

Proposed: April 7, 1986 at 18 N.J.R. 588(b).

Adopted: May 8, 1986 by Arthur R. Brown, Jr., Secretary,  
Department of Agricultural.

Filed: May 12, 1986 as R.1986 d.201, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 4:10-3, 4:10-13 and 4:10-20.

Effective Date: June 2, 1986.

Expiration Date: September 1, 1988.

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

The Department of Agriculture formally and informally met with the following agricultural organizations and groups: New Jersey Sweet Potato Council, New Jersey White Potato Industry Council, New Jersey State Potato Association, New Jersey Peach Council (on two occasions), Gloucester County Vegetable Association, Salem County Vegetable Meeting, Cumberland County Sweet Potato Industry Council, United Fresh Fruit and Vegetable Association, Extension Service Meeting, Swedesboro Auction Stockholders Meeting, Executive Committee Meeting of the Vegetable Growers Association, and the Jersey Fresh Advisory Committee. Further, members of the State Board of Agriculture voiced their concerns and the concerns expressed to them by farmers concerning the proposed amendments. While all were supportive of the additions and the methods of the program, two areas of concern which emerged were:

1. The different sizes and types of containers and the inability of making one size label fit all; and

2. The reporting of inventory on a monthly basis.

The Department has considered these concerns and agrees with the farmers that changes should be made. The Department has redrafted the provisions to build in flexibility and to assure adequate inventory control.

Accordingly, N.J.A.C. 2:71-2.2(c) has been amended to allow variation in the size of the printed logo so that uniformly accepted containers for different produce are acceptable to all potential users, and a roadblock to participation in the program will be removed.

N.J.A.C. 2:71-2.3(d) has been altered to an annual inventory control process. It is felt since the Department of Agriculture controls the forms for reporting and identification numbers, that monthly summaries would be unreasonable unless a greater need for regulation manifests itself in

the future. Since this is a voluntary program, no one participating in the program has been unwilling to properly follow the procedures in the past season, and the Department is confident that its auditing and regulatory program is in a position to deal with misgrading, mislabelling and inventory control abusers on an annual basis.

One written comment was received suggesting three changes. Those changes include designating cabbage containers as U.S. No. 1 Green to accord with the United States Department of Agriculture grades; the adoption of a standard temperature for vacuum cooling in accordance with the United States Department of Defense purchasing requirements; and a provision to allow for a 30 count pack of iceberg lettuce, as well as a 24 count pack.

The Department of Agriculture agrees with these suggestions, as they will help clarify and standardize the grading system of cabbage. The 30 count pack is recognized and accepted by lettuce growers and brokers and will enable farmers to sell lettuce which has acceptance in the market for those consumers who wish to purchase Grade No. 1 lettuce in a size suited to their needs and will help protect the integrity of the grading program in the 24 count pack. The Department deems these as technical changes and adopts them in full.

However, the vacuum cooling provision, while meritorious, was not adopted. No notification was given that it was being considered as a possible change. Therefore, the Department of Agriculture will not act on this comment at this time, but will consider it for inclusion next season.

While these are substantive and technical changes to the proposed rule, the Department has no way of knowing the potential impact, either in enrollment in the program or discouragement, as applications for this season have just begun to come in. Therefore, these substantive changes neither enlarge nor contract the number of people affected by the rule.

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

2:71-2.2 Use of the "Jersey Fresh Quality Grading Program" Logo (referred to as the "logo") on containers of certain fresh fruits and vegetables:

(a) The New Jersey Department of Agriculture approves the use of the New Jersey map symbol under provisions of N.J.S.A. 4:10-5 as an official emblem for identifying New Jersey produced agricultural commodities.

(b) The configuration of the Jersey Fresh Quality Grading Program Logo follows:



(c) Only those persons, firms, partnerships, corporations or associations licensed by the New Jersey Department of Agriculture pursuant to N.J.S.A. 4:10-5 to use the Jersey Fresh Quality Grading Program Logo shall be permitted to attach the printed label to or have it printed upon a panel of the container in which the agricultural commodity is to be marketed or to employ its use in advertising or in any manner whatsoever. All containers are subject to the approval of the New Jersey Department of Agriculture.

\*[1. The logo shall be printed on the upper corner of the container's end panel. The minimum size shall be two inches in width and three inches in length. The logo may be printed anywhere on bags containing white potatoes. The logo label shall be attached to or printed on the end panel of master flats of blueberries. The "logo" shall be printed on the corner of the end panel on the lid for peach or tomato cartons.]\*

\*1. The logo shall be printed on the upper corner of the container's end panel, except for white potatoes, it may be printed anywhere on the bag; blueberries it shall be attached to or printed on the end panel of the master flats; and it may be printed on the corner end panel of the lid or container of peach or tomato cartons. The logo shall be at least two inches in width and three inches in length, except when printed on the end panel of peach or tomato carton lids, where the length of the logo shall not be less than

three-quarters of the depth of the lid's end panel; with a corresponding reduction in the width of the logo imprint.\*

(d) Any person, firm, partnership, corporation or association wishing to employ the Jersey Fresh logo to be used in marketing certain New Jersey produced agricultural commodities shall make application to the New Jersey Department of Agriculture for a license and registration number. The application shall be made in writing, upon a form provided by the department for this purpose. The application shall reveal such information as is deemed necessary for the enforcement of the Jersey Fresh Quality Grading logo program. Information given in the application shall be held confidential and not subject to review or reproduction under the provisions of N.J.S.A. 47:1A-1 et seq. (C. 73, P.L. 1963).

(e) All applications approved for issuance of licenses and registration numbers shall have the license granted for the period of one year commencing April 1. Interim licenses and registration numbers may be granted to qualified packers for the remainder of the license year. Applications shall be submitted at least twenty days prior to application approval. The department shall approve or deny applications within twenty days of receipt.

2:71-2.3 Charges for Jersey Fresh Quality Grading Program logo labels and use of Jersey Fresh Quality logo imprinted containers

(a) A fee of \$30.00 shall accompany the application form and shall be made payable to the New Jersey Farm Products Publicity Fund. If an applicant is deemed ineligible, the fee shall be refunded.

(b) Licensees may purchase Jersey Fresh logo labels in increments of 1,000. The charge for Jersey Fresh logo labels shall be \$20.00 per thousand. Checks are to be made payable to New Jersey Farm Products Publicity Fund.

(c) The licensed packer using the Jersey Fresh Quality Grading Program logo on approved containers shall pay to the New Jersey Farm Products Publicity Fund a charge of \$1.00 per one thousand containers on which the logo is imprinted. Such charge shall be levied on the quantity of containers delivered to the packer. A copy of each shipping invoice or a statement shall be supplied to the department by the person, firm, partnership, corporation or co-operative that transfers ownership of containers bearing the logo to the licensed registrant. Said copy of each shipping invoice or statement shall include: licensed packer's name and address, the registration number, the number of containers delivered, the type of containers and the date of delivery. Failure to supply invoices or statements may be sufficient cause to withdraw approval to imprint Jersey Fresh Quality Grading Program logo containers. The amount of said charge shall be paid by the licensed packer within ten days after date of billing by the department.

\*[(d) Each licensed packer shall submit for each month, by the tenth of the month following, a report on forms supplied by the Department. Information required will include:

1. An inventory of approved Jersey Fresh Quality Grading Program logo imprinted containers;
2. Numbers of Jersey Fresh Quality Grading Program logo containers used.]\*

\*[d) Each licensed packer shall submit for each license year, by March 1 of that license year, a report on forms supplied by the Department. Information required will include:

1. An inventory of approved Jersey Fresh Quality Grading Program logo imprinted containers;
2. Numbers of Jersey Fresh Quality Grading Program logo containers used.

(e) Failure to timely supply the information in (d) above may be cause for denial or delay of licensing for the following licensing year.\*

2:71-2.4 Agricultural commodities intended to be marketed under the Jersey Fresh Quality Grading Program

(a) Only blueberries, cabbage, green corn, cucumbers, eggplants, iceberg lettuce, common green onion, sweet peppers, sweet potatoes, white potatoes, summer squash, fall and winter type squash, and tomatoes (fresh market), may be identified by the "logo."

(b) All agricultural commodities marketed under the "logo" program shall be produced and packed in New Jersey.

2:71-2.5 Commodity grades, packing requirements, packer identification and containers

(a) Each container bearing the "logo" shall have the name and address of the packer in letters not less than three-eighths inch in height. Each container printed with the "logo" must be identified by the applicable U.S. grade and the licensed packer's registration number, which also shall

be no less than three-eighths inch in height. The registration number shall be printed or marked on the carton in close proximity to the "logo" or the name and address of the registrant.

(b) Blueberries shall be U.S. No. 1 grade. Size shall meet the requirements of at least Large with a maximum of one hundred twenty-nine berries per standard two gill cup. All packaging materials shall be new.

(c) Cabbage, Domestic type, shall be U.S. No. 1, Green grade, with the heads being of two and one-half pound minimum weight to three and one-half pound maximum weight. Each head shall be fairly well trimmed. Containers shall be marked "U.S. No. 1." All containers shall be new.

(d) Green Corn shall be U.S. Fancy, grade with a minimum count of fifty four ears per container and when packed in crates the pack shall be tight. All containers shall be new. All green corn shall be hydrocooled. All containers shall be marked "hydrocooled."

(e) Cucumbers shall be U.S. No. 1 grade, or better, with two and three-eighths inch maximum diameter and six inch minimum length. All containers shall be at least fairly well filled. All containers shall be new.

(f) Eggplants shall be U.S. No. 1 grade, or better, and reasonably uniform in size. All containers must have at least a fairly tight pack. All containers shall be new.

(g) Iceberg lettuce shall be U.S. No. 1 grade, or better. The \*[maximum]\* pack \*[is]\* \*shall contain either\* twenty\*-four \*or thirty\* heads per container. The heads shall be fairly uniform in size. The containers shall have a tight pack. All containers shall be new. All lettuce shall be vacuum cooled. The containers shall be marked "vacuum cooled."

(h) Common Green Onions shall be U.S. No. 1 grade. The overall length (roots excepted) of the onions shall be not more than twenty-four inches nor less than eight inches and the onions shall not be less than one-quarter inch or more than one inch in diameter. All containers shall be new.

(i) Peaches shall be U.S. Extra No. 1 grade, or better, with a two and one-quarter inch minimum diameter. Containers shall be marked to denote variety and minimum size or count. All containers shall be new. All containers shall be at least fairly well filled. All peaches shall be hydrocooled. All containers shall be marked "hydrocooled."

(j) Sweet peppers shall be U.S. No. 1 grade, or better. Containers shall be marked with either "Extra Large" or "Large" or "Medium" in accordance with the following size specifications: "Extra Large" shall have a three inch minimum diameter and a three and one-half inch minimum length; "Large" shall have a three inch minimum diameter and a two and one-half inch minimum length; "Medium" shall have a two and one-half inch minimum diameter and a two and one-half inch minimum length. All containers shall be at least fairly well filled. All containers shall be new.

(k) Sweet potatoes shall be U.S. Extra No. 1 grade. Maximum diameter shall not be more than three and one-quarter inches. Maximum weight shall not be more than eighteen ounces. Length shall not be less than three or more than nine inches. Minimum diameter shall not be less than one and three-quarter inch. All containers shall be at least fairly well filled. All containers shall be new.

(l) White potatoes shall be U.S. No. 1 grade and packed to meet the requirements of Size A or Large. "Size A" means that the minimum diameter shall be not less than one and seven-eighths inches and that the lot shall contain at least forty percent of potatoes which are two and one-half inches in diameter or larger or six ounces in weight or larger. "Large" means that the minimum diameter shall be not less than three inches or the minimum weight shall be not less than ten ounces and the maximum diameter shall be not more than four and one-quarter inches or the maximum weight shall be not more than sixteen ounces. All potatoes shall be washed. All containers shall be new.

(m) Squash, Fall and Winter (acorn and butternut) shall be U.S. No. 1 grade and shall meet the following size specifications: Acorn shall be a minimum of one pound and a maximum of two pounds in weight. Butternut shall be a minimum of one and one-half pounds and a maximum of three pounds in weight. All containers shall be new.

(n) Squash, Summer (yellow and green) shall be U.S. No. 1 grade and shall meet the following size specifications: green type shall be a maximum of eight inches in length and a maximum of one and three-quarters inches in diameter; yellow type shall be a maximum of eight inches in length and a maximum of two inches in diameter at the bulb. All containers shall be at least fairly well filled. All containers shall be new.

(o) Tomatoes (fresh market) shall be U.S. No. 1 grade "Mixed Colors." Containers shall be marked with either "Maximum Large" or "Extra Large" or "Large" in accordance with the following size specifications: "Maximum Large" shall have a three and fifteen thirty-second

inch minimum diameter; "Extra Large" shall have a two and twenty-eight thirty-second inch minimum diameter and a three and fifteen thirty-second inch maximum diameter; "Large" shall have a two and seventeen thirty-second inch minimum diameter and a two and twenty-eight thirty-second inch maximum diameter. Containers shall also be marked as follows, in accordance with the facts, "Large to Extra Large" or "Extra Large and larger." Containers shall be at least fairly well filled. All containers shall be new.

#### 2:71-2.6 Definitions

For the purposes of this subchapter, the following words and terms shall have the following meanings unless the context clearly indicates otherwise:

"Fairly well filled" means that cucumbers, sweet peppers, tomatoes (fresh market), summer squash or sweet potatoes are not in contact with the lid or cover, but not more than one-half inch below the lid or cover. In the case of peaches, the container is level full and there is practically no movement of the fruit when the container is closed.

"Fairly well trimmed" means in the case of cabbage, that the head shall not have more than seven wrapper leaves.

"Mixed colors" means that a lot of tomatoes may contain not more than five percent of tomatoes which are green in color. "Green" means that the surface of the tomatoe is completely green in color. The shade of green color may vary from light to dark.

"Tight" means, in the case of lettuce, that the layers are completely and tightly filled without injury to the heads. In the case of green corn, when packed in crates the package is filled sufficiently to prevent any movement of the product within the package and it has the proper bulge without causing bruised kernels.

#### 2:71-2.7 Penalties

(a) Any licensed packer using "logo" containers for products other than those covered by these rules or any unlicensed packer using "logo" packages for any product shall be subject to a penalty of not more than \$50.00 for the first offense and not more than \$100.00 for each subsequent offense, except for violations of N.J.S.A. 4:10-5 which penalty shall be \$50.00.

(b) After the third violation of any part of this subchapter of the same regulated product packed by the same licensed packer during the same calendar year, the license to pack under the Jersey Fresh Quality Grading program will be revoked for the remainder of the license year.

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

## EDUCATION

### (a)

#### STATE BOARD OF EDUCATION

#### State Aid: Asbestos Removal and Encapsulation

#### Adopted Amendment: N.J.A.C. 6:20-5.5

Proposed: February 18, 1986 at 18 N.J.R. 392(b).

Adopted: May 12, 1986 by State Board of Education, Saul Cooperman, Secretary.

Filed: May 12, 1986 as R.1986 d.204, **without change.**

Authority: N.J.S.A. 18A:1-1, 18A:4-15, 18A:58-68 and P.L. 1985, c.209.

Effective Date: June 2, 1986.

Expiration Date: August 9, 1990.

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

One letter with comments was received. The comments can be summarized as follows:

This section should be clarified to indicate that the State aid reimbursement will only be affected to the extent that a "windfall" will accrue to a district.

The response of the Department of Education was that:

No such clarification is necessary since the department has historically only made adjustments of the type described above when a windfall would accrue to a district.

Full text of the adoption follows.

#### 6:20-5.5 Asbestos removal and encapsulation State aid

(a) A district board of education applying for reimbursement under the provisions of the "State School Aid Act for Asbestos" for a currently planned asbestos removal or encapsulation project shall certify that funds have been budgeted for the project and that such funds are included in the school district budget statement for the school year in which the asbestos removal or encapsulation project is planned.

(b) A district board of education shall only be reimbursed under the provisions of the "State School Aid Act for Asbestos" for expenditures actually incurred. State aid reimbursements for projects currently planned, undertaken and substantially completed shall be adjusted when actual expenditures are known. Adjustments shall only be made to the extent State aid funds are available.

(c) A district board of education shall not be reimbursed for an asbestos removal or encapsulation project under both the "State School Aid Act for Asbestos" and the Federal "Asbestos School Hazard Abatement Program" for more than the actual expenditures less any State aid received under any other law.

(d) A district board of education which recovers funds expended for asbestos removal or encapsulation through a legal action shall have its State aid reimbursement adjusted for any such funds recovered.

(e) A district board of education shall maintain separate accounting records which identify all expenditures for which reimbursement is approved.

(f) A district board of education receiving a State aid reimbursement under the provisions of the "State School Aid Act for Asbestos" shall submit reports as required concerning work progress, expenditures or any other factors which the commissioner shall deem necessary.

(g) A district board of education shall comply with all requirements established by the Bureau of Facility Planning Services (N.J.A.C. 6:22), Department of Community Affairs (N.J.A.C. 5:23-8) and the Department of Health (N.J.A.C. 8:60) concerning asbestos removal or encapsulation. State aid funds may be withheld for noncompliance.

(h) A district board of education receiving such a State aid reimbursement shall maintain any funds which are not necessary for debt service purposes in the budget year in which such funds are received as a special appropriation balance. All or any part of the special appropriation balance which is needed for debt service purposes in the subsequent budget years immediately succeeding the budget year in which such funds are received, shall be appropriated to reduce the amount raised by local taxes for debt service purposes.

### (a)

#### State Aid: Teaching Staff Member Minimum Salary

##### Adopted New Rule: N.J.A.C. 6:20-5.6

Proposed: February 18, 1986 at 18 N.J.R. 393(a).

Adopted: May 12, 1986 by State Board of Education, Saul Cooperman, Secretary.

Filed: May 12, 1986 as R.1986 d.205, with non-substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 18A-1.1, 18A-4.15 and 29-5.1 et seq.

Effective Date: June 2, 1986.

Expiration Date: August 9, 1990.

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

Twenty one letters with comments were received. All comments generally suggested the following:

1. Section (a) of the proposal should be amended so as not to require a board of education to adopt a salary guide and to permit a board of education to adopt "salary policies."

2. Section (b) of the proposal should be amended so as to remove the state aid penalty for teaching staff members whose salary increment was withheld in the 1984-85 school year.

3. Section (f)1. of the proposal should be amended to be more readable.

4. Section (h) of the proposal should be amended to permit funds replaced by state aid to be used for part-time teaching staff members salaries.

5. Section (j) of the proposal should be deleted so as not to deny state aid for teachers supported by federal funds.

The responses of the Department of Education to these suggestions

were as follows:

1. For the purpose of receiving state aid pursuant to the Teacher Quality Employment Act, adoption of a salary schedule is necessary. Adoption of salary policies would not be sufficient for state aid purposes. The word "guide" was changed to "schedule" throughout the proposal to permit some flexibility in interpretation of section (a) of the new rule.

2. The department agreed that this part, section (b), was not consistent with the Teacher Quality Employment Act and therefore should be deleted.

3. The department agreed. This section was re-written.

4. Funds replaced by state aid can only be used for full-time teaching staff members salaries to comply with the intent of the Teacher Quality Employment Act.

5. This section of the original proposal was not consistent with the Teacher Quality Employment Act and, therefore, has been deleted.

Full text of the adoption follows (additions shown in boldface with asterisks \*thus\*; deletions shown in brackets with asterisks \*[thus]\*).

#### 6:20-5.6 Teaching staff member minimum salary\*[:]\* State aid

(a) For the 1985-86 school year and thereafter, a district board of education shall **\*for the purpose of receiving State aid pursuant to the Teaching Quality Employment Act\*** adopt a salary \*[guide(s)]\* **\*schedule(s)\*** for full-time teaching staff members which provides that no step on the salary \*[guide(s)]\* **\*schedule(s)\*** is lower than \$18,500 regardless of funding source.

**\*(b) For the purpose of the Teacher Quality Employment Act, full-time employment shall mean the number of hours in a day and the number of days in a week the district board of education prescribes for a teaching staff member to receive the full salary schedule.\***

**\*[ (b) ]\* \*(c)\*** The base salary for State aid shall be determined as follows:

1. For a teaching staff member returning from an unpaid sabbatical, sick leave, maternity leave or other unpaid leaves of absence **\*[or whose salary increment was withheld in the 1984-85 school year]\***, the base salary shall be determined in the same manner as the base salary for a newly employed teaching staff member.

2. For a teaching staff member who was employed during the 1984-85 school year with a prescribed salary based upon different steps of the salary **\*[guide(s)]\* \*schedule(s)\***, the base salary shall be the actual salary paid to the teaching staff member during the 1984-85 school year.

3. For a teaching staff member newly employed after the 1984-85 school year with a prescribed salary based upon different steps of the salary **\*[guide(s)]\* \*schedule(s)\***, the base salary shall be determined as if the teaching staff member was newly employed in the 1984-85 school year.

4. For all other teaching staff members, the base salary shall be determined pursuant to N.J.S.A. 18A:29-5.6.

**\*[ (c) ]\* \*(d)\*** State aid for a teaching staff member who was hired or who left employment during the school year, shall be the proportionate amount determined by dividing the actual salary paid to the teaching staff member in such school year by the salary prescribed for the teaching staff member had the teaching staff member been employed for the entire year.

**\*[ (d) ]\* \*(e)\*** Every district board of education shall submit to the Division of Finance the salary **\*[guide(s)]\* \*schedule(s)\*** prescribed for all teaching staff members for the 1984-85 school year\*[:]\* **\*and\*** the salary **\*[guide(s)]\* \*schedule(s)\*** prescribed for all teaching staff members for the 1985-86 school year prior to September 9, 1985\*[:]; and the period of time in each day prescribed by the district board of education pursuant to N.J.A.C. 6:3-1.13 which is required for full-time employment in the district]\*.

**\*[ (e) ]\* \*(f)\*** For the 1985-86 school year and subsequent school years,\* a district board of education shall not transfer out of any line item account or program category any funds replaced by State aid received pursuant to the "Teacher Quality Employment Act."

**\*[ (f) ]\* \*(g)\*** For the purpose of **\*(e)\* \*(f)\*** above, for the 1985-86 school year, a district board of education shall determine the amount of funds replaced by State aid as follows:

1. For each line item account or program category, determine the **\*[salaries for aided teaching staff members employed in the 1984-85 school year from the salary guide(s) which was in effect for the 1985-86 school year]\* \*actual 1985-86 salary in effect\*** prior to September 9, 1985\*[:]\* **\*for all aided teaching staff members employed in the 1984-85 school year;\***

2. For each line item account or program category determine the base salaries for aided teaching staff members employed in the 1984-85 school year;

3. Subtract the amount obtained in 2\*.\* above from that obtained in 1. above.

\*[(g)]\* \*(h)\* For the purpose of \*[(e)]\* \*(f)\* above, for the school years subsequent to the 1985-86 school year, a district board of education shall determine the amount of funds replaced by State aid as follows:

1. For each newly employed teaching staff member, determine the base salary;

2. For each newly employed teaching staff member, determine the amount of State aid\*.\* which is anticipated on the budget form submitted pursuant to N.J.S.A. 18A:7A-28, for the position in which the newly employed teaching staff member is employed;

3. Subtract the amount obtained in 1. and 2. above from \$18,500. \*In the event the amount thus obtained is negative, the amount of funds replaced by State aid shall be zero.\*

\*[(h)]\* \*(i)\* Any part of the funds replaced by State aid as determined in \*[(f)]\* \*(g)\* and \*[(g)]\* \*(h)\* which remains unexpended at the completion of the 1985-86 school year or a subsequent school year, shall be held as a special balance appropriate which shall only be used in subsequent school years for the payment of full-time teaching staff member salaries for duties which are part of the teaching staff member's regular contractual responsibilities.

\*[(i)]\* \*(j)\* For the 1985-86 school year a district board of education shall increase the amounts appropriated for teaching staff member salaries in the various line item accounts or program categories by an amount equal to the amount of State aid which the district board of education is entitled to receive pursuant to the "Teacher Quality Employment Act."

\*[(j)]\* For the 1986-87 school year and thereafter, teaching staff member salaries supported by Federal funds shall be budgeted at no lower than \$18,500, per full-time teaching staff member. Such teaching staff members are not eligible for State aid under the provisions of the "Teacher Quality Employment Act."\*

(k) The audited expenditures for the purposes of determining the "actual cost per pupil" in accordance with N.J.A.C. 6:20-3.1 shall be reduced by the amount of State aid received pursuant to the "Teacher Quality Employment Act."

## ENVIRONMENTAL PROTECTION

### (a)

#### DIVISION OF PARKS AND FORESTRY

##### Natural Areas and Natural Areas System Designated Natural Area

###### Adopted Amendment: N.J.A.C. 7:2-11.22

Proposed: January 21, 1986 at 18 N.J.R. 139(a).

Adopted: May 12, 1986 by Michael F. Catania, Deputy

Commissioner, Department of Environmental Protection.

Filed: May 12, 1986 as R.1986 d.202, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 13:1B-12a1 et seq.

Effective Date: June 2, 1986.

Expiration Date: July 19, 1988.

DEP Docket No. 068-85-12.

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

Written comment received during the public comment period which closed on April 1, 1986 and verbal comment received at the public hearing held on April 1, 1986 became part of the administrative record.

All comments were enthusiastic in support for inclusion of Bear Swamp East in the Natural Areas System for the reasons outlined in the proposal, that is, the preservation of the unique faunal and floral communities, generally, and of the bald eagle nesting habitat, specifically.

The department notes that the Unimin Corporation is lessee of lands owned by Whitehead Brothers Company and, therefore, has made appropriate change to the property description by substituting lessor's name for that of the lessee.

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

7:2-11.22 Designated natural area

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

(g) Atlantic Coastal Plain, Coastal Section, rules are as follows:

1.-9. (No change.)

10. Bear Swamp East Natural Area:

i. Downe Township, Cumberland County;

ii. An area of 1550 acres (±), bounded on the north by the Central Railroad of New Jersey right-of-way beyond which is the Edward G. Bevan Wildlife Management Area, on the east by the Downe-Commercial Township line and the \*[Unimin Corporation]\* \*Whitehead Brothers Company\* property line, on the south by Hayleyville Road and property lines extending west therefrom to route 555 (Narrow Lane Road), and on the west by route 555;

iii. Designation Purposes: An area known to contain New Jersey's only nesting pair of bald eagles and several forest community types including one of the State's most mature swamp hardwood forests;

iv. Management Objectives: Preservation of ecological communities and relationships, management of bald eagle nesting site and other known and potential endangered species habitats;

v. Administering Agency: To be determined upon preparation of a management plan.

## HUMAN SERVICES

### (b)

#### DIVISION OF PUBLIC WELFARE

##### Assistance Standards Handbook Emergency Assistance

###### Adopted Amendment: N.J.A.C. 10:82-5.10

Proposed: October 7, 1985 at 17 N.J.R. 2336(a).

Adopted: May 12, 1986 by Geoffrey S. Perselay, Acting  
Commissioner, Department of Human Services.

Filed: May 12, 1986 as R.1986 d.203, with substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

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

Effective Date: June 2, 1986.

Expiration Date: October 29, 1989.

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

COMMENTS: Comments were received from the Department of the Public Advocate (DPA). The DPA does agree with the concept of the amendment since it does improve current regulations by extending shelter benefits to homeless families in certain cases and by clarifying that the time limit does not begin to run until the county welfare agency (CWA) becomes aware of the state of homelessness. However, the DPA feels that the amendment falls short of addressing the urgent needs of families throughout New Jersey who are homeless or imminently facing homelessness. The DPA suggests that the proposed amendment be revised to incorporate language of Federal and New York State regulations regarding time limits for the provision of emergency shelter to AFDC families under Emergency Assistance (EA) Program.

RESPONSE: Federal EA regulations at 45 CFR 233.120 do not set forth specific time periods for the provision of emergency shelter. Nor do the regulations of the State of New York cited by the commenter. The Department has recently sought and received clarification from the Federal Department of Health and Human Services (DHHS) regarding this issue. In its response DHHS indicates that "Given regulatory intent, the State may provide emergency shelter for up to 90 days in the event of an eviction or a disaster. . . ." The Department has reviewed DHHS's response and current language at N.J.A.C. 10:82-5.10(c) and has determined to alter the time period for which EA funds for emergency shelter may be authorized by the CWA from "the calendar month following the month in which the state of homelessness first becomes known" to "two calendar months following the month in which the state of homelessness first becomes known to the county welfare agency." There are several reasons this alternative has been chosen. The revised language expands the time period covered beyond the proposed 60 days. It more realistically reflects the housing market faced by AFDC families as a result of an actual or imminent state of homelessness. The period of time necessary for homeless AFDC families to find more permanent shelter

arrangements at a reasonable rate often extends beyond the time period for which temporary shelter is currently funded under EA. The modified time frame will also ensure the uninterrupted availability of emergency housing for full calendar months rather than having EA payments terminate prior to the end of a month which may retard the acquisition of permanent shelter.

**Summary of Changes Subsequent to Proposal:**

As mentioned above, N.J.A.C. 10:82-5.10(c)1 has been amended from "60 days" to "two calendar months following the month in which the state of homeless first becomes known to the county welfare agency." The addition of N.J.A.C. 10:82-5.10(c)1iii does not introduce new language, the same language can be found at N.J.A.C. 10:82-5.10(d)3iv. Due to the nature of the rule and to ensure that clients are provided with the required services when needed, such language is being restated. The revision at N.J.A.C. 10:82-5.10(d)3 is for consistency with the amendment at 10:82-5.10(c) and to ensure that EA may be provided to all AFDC recipients for the same time period.

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

10:82-5.10 Emergency assistance

(a)-(b) No change.)

(c) When there has been substantial loss of shelter, food, clothing, or household furnishings by fire, flood or other similar natural disaster, or when, because of an emergent situation over which they had no control or opportunity to plan in advance, the eligible unit is in a state of homelessness and the county welfare agency determines that the providing of shelter and/or food and/or emergency clothing, and/or minimum essential house furnishings are necessary for health and safety, such needs may be recognized in accordance with the regulations and limitations in the following sections:

1. Emergency shelter: When an actual state of homelessness exists or is manifestly imminent, the county welfare agency shall authorize payment of the actual cost of adequate emergency shelter arrangements at the most reasonable rate available, for a specified temporary period not to exceed **\*two calendar months following the month in\*** \*[60 days following the date on]\* which the state of homelessness first becomes known to the county welfare agency.

i. (No change.)

ii. (See proposal at 18 N.J.R. 260(a).)

**\*iii. When required to establish the family in a more permanent living arrangement, allowances may be authorized for security deposits for rent and utilities.\***

2.-5. (No change.)

(d) Rules concerning victims of domestic violence are:

1.-2. (No change.)

3. Allowances:

i. Temporary shelter: Cost of temporary shelter arrangements may be authorized in an amount not to exceed the most reasonable cost of similar arrangements in a \*[motel/hotel]\* **\*motel or hotel\*** and shall be for a period not to exceed \*[the]\* **\*two\*** calendar \*[month]\* **\*months\*** following the month in which the state of homelessness first becomes known **\*to the county welfare agency\*.**

ii.-iii. (No change.)

iv. Additional needs: When required to establish the family in a new permanent living arrangement, allowances may be authorized for security deposits for rent \*[and/or]\* **\*and\*** utilities, and for home furnishings (see paragraph (c)4 of this section).

4. (No change.)

(e) (No change.)

**LABOR**

**(a)**

**DIVISION OF WORKERS' COMPENSATION**

**Practice and Procedure before the Division of Workers' Compensation**

**Notice of Correction: N.J.A.C. 12:235**

Take notice that errors appear in the May 5, 1986 issue of the New Jersey Register at 18 N.J.R. 987(a).

In the Summary of Public Comments and Agency Responses, the Response to the third Comment should have appeared as follows:

RESPONSE: Clarifying language was added to 12:235-3.7(b) to make clear that judges of compensation may not attend political functions.

The text at 12:235-7.2 should have appeared as follows:

12:235-7.2 Hearing

The hearing upon the application for second injury fund benefits shall be upon the transcript of the hearing for benefits from the previous employer\*s\* supplemented by oral and documentary evidence \*[presented on behalf of the second injury fund]\* and by such cross-examination \*[by the second injury fund,]\* as may be required in the discretion of the judge of compensation for a full and true disclosure of the facts\*[\*] **\*as to second injury fund responsibility and where applicable, as to an apportionment of responsibility between employers and the second injury fund.\***

**LAW AND PUBLIC SAFETY**

**(b)**

**BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS**

**Application and Examination Fees**

**Adopted New Rule: N.J.A.C. 13:31-1.11**

Proposed: March 3, 1986 at 18 N.J.R. 462(a).

Adopted: April 11, 1986 by Board of Electrical Contractors, Earle Harder, Chairman.

Filed: May 5, 1986 as R.1986 d.193, **without change.**

Effective Date: June 2, 1986.

Expiration Date: December 21, 1986.

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

The Board received only one comment on the proposal. The northern New Jersey chapter of the national trade association of electrical contractors supported the proposal, agreeing with the Board that the proposed new fees are not excessive and expressing the opinion that the use of the Multistate Electrical Licensing Test (which necessitated the fee change) will give a more valid indication of an applicant's technical knowledge of electrical contracting.

**Full text** of the adoption follows.

13:31-1.11 Fees for application and examinations

(a) The following fees shall be charged by the Board:

1. Application fee .....	\$25.00
2. Examination/Reexamination .....	35.00

**(c)**

**AUDIOLOGY AND SPEECH LANGUAGE PATHOLOGY ADVISORY COMMITTEE**

**Fees and Charges**

**Adopted New Rule: N.J.A.C. 13:44C-1.1**

Proposed: May 6, 1985 at 17 N.J.R. 1062(a).

Adopted: April 3, 1986 by James J. Barry, Jr., Director, Division of Consumer Affairs.

Filed: May 6, 1986 as R.1986 d.192, **without change.**

Effective Date: June 2, 1986.

Expiration Date: June 2, 1991.

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

No comments received.

**Full text** of the adoption follows.

13:44C-1.1 Fees and charges

(a) The following fees shall be charged by the Committee:

1. Application fee .....	\$ 10.00.
2. License fee for two years .....	\$100.00.

## TRANSPORTATION

### (a)

#### TRANSPORTATION OPERATIONS

##### No Passing Zones

**Routes 181 in Sussex and Morris Counties; U.S. 30 in Camden County; 34 and 70 in Monmouth County; 57 in Warren County; 70 in Burlington and Ocean Counties; 36 in Monmouth County and 77 in Cumberland County**

**Adopted Amendments: N.J.A.C. 16:29-1.6 and 1.7  
Adopted New Rules: N.J.A.C. 16:29-1.52, 1.53, 1.54, 1.55 and 1.56**

Proposed: March 17, 1986 at 18 N.J.R. 550(a).  
Adopted: April 30, 1986, John F. Dunn, Jr., Assistant Chief Engineer, Traffic and Local Road Design.  
Filed: May 6, 1986 as R.1986 d.194, **without change**.  
Authority: N.J.S.A. 27:1A-5, 1A-6, 39:4-201.1.  
Effective Date: June 2, 1986.  
Expiration Date: November 7, 1988.

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

Full text of the adoption follows.

##### 16:29-1.6 Route 34

(a) The following certain parts of State highway Route 34 shall be designated and established as "No Passing" zones:

1. That part within Old Bridge Township, Middlesex County and described in drawing number HNPZ-033 dated May 24, 1978.
2. That part within Howell, Colts Neck, Holmdel, Marlboro and Aberdeen Townships and Matawan Borough, Monmouth County and described in drawing number HNPZ-034 dated May 23, 1985.

##### 16:29-1.7 Route 36

(a) The certain following parts of State highway Route 36 shall be designated and established as "No Passing" zones.

1. Within the Borough of West Long Branch, the City of Long Branch,

the Boroughs of Monmouth Beach and Sea Bright in Monmouth County and described in drawing number HNPZ-086 dated May 14, 1985.

##### 16:29-1.52 Route 181

(a) The following certain parts of State highway Route 181 shall be designated and established as "No Passing" zones:

1. That part within Jefferson Township, Morris County and described in drawing number HNPZ-084 dated February 26, 1985.
2. That part within Sparta Township, Sussex County and described in drawing number HNPZ-085 dated February 26, 1985.

##### 16:29-1.53 Route 70

(a) The following certain parts of State highway Route 70 shall be designated and established as "No Passing" zones:

1. That part within Wall Township and Brielle Borough, Monmouth County and described in drawing number HNPZ-089 dated June 14, 1985.
2. That part within the Townships of Evesham, Medford, Southampton, Woodland and Pemberton, Burlington County and described in drawing number HNPZ-087 dated September 9, 1985.
3. That part within the Townships of Manchester, Dover, Lakewood, Brick and the Boroughs of Lakehurst and Point Pleasant, Ocean County and described in drawing number HNPZ-088 dated September 20, 1985.

##### 16:29-1.54 Route U.S. 30

(a) The following certain parts of State highway Route U.S. 30 shall be designated and established as "No Passing" zones:

1. That part within Haddon Heights, Audubon, Oaklyn and Collingswood Boroughs and Haddon Township, Camden County and described in drawing number HNPZ-090 dated August 29, 1985.

##### 16:29-1.55 Route 57

(a) The following certain parts of State highway Route 57 shall be designated and established as "No Passing" zones:

1. That part within Lopatcong, Greenwich, Franklin, Washington, Mansfield and Hackettstown Townships, and Washington Borough, Warren County and described in drawing number HNPZ-072 dated July 23, 1985.

##### 16:29-1.56 Route 77

(a) The certain following parts of State highway Route 77 shall be designated and established as "No Passing" zones:

1. Within the City of Bridgeton and Upper Deerfield Township, Cumberland County and described in drawing number HNPZ-079 dated July 25, 1985.

# MISCELLANEOUS NOTICES

## ENVIRONMENTAL PROTECTION

### DIVISION OF WATER RESOURCES

(a)

#### Amendment to the Upper Delaware Water Quality Management Plan

##### Public Notice

Take notice that an amendment to the Upper Delaware Water Quality Management (WQM) Plan has been submitted for approval. The amendment would expand the sewer service area of the Warren County (Pequest River) Municipal Utilities Authority's Oxford Plant to include the proposed Washington Valley Golf Course Development, and would update the municipal sewage flow projections.

This notice is being given to inform the public that a plan amendment has been developed for the Upper Delaware WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 a.m. and 4:00 p.m., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within thirty days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within thirty days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(b)

#### Amendment to the Northeast Water Quality Management Plan

##### Public Notice

The Passaic Valley Sewage Commission (PVSC) has requested an amendment to the Northeast Water Quality Management (WQM) Plan. This amendment is to increase the plant's permitted flow from 300 million gallons per day (mgd) to 330 mgd. The increase in permitted flow will provide additional capacity to accept a number of wastewater treatment facilities which are presently operating at treatment levels in violation of their permit conditions.

This notice is being given to inform the public that a plan amendment has been developed for the Northeast WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 a.m. and 4:00 p.m., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within thirty days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(c)

#### Amendment to the Northeast Water Quality Management Plan

##### Public Notice

Take notice that an amendment to the Northeast Water Quality Management (WQM) Plan has been submitted for approval. This amendment is to allow two road crossings in a wetlands as part of the Spring Ridge Development located in Bernards Township, Somerset County. The hydraulic continuity of the wetlands system is to be maintained.

This notice is being given to inform the public that a plan amendment has been developed for the Northeast WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 a.m. and 4:00 p.m., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within thirty days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(d)

#### Amendment to the Northeast Water Quality Management Plan

##### Public Notice

Take notice that an amendment to the Northeast Water Quality Management (WQM) Plan has been submitted for approval. This amendment is to allow for a small wetlands encroachment for a road as part of the Society Hill Development located in Bernards Township, Somerset County.

This notice is being given to inform the public that a plan amendment has been developed for the Northeast WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 a.m. and 4:00 p.m., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within thirty days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

**(a)**

**Amendment to the Tri-County Water Quality Management Plan  
Public Notice**

Take notice that an amendment to the Tri-County Water Quality Management (WQM) Plan has been submitted for approval. The amendment provides for the expansion of the Evesham Municipal Utilities Authority to expand the Woodstream Sewage Treatment Plant (STP) from 1.25 million gallons per day (mgd) to 1.70 mgd. The sewer service area delineation line between the Woodstream and Elmwood plants in Evesham will be adjusted to accurately reflect existing conditions. The amendment also provides for the expansion of the King's Grant STP to an ultimate capacity of 1.05 mgd and to allow sewer service to the Marlton Lakes area of the Township from either the Elmwood STP or the construction of a STEP system, whichever is most feasible.

This notice is being given to inform the public that a plan amendment has been developed for the Tri-County WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 a.m. and 4:00 p.m., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within thirty days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

**(b)**

**Amendment to the Tri-County Water Quality Management Plan  
Public Notice**

Take notice that an amendment to the Tri-County Water Quality Management (WQM) Plan has been submitted for approval. The amendment provides for the expansion of the Maple Shade Water Pollution Control Plant #1 from 1.0 million gallons per day (mgd) to 3.4 mgd to serve the present and future wastewater needs of the Township. Maple Shade Water Pollution Control Plant #2 will be eliminated and a pump station and force main constructed in its place.

This notice is being given to inform the public that a plan amendment has been developed for the Tri-County WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendments is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 a.m. and 4:00 p.m., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within thirty days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendments. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

**(c)**

**Amendment to the Tri-County Water Quality Management Plan  
Public Notice**

Take notice that an amendment to the Tri-County Water Quality Management (WQM) Plan has been submitted for approval. The amendment provides for the expansion of the Willingboro Municipal Utilities Authority's wastewater treatment plant from 4.20 million gallons per day (mgd) to 5.22 mgd to serve present and future wastewater needs.

This notice is being given to inform the public that a plan amendment has been developed for the Tri-County WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Planning and Standards, 25 Arctic Parkway, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 a.m. and 4:00 p.m., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted within thirty days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

**HEALTH**

**(d)**

**Petition for Rulemaking  
Minimum Flow Rate provided by Portable Suction  
Devices carried on Invalid Coaches and  
Ambulances**

**N.J.A.C. 8:40-6.5(c)12**

**N.J.A.C. 8:40-6.15(c)1**

Petitioners: The BOC Group, Inc. and Pitney, Hardin, Kipp and Szuch, Esqs.

Authority: N.J.S.A. 26:2H-1 et seq. and N.J.S.A. 52:14B-4(f)

Take notice that on April 14, 1986, petitioners through their attorneys Pitney, Hardin, Kipp and Szuch filed a petition with the New Jersey State Department of Health, requesting amendments to N.J.A.C. 8:40-6.15(c)1 and 8:40-6.5(c)12, concerning the minimum flow rate provided by a portable suction device carried upon an Invalid Coach or Ambulance. That flow rate is currently set at 30 liters per minute (1pm).

Specifically, petitioners state that the requirements of the above-captioned regulations are unrelated to providing better health care for those served by Invalid Coaches and Ambulances, and that the requirements of these rules impose an undue hardship upon the manufacturers, such as themselves, of such devices. Thus, petitioner requests that the above rules be amended to require a minimum flow rate of 20 lpm.

Petitioners point out that requirements set by the United States Department of Transportation establish an air flow requirement of 20 lpm, and that these requirements are contained in a document which serves as the standard for ambulance services' certification in all states.

Further, petitioners claim that none of the references cited by the Department of Health, in adopting the standards contained in N.J.A.C. 8:40-6.15(c)1 and 8:40-6.5(c)12, include a minimum requirement of 30 lpm for portable suction devices.

Finally, petitioner protests the methods used by the Department of Health in notifying all interested parties when it proposed N.J.A.C. 8:40 for publication. Due to the Department's failure to meet "... both the letter and spirit of the APA ...", petitioner requests that the rules in

question be temporarily suspended pending notice to and comment from all interested parties.

The petition will be considered and acted upon in accordance with the provisions of N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6.

**(a)**

**Notice of Action on Petition for Rulemaking  
Minimum Flow Rate provided by Portable Suction  
Devices carried on Invalid Coaches and  
Ambulances**

**N.J.A.C. 8:40-6.5(c)12**

**N.J.A.C. 8:40-6.15(c)1**

Petitioners: The BOC Group, Inc. and Pitney, Hardin, Kipp and Szuch, Esqs.

Authority: N.J.S.A. 26:2H-1 et seq. and N.J.S.A. 52:14B-4(f).

**Take notice** that on April 14, 1986, the BOC Group, Inc. through their attorneys Pitney, Hardin, Kipp and Szuch, petitioned the State Department of Health to amend N.J.A.C. 8:40-6.5(c)12 and 6.15(c)1 concerning the minimum flow rate provided by a portable suction device carried upon an Invalid Coach or Ambulance. That flow rate is currently set at 30 liters per minute (lpm). (See the Notice of Petition in this issue of the Register for the rationale supporting the petition.)

**Take further notice** that, pursuant to N.J.A.C. 1:30-3.6(c)3, the petition has been referred to the Office of Emergency Health Services (OEHS) within the Department of Health, for review and a determination as to how the Department should respond.

Technical staff within OEHS is currently reviewing the petition and supporting documentation attached thereto, as well as scientific and technical literature on the subject, in an effort to evaluate the validity of the arguments made in the petition. Once that review is completed, the Department will be in a position to respond, in a rational manner, to the request for amendment made by petitioner.

The review described above, as well as a decision on how to proceed regarding the petition, will be concluded by June 9, 1986. By that date, a Notice of Proposed Action will be submitted to the Office of Administrative Law for publication in the New Jersey Register on July 7, 1986.

**INSURANCE**

**(b)**

**THE COMMISSIONER  
Amendments to N.J.A.F.I.U.A. Plan of Operation  
Public Notice**

**Take notice** that on January 30, 1986, Hazel Frank Gluck, Commissioner of Insurance, certified on an interim basis, an amendment to the Plan of Operation of the New Jersey Automobile Full Insurance Underwriting Association. The amendment is to Operating Principles, Servicing Carriers, Section 6 concerning compensation. The previously separate Nonclaim Expense reimbursement formulas for liability and physical damage coverages have been combined by this amendment and lowered to 9.5 percent from 11.5 percent and 11.6 percent respectively.

**Take notice** that on February 6, 1986, Hazel Frank Gluck, Commissioner of Insurance, certified an amendment to the Plan of Operation of the New Jersey Automobile Full Insurance Underwriting Association. The amendment is to article VI of the Articles of Association and raises the fees paid to directors of the Association from \$100 to \$250 per meeting.

**Take notice** that on March 18, 1986, the Board of Directors of the New Jersey Automobile Full Insurance Underwriting Association voted to adopt an amendment to the Plan of Operation proposed by the Department of Insurance. The amendment to the Servicing Carrier Rules of Practice, Policy Cancellations, requires servicing Carriers to issue notices of policy continuation when a notice on intent to cancel has been sent in error.

**HUMAN SERVICES**

**(c)**

**DIVISION OF MEDICAL ASSISTANCE AND HEALTH  
SERVICES**

**Administration Manual; Long Term Care Services  
Manual**

**Completion of Field Audit**

**Notice of Correction: N.J.A.C. 10:49-1.27 and  
10:63-1.22**

**Take notice** that errors appear in the New Jersey Administrative Code at N.J.A.C. 10:49-1.27 and 10:63-1.22 concerning audits (see 16 N.J.R. 2413(a) and 17 N.J.R. 966(a)). N.J.A.C. 10:49-1.27 and 10:63-1.22 should appear in the New Jersey Administrative Code as follows:

10:49-1.27 Audits

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

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

i. (No change.)

ii. **For all such audits and audit recovery cases pending on March 1, 1983, which are, have been or will be referred either to the Legal Action Committee, or to the Division of Criminal Justice or other agency for criminal investigation, it shall mean the date the Office of Program Integrity Administration (OPIA) receives authorization to take administrative action.**

[ii.]iii. (No change in text.)

2.-5. (No change.)

(b) (No change.)

10:63-1.22 Audits

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

1. (No change.)

2. **For all such audits and audit recovery cases pending on March 1, 1983, which are, have been or will be referred either to the Legal Action Committee, or to the Division of Criminal Justice or other agency for criminal investigation, it shall mean the date the Office of Program Integrity Administration (OPIA) receives authorization to take administrative action.**

[2.]3. (No change in text.)

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

**(d)**

**DIVISION OF PUBLIC WELFARE**

**Response to Petition for Rulemaking  
Assistance Standards Handbook  
Schedules of Allowances**

**N.J.A.C. 10:82-1.2**

**General Assistance Manual  
State and Local Responsibilities**

**N.J.A.C. 10:85-4.1**

Petitioners: Legal Services of New Jersey,  
Melville D. Miller, Jr., Esq., President.

Riker, Danzig, Scherer, Hyland and Perretti

Douglas S. Eakeley, Esq.

Alfred A. Slocum,

Public Advocate of New Jersey.

Authority: N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6.

**Take notice** that on December 19, 1985, Mr. Melville D. Miller Jr., Esq., President, Legal Services of New Jersey, filed a class petition on behalf of recipients of assistance from the Aid to Families with Dependent Children (AFDC) and General Assistance (GA) programs and Mr. Douglas S. Eakeley, Esq., of the law firm of Riker, Danzig, Scherer, Hyland and Perretti, filed an amicus petition on behalf of seventy groups and organizations in support of that class petition. The petitioners seek a rulemaking procedure establishing a standard of need in the AFDC and GA programs that is compatible with basic human needs, as required, according to the petitioners, by New Jersey statute and raising welfare

benefits to that standard. The Department of Human Services, in accordance with N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6(c), initially responded to the petition by taking the matter under consideration.

**Take further notice** that on April 14, 1986, Mr. Alfred A. Slocum, Public Advocate of New Jersey, filed a submission and joined the petition for rulemaking filed on behalf of recipients of assistance by Legal Services of New Jersey concerning the standard of need and levels of assistance in the AFDC and GA programs.

**Take further notice** that in response to that initial response to the petitioners appearing at 18 N.J.R. 433(a) and in recognition of the submission filed by the Public Advocate, the Department of Human Services makes the following determination at this time.

Due to the extensive necessary and appropriate effort required to develop a standard of need for the Aid to Families with Dependent Children (AFDC) and General Assistance (GA) programs which is based on actual living costs in New Jersey and allows for adjustment to reflect changes in such living costs, the Department's official position and response will be determined and the petitioners will be advised accordingly (with appropriate notice being submitted to the Office of Administrative Law for New Jersey Register publication) on or before July 15, 1986.

The Department has advised the petitioners directly by letter of this response.

OAL NOTE: This Response to Petition for Rulemaking was filed in time for publication in the May 19, 1986 Register, but was not published.

## CASINO CONTROL COMMISSION (a)

### **Petition for Rulemaking Minimum Wager; Big Six N.J.A.C. 19:47-5.6 and 8.2**

Petitioner: Atlantic City Casino Association.

Authority: N.J.S.A. 5:12-69, 5:12-70f and 5:12-100e.

**Take notice** that on April 22, 1986, the Atlantic City Casino Association (Association) filed a petition with the Casino Control Commission requesting the adoption of amendments to N.J.A.C. 19:47-5.6 and N.J.A.C. 19:47-8.2 concerning the minimum wager required in the game of Big Six.

N.J.A.C. 19:47-8.2 currently requires each casino licensee to establish a minimum wager of one dollar (\$1.00) at every Big Six table operated by the licensee. The amendment to N.J.A.C. 19:47-8.2(b)4 proposed by the Association would authorize a casino licensee to establish its own minimum wager for each Big Six table. The Association has also proposed an alternative amendment to N.J.A.C. 19:47-8.2(b)4, which would not permit the minimum wager for any Big Six table to exceed five dollars (\$5.00). Under either proposal, the establishment or modification of a Big Six minimum wager would have to comply with the notice requirements of N.J.A.C. 19:47-5.6 and N.J.A.C. 19:47-8.2(c).

After due notice, this petition will be considered by the Casino Control Commission in accordance with the provisions of N.J.S.A. 5:12-69c.

**EXECUTIVE ORDER NO. 66(1978) EXPIRATION DATES**

Pursuant to N.J.A.C. 1:30-4.4, all expiration dates are now affixed at the chapter level. The following table is a complete listing of all current New Jersey Administrative Code expiration dates by **Title** and **Chapter**. If a chapter is not cited, then it does not have an expiration date. In some instances, however, exceptions occur to the chapter-level assignment. These variations do appear in the listing along with the appropriate chapter citation, and are noted either as an exemption from Executive Order No. 66(1978) or as a subchapter-level date differing from the chapter date.

Current expiration dates may also be found in the loose-leaf volumes of the Administrative Code under the **Title** Table of Contents for each executive department or agency and on the **Subtitle** page for each group of chapters in a Title. Please disregard all expiration dates appearing elsewhere in a Title volume.

This listing is revised monthly and appears in the first issue of each month.

**OFFICE OF ADMINISTRATIVE LAW—TITLE 1**

N.J.A.C.	Expiration Date
1:1	5/15/90
1:2	5/15/90
1:6A	1/1/88
1:7	8/9/90
1:10	3/4/90
1:10A	9/16/90
1:11	3/4/90
1:20	8/1/88
1:21	7/15/90
1:30	2/14/91
1:31	8/12/87

N.J.A.C.	Expiration Date
3:17	6/18/86
3:19	3/17/91
3:21	11/2/86
(Except for 3:21-1 which expired 2/2/84)	
3:22	5/21/89
3:23	5/3/87
3:24	8/20/89
3:26	12/31/90
3:27	9/16/90
3:28	12/17/89
3:30	10/17/88
3:38	9/7/87
3:41	10/16/90

**AGRICULTURE—TITLE 2**

N.J.A.C.	Expiration Date
2:1	9/3/90
2:2	10/3/88
(Except for 2:2-9 which expired 6/11/84)	
2:3	6/18/89
(Except for 2:3-4 which expired 1/8/86)	
2:5	6/18/89
2:6	9/3/90
2:7	9/29/88
2:16	5/7/90
2:22	1/18/87
2:23	6/6/88
2:24	2/11/90
2:32	2/3/91
2:48	11/27/90
2:50	7/15/87
2:52	6/7/90
2:53	3/3/91
2:54	Exempt (7 U.S.C. 601 et seq. 7 C.F.R. 1004)
2:68	8/1/88
2:69	10/3/88
2:70	5/7/90
2:71	9/1/88
2:72	9/1/88
2:73	7/18/88
2:74	9/1/88
2:76	8/29/89
2:90	6/24/90

**CIVIL SERVICE—TITLE 4**

N.J.A.C.	Expiration Date
4:1	1/28/90
4:2	1/28/90
4:3	6/4/89
4:4	12/7/86
4:5	12/7/86
4:6	5/5/91

**COMMUNITY AFFAIRS—TITLE 5**

N.J.A.C.	Expiration Date
5:3	9/1/88
5:10	12/1/88
5:11	3/1/89
5:12	1/1/90
5:13	1/1/88
5:14	12/1/90
5:17	6/1/89
5:18	2/1/90
5:18A	2/1/90
5:18B	2/1/90
5:22	12/1/90
5:23	4/1/88
5:24	9/1/90
5:25	3/1/91
5:26	3/1/91
5:27	6/1/90
5:28	12/20/90
5:29	7/1/86
5:30	6/1/88
5:31	12/1/89
5:37	11/18/90
5:38	11/7/88
5:51	9/1/88
5:70	8/16/87
5:71	3/1/90
5:80	5/20/90
5:100	5/7/89

**BANKING—TITLE 3**

N.J.A.C.	Expiration Date
3:1	1/6/91
3:2	4/15/90
3:6	3/3/91
(Except for 3:6-8 which expired 4/9/85)	
3:7	9/16/90
3:11	3/19/89
(Except for 3:11-2 which expired 6/3/85)	

**DEPARTMENT OF DEFENSE—TITLE 5A**

N.J.A.C.	Expiration Date
5A:2	5/20/90

**EDUCATION—TITLE 6**

N.J.A.C.	Expiration Date
6:2	3/1/89
6:3	8/18/88
6:8	1/1/87
6:11	12/12/90
6:12	4/2/91
6:20	8/9/90
6:21	8/9/90
6:22	9/3/90
6:24	4/2/91
6:26	1/24/90
6:27	1/24/90
6:28	6/1/89
6:29	3/25/90
6:30	1/1/87
6:31	1/24/90
6:39	10/18/89
6:43	4/7/91
6:46	12/1/86
6:53	9/1/87
6:64	5/1/88
6:68	4/12/90
6:70	1/25/90
6:79	2/1/88

N.J.A.C.	Expiration Date
(Except for 7:25-1 which expired 9/17/85;	
7:25-9 which expired 9/17/85;	
7:25-19 which expired 8/22/85)	
7:25A	5/6/90
7:26	11/4/90
(Except for 7:26-5 which expired 10/7/85)	
7:27	Exempt
7:27A	Expired 10/7/85
7:28	10/7/90
7:29	3/18/90
7:29B	4/5/87
7:30	12/6/87
7:36-1	8/5/90
7:36-2	Expired 1/9/86
7:36-3	Expired 1/9/86
7:36-4	8/5/90
7:36-5	Expired 1/9/86
7:36-6	Expired 1/9/86
7:36-7	8/5/90
7:37	Expired 3/30/84
7:38	9/18/90
7:45	Expired 1/11/85

**ENVIRONMENTAL PROTECTION—TITLE 7**

N.J.A.C.	Expiration Date
7:1	9/16/90
(Except for 7:1-3 which expired 3/5/87)	
7:1A	6/7/87
7:1C	6/17/90
7:1D	12/1/88
7:1E	7/15/90
7:1F	3/27/87 (Governor's Waiver)
7:1G	10/1/89
7:1H	7/24/90
7:1I	11/18/88
7:2	7/19/88
7:4	Expired 8/16/84
7:6	12/19/88
7:7	5/7/89
7:7E	7/24/90
7:7F	12/6/87
7:8	2/7/88
7:9	1/21/91
(Except for 7:9-1 which expired 4/25/85)	
7:10	9/4/89
7:11	6/6/88
(Except for 7:11-5 which expired 12/31/83)	
7:12	6/6/88
7:13	5/4/89
7:14	4/27/89
(Except for 7:14-5 which expired 6/23/85)	
7:14A	6/4/89
7:15	4/2/89
7:17	4/7/91
7:18	8/6/86
7:19	4/15/90
(Except for 7:19-3 which expired 8/1/85)	
7:19A	2/19/90
7:19B	2/19/90
7:20	5/6/90
7:20A	12/19/88
7:21-4	Expired 4/10/84
7:22	12/7/86
7:23	6/18/89
7:24	5/19/91
7:25	2/18/91

**HEALTH—TITLE 8**

N.J.A.C.	Expiration Date
8:7	9/16/90
8:8	5/21/89
8:9	2/18/91
8:13	8/2/87
8:19	6/28/90
8:20	3/4/90
8:21	11/18/90
(Except for 8:21-1 which expired 5/15/85;	
8:21-4 which expired 7/21/83;	
8:21-6 which expired 9/18/85)	
8:21A	4/1/90
8:22	5/4/86
8:23	12/17/89
8:24	4/4/88
8:25	5/20/88
8:31	11/5/89
8:31A	3/18/90
8:31B	10/15/90
(Except for 8:31B-1 which expired 7/19/84)	
8:32	Expired 3/12/85
8:33	10/7/90
8:33A	4/15/90
8:33B	10/7/90
8:33C	8/20/89
8:33D	2/1/87
8:33E	2/4/90
8:33F	1/14/90
8:33G	7/20/89
8:33H	7/19/90
8:33I	11/2/86
8:33J	5/17/89
8:33K	4/16/89
8:34	11/18/88
8:39	6/20/88
8:40	4/15/90
8:42	3/18/90
8:42A	6/12/86
8:42B	8/1/88
8:43	1/21/91
8:43A	9/3/90
8:43B	1/21/91
8:43E	1/17/88
8:43F	3/18/90
8:44	11/7/88

N.J.A.C.	Expiration Date
8:45	5/20/90
8:48	8/20/89
8:51	9/16/90
8:53	Expired 7/19/84
8:57	6/18/90
8:58	Expired 5/1/84
8:59	10/1/89
8:60	5/3/90
8:65	12/2/90
(Except for 8:65-11 which expired 7/17/85)	
8:70	9/17/88
8:71	4/2/89

**HIGHER EDUCATION—TITLE 9**

N.J.A.C.	Expiration Date
9:1	1/17/89
9:2	6/17/90
9:3	10/17/88
9:4	11/2/86
9:5	1/21/91
9:6	5/20/90
9:7	4/13/88
9:8	11/4/90
9:9	10/3/88
9:11	1/17/89
9:12	1/17/89
9:14	5/20/90
9:15	10/25/88
9:16	Expired 7/9/85

**HUMAN SERVICES—TITLE 10**

N.J.A.C.	Expiration Date
10:1	5/6/88
10:3	9/19/88
10:4	1/3/88
10:5	12/19/88
10:6	2/21/89
10:37	11/4/90
10:38	5/28/86
10:40	3/15/89
10:43	9/1/88
10:44	10/3/88
10:44A	2/7/88
10:44B	4/15/90
10:45	9/19/88
10:47	11/4/90
10:48	1/21/91
10:49	8/12/90
10:50	3/3/91
10:51	10/28/90
10:52	2/19/90
10:53	4/29/90
10:54	3/3/91
10:55	3/11/90
10:56	9/10/86
10:57	3/3/91
10:58	3/3/91
10:59	3/3/91
10:60	8/27/90
10:61	3/3/91
10:62	3/3/91
10:63	11/29/89
10:64	3/3/91
10:65	11/5/89
10:66	12/15/88
10:67	3/3/91
10:68	7/9/86
10:69A	4/26/88
10:69B	11/21/88
10:80	8/23/89

N.J.A.C.	Expiration Date
10:81	10/15/89
10:82	10/29/89
10:85	1/3/90
10:87	3/1/89
10:89	9/11/90
10:90	11/15/87
10:94	1/6/91
10:95	8/23/89
10:97	4/16/89
10:98	7/12/87
10:99	2/19/90
10:100	2/6/89
10:109	3/17/91
10:112	Expired 2/17/84
10:120	9/26/88
10:121	3/13/89
10:121A	8/6/86
10:122	8/6/89
10:122A	Exempt
10:122B	9/10/89
10:123	7/20/90
10:124	7/19/87
10:125	7/16/89
10:127	9/19/88
10:129	10/11/89
10:130	9/19/88
10:131	9/20/87
10:132	11/16/86
10:140	12/31/86
10:141	2/21/89

**CORRECTIONS—TITLE 10A**

N.J.A.C.	Expiration Date
10A:31	2/4/90
10A:32	3/4/90
10A:33	7/16/89
10A:70	Exempt
10A:71	4/15/90

**INSURANCE—TITLE 11**

N.J.A.C.	Expiration Date
11:1	2/3/91
11:2	12/2/90
11:3	1/6/91
11:4	12/2/90
(Except for 11:4-15 which expired 5/22/83)	
11:5	11/7/88
11:10	7/15/90
11:12	11/2/86
11:13	12/6/87
11:14	7/2/89
11:15	12/3/89
11:16	2/3/91

**LABOR—TITLE 12**

N.J.A.C.	Expiration Date
12:15	8/19/90
12:16	4/1/90
12:17	1/6/91
12:20	11/5/89
12:35	8/5/90
12:45	5/2/88
12:46	5/2/88
12:47	5/2/88
12:48	5/2/88
12:49	5/2/88
12:51	8/1/86
12:56	9/26/90

N.J.A.C.	Expiration Date
12:57	9/26/90
12:58	9/26/90
12:90	12/17/89
12:100	11/5/89
12:105	1/21/91
12:120	5/3/90
12:175	12/9/88
12:190	9/5/87
12:195	9/6/88
12:200	8/5/90
12:235	5/5/91

**LAW AND PUBLIC SAFETY—TITLE 13**

N.J.A.C.	Expiration Date
13:1	7/19/88
13:1C	Expired 12/1/83
13:2	8/5/90
13:3	8/1/88
13:4	1/21/91
13:10	5/27/89
13:13	6/17/90
13:18	4/1/90
13:19	8/23/89
13:20	12/18/90
13:21	12/16/90
13:22	1/7/90
13:23	6/4/89
13:24	11/5/89
13:25	3/18/90
13:26	10/17/88
13:27	4/1/90
13:27A	11/1/87
13:28	9/3/90
13:29	6/3/90
13:30	4/15/90
13:31	12/21/86
13:32	11/1/87
13:33	3/18/90
13:34	11/21/88
13:35	11/19/89
13:36	11/19/89
13:37	2/11/90
13:38	10/7/90
13:39	1/6/91
13:40	9/3/90
13:41	9/3/90
13:42	11/3/88
13:43	9/8/88
13:44	8/20/89
13:44A	Expired 5/17/84
13:44B	5/3/87
13:45A	12/16/90
13:46	6/3/90
13:47A	8/16/87
(Except for 13:47A-25 which expired 8/14/83)	
13:47B	1/4/89
13:47C	8/20/89
13:48	1/21/91
13:49	12/19/88
13:51	6/21/87
13:58	9/7/89
13:59	9/16/90
13:70	2/25/90
13:71	2/25/90
13:75	8/20/89
13:76	9/6/88

**PUBLIC UTILITIES—TITLE 14**

N.J.A.C.	Expiration Date
14:1	12/16/90
14:3	5/6/90
14:5	12/16/90
14:6	3/3/91
14:9	4/15/90
14:11	2/1/87
14:17	5/7/89
14:18	7/29/90

**ENERGY—TITLE 14A**

N.J.A.C.	Expiration Date
14A:2	4/17/89
14A:3	10/7/90
(Except for 14A:3-10 which expired 9/1/85)	
14A:4	10/19/88
14A:5	10/19/88
14A:6	8/6/89
14A:7	9/16/90
14A:8	9/20/89
14A:9	Expired 4/27/84
14A:11	9/20/89
14A:12	2/7/88
14A:13	11/2/86
14A:14	2/6/89
14A:20	2/3/91
14A:21	11/21/90
14A:22	6/4/89

**STATE—TITLE 15**

N.J.A.C.	Expiration Date
15:2	3/7/88
15:3	5/20/86
15:10	2/18/91

**TRANSPORTATION—TITLE 16**

N.J.A.C.	Expiration Date
16:1	8/5/90
16:2	10/3/88
16:6	9/3/90
16:13	5/7/89
16:16	11/7/88
16:17	11/7/88
16:20A	12/17/89
16:20B	12/17/89
16:21	9/3/90
16:21A	8/20/89
16:22	2/3/91
16:25-12	Expired 2/5/84
16:25-13	Expired 2/5/84
16:26	8/6/89
16:27	6/4/86
16:28	11/7/88
16:28A	11/7/88
16:29	11/7/88
16:30	11/7/88
16:31	11/7/88
16:31A	10/20/88
16:32	4/15/90
16:33	9/3/90
16:41	11/15/87
16:41A	2/19/90
16:41B	3/4/90
16:43	9/3/90
16:44	10/3/88
16:49	3/18/90
16:53	3/19/89

<b>N.J.A.C.</b>	<b>Expiration Date</b>
16:53A	4/15/90
16:53B	Expired 8/21/84
16:53C	9/19/88
16:53D	5/7/89
16:54	4/7/91
16:55	11/7/88
16:56	6/4/89
16:60	11/7/88
16:61	11/7/88
16:62	4/15/90
16:72	3/31/91
16:73	2/16/87
16:75	6/6/88
16:76	12/19/88
16:77	1/21/90
16:78	10/7/90

**TREASURY-GENERAL—TITLE 17**

<b>N.J.A.C.</b>	<b>Expiration Date</b>
17:1	6/6/88
17:2	12/17/89
17:3	6/6/88
17:4	7/1/90
17:5	12/2/90
17:6	2/19/89
17:7	6/6/88
17:8	6/27/90
17:9	6/6/88
17:10	6/6/88
17:12	8/15/89
17:16	12/2/90
(Except for 17:16-35 which expired 1/17/84; and 17:16-41 which expired 10/10/85)	
17:19	3/18/90
17:19A	Expired 2/1/84
17:20	11/7/88
17:25	6/18/89
17:27	11/7/88
17:28	9/13/90
17:29	10/18/90

**TREASURY-TAXATION—TITLE 18**

<b>N.J.A.C.</b>	<b>Expiration Date</b>
18:3	4/23/89
18:5	4/16/89
18:6	4/2/89
18:7	4/2/89
18:8	4/2/89

<b>N.J.A.C.</b>	<b>Expiration Date</b>
18:9	8/12/88
18:12	8/12/88
18:12A	8/12/88
18:14	8/12/88
18:15	8/12/88
18:16	8/12/88
18:17	8/12/88
18:18	4/2/89
18:19	4/6/89
18:22	4/2/89
18:23	4/2/89
18:23A	8/5/90
18:24	8/12/88
18:25	1/6/91
18:26	8/12/88
18:30	4/2/89
18:35	8/12/88
18:36	2/4/90
18:37	8/5/90

**OTHER AGENCIES—TITLE 19**

<b>N.J.A.C.</b>	<b>Expiration Date</b>
19:3	6/19/88
19:3B	Exempt (N.J.S.A. 13:17-1)
19:4	11/7/88
19:4A	5/2/88
19:8	6/1/88
19:9	7/13/88
19:12	8/21/86
19:16	8/21/86
19:17	7/15/88
19:25	1/9/91
19:30	10/7/90
19:40	9/26/89
19:41	5/17/88
19:42	5/17/88
19:43	4/27/89
19:44	10/13/88
19:45	4/7/88
19:46	5/4/88
19:47	5/4/88
19:48	10/13/88
19:49	3/29/88
19:50	5/23/88
19:51	11/2/86
19:52	10/8/86
19:53	5/4/88
19:54	4/15/88
19:75	1/17/89

# REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

## A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

**At the bottom of the index listing for each Administrative Code Title is the Transmittal number and date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the April 7, 1986 issue.**

**If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers.** A proposal may be adopted up to one year after its initial publication in the Register. Failure to adopt a proposed rule on a timely basis requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(d).

**Terms and abbreviations used in this Index:**

**N.J.A.C. Citation.** The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

**Proposal Notice (N.J.R. Citation).** The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

**Document Number.** The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1986 d.100 means the one hundredth rule adopted in 1986.

**Adoption Notice (N.J.R. Citation).** The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

**Transmittal.** A number and date certifying the currency of rules found in each Title of the New Jersey Administrative Code: Rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

**N.J.R. Citation Locator.** An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find the issue of publication of a rule proposal or adoption.

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**MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: MARCH 17, 1986.**

**NEXT UPDATE WILL BE DATED APRIL 21, 1986.**

**Note:** If no changes have occurred in a Title during the previous month, no update will be issued for that Title.

## N.J.R. CITATION LOCATOR

If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register	If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register
17 N.J.R. 1159 and 1358	May 20, 1985	17 N.J.R. 2815 and 2934	December 2, 1985
17 N.J.R. 1359 and 1460	June 3, 1985	17 N.J.R. 2935 and 3032	December 16, 1985
17 N.J.R. 1461 and 1608	June 17, 1985	18 N.J.R. 1 and 128	January 6, 1986
17 N.J.R. 1609 and 1700	July 1, 1985	18 N.J.R. 129 and 234	January 21, 1986
17 N.J.R. 1701 and 1818	July 15, 1985	18 N.J.R. 235 and 376	February 3, 1986
17 N.J.R. 1819 and 1954	August 5, 1985	18 N.J.R. 377 and 446	February 18, 1986
17 N.J.R. 1955 and 2070	August 19, 1985	18 N.J.R. 447 and 506	March 3, 1986
17 N.J.R. 2071 and 2170	September 3, 1985	18 N.J.R. 507 and 582	March 17, 1986
17 N.J.R. 2171 and 2318	September 16, 1985	18 N.J.R. 583 and 726	April 7, 1986
17 N.J.R. 2319 and 2484	October 7, 1985	18 N.J.R. 727 and 868	April 21, 1986
17 N.J.R. 2485 and 2584	October 21, 1985	18 N.J.R. 869 and 1018	May 5, 1986
17 N.J.R. 2585 and 2710	November 4, 1985	18 N.J.R. 1019 and 1122	May 19, 1986
17 N.J.R. 2711 and 2814	November 18, 1985	18 N.J.R. 1123 and 1222	June 2, 1986

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
<b>ADMINISTRATIVE LAW—TITLE 1</b>				
1:1, 1:2-1:21	Pre-proposal: Administrative hearings	18 N.J.R. 728(a)		
1:1-3.8	Attorney disqualification from a case	18 N.J.R. 2(a)		
1:1-14.6	Consolidated cases involving exempt agencies	18 N.J.R. 130(a)	R.1986 d.79	18 N.J.R. 634(a)
1:1-15.10	Prior transcribed testimony	18 N.J.R. 1020(a)		
1:2-2.1	Civil Service cases: pre-proposal concerning conference hearings	17 N.J.R. 2072(a)		
1:6	Education budget hearings	18 N.J.R. 1020(b)		
1:6A-5.4	Special education hearings: placement of child pending an appeal	17 N.J.R. 2586(a)	R.1986 d.85	18 N.J.R. 634(b)
1:6A-5.4	Special education hearings: stay of decision implementation	18 N.J.R. 584(a)	R.1986 d.195	18 N.J.R. 1192(a)
1:30	Agency rulemaking: correction	18 N.J.R. 3(a)	R.1986 d.60	18 N.J.R. 938(a)

(TRANSMITTAL 19, dated March 17, 1986)

<b>AGRICULTURE—TITLE 2</b>				
2:5-3	Avian influenza	18 N.J.R. 488(a)	R.1986 d.148	18 N.J.R. 938(b)
2:9-1.1, 1.2	Avian influenza and infected poultry flocks	18 N.J.R. 870(a)		
2:22-3.1	Africanized honeybee control	18 N.J.R. 585(a)	R.1986 d.200	18 N.J.R. 1192(b)
2:24-1	Shipment of bees into State	18 N.J.R. 586(a)	R.1986 d.199	18 N.J.R. 1192(c)
2:32-2	Sire Stakes Program	18 N.J.R. 236(a)	R.1986 d.84	18 N.J.R. 635(a)
2:69-1.11	Commercial values of fertilizers	18 N.J.R. 588(a)	R.1986 d.198	18 N.J.R. 1193(a)
2:71-2.2-2.7	"Jersey Fresh" Quality Grading Program	18 N.J.R. 588(b)	R.1986 d.201	18 N.J.R. 1196(a)
2:71-2.28, 2.29, 2.31	Fees for inspection and grading of fruit and vegetables	18 N.J.R. 448(a)	R.1986 d.147	18 N.J.R. 938(c)
2:76-3.12	Farmland preservation programs: deed restrictions	18 N.J.R. 508(a)	R.1986 d.196	18 N.J.R. 1192(b)
2:76-4.11	Municipally-approved preservation programs: deed restrictions	18 N.J.R. 511(a)	R.1986 d.197	18 N.J.R. 1195(a)
2:76-6.15	Acquisition of development easements: deed restrictions	18 N.J.R. 513(a)		
2:90-1.5, 1.14	Soil conservation plan certifications; minor subdivisions	17 N.J.R. 2172(a)		
2:90-1.13	Soil conservation: extraction activity	17 N.J.R. 1957(a)		
2:90-2.15, 2.17, 2.18, 2.24	Soil and water conservation projects	18 N.J.R. 131(a)	R.1986 d.105	18 N.J.R. 638(a)
2:90-3.6, 3.9	Time extensions to complete conservation projects	18 N.J.R. 449(a)	R.1986 d.190	18 N.J.R. 1099(a)

(TRANSMITTAL 38, dated March 17, 1986)

<b>BANKING—TITLE 3</b>				
3:1-2.24	Modification of Commissioner's Order restricting stock transfers	17 N.J.R. 2487(a)		
3:11-10	Savings banks: credit card services	18 N.J.R. 241(a)	R.1986 d.93	18 N.J.R. 639(a)
3:11-11	Leeway investments	18 N.J.R. 132(a)		
3:17	Small loan rules	18 N.J.R. 1021(a)		
3:38-5.2	Return of borrower's commitment fee	17 N.J.R. 2488(b)		

(TRANSMITTAL 32, dated March 17, 1986)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
<b>CIVIL SERVICE—TITLE 4</b>				
4:1-2.1, 5.2, 11.2, 16, 24	Separations, demotions, layoffs; review and appeals	18 N.J.R. 450(a)		
4:1-8.4	Promotional examinations	18 N.J.R. 591(a)		
4:1-10.1, 10.2	Noncompetitive and labor appointments	17 N.J.R. 2937(b)	R.1986 d.117	18 N.J.R. 639(b)
4:1-15	Assignments and transfers	18 N.J.R. 592(a)		
4:1-23	Grievances and minor discipline	17 N.J.R. 2587(a)	R.1986 d.126	18 N.J.R. 640(a)
4:2-15.1	Assignments and transfers	18 N.J.R. 592(a)		
4:2-16	Separations and demotions	18 N.J.R. 450(a)		
4:2-23	Grievances and minor discipline	17 N.J.R. 2587(a)	R.1986 d.126	18 N.J.R. 640(a)
4:3-16	Separations and demotions	18 N.J.R. 450(a)		
4:3-23	Grievances and minor discipline	17 N.J.R. 2587(a)	R.1986 d.126	18 N.J.R. 640(a)
4:6	Overtime compensation	18 N.J.R. 515(a)	R.1986 d.170	18 N.J.R. 939(a)

(TRANSMITTAL 28, dated January 21, 1986)

<b>COMMUNITY AFFAIRS—TITLE 5</b>				
5:11-2.1	Uniform Fire Code enforcement and relocation assistance	17 N.J.R. 2938(a)		
5:12-2.4, 2.5	Homelessness Prevention Program: eligibility and priorities	17 N.J.R. 2939(a)		
5:18-1.1, 1.4, 1.5, 1.6, 2.3, 4	Uniform Fire Code, Fire Safety Code	17 N.J.R. 1161(a)		
5:23-2.14, 4.18, 4.20	UCC: annual construction permits	17 N.J.R. 2490(a)		
5:23-3.2	Subcode exceptions	18 N.J.R. 757(a)		
5:23-3.11, 4.22, 4.24, 4.25	Uniform Construction Code: premanufactured construction	17 N.J.R. 1169(a)	R.1986 d.142	18 N.J.R. 945(a)
5:23-5.5, 5.7	Construction subcode licensure: transferability of experience	18 N.J.R. 594(a)		
5:23-5.26	Uniform Construction Code: revocation of licenses	18 N.J.R. 16(b)	R.1986 d.173	18 N.J.R. 1099(b)
5:23-7	Barrier Free Subcode: access for physically handicapped and aged	18 N.J.R. 757(a)		
5:23-8	Asbestos hazard abatement subcode	18 N.J.R. 378(a)	R.1986 d.143	18 N.J.R. 949(a)
5:25	New Home Warranties and Builders' Registration	17 N.J.R. 2816(a)	R.1986 d.141	18 N.J.R. 959(a)
5:25	New Home Warranty and Builders' Registration rules: waiver of sunset provision	18 N.J.R. 218(a)		
5:25	New Home Warranty and Builders' Registration rules: waiver of sunset provision	18 N.J.R. 490(a)		
5:26	Planned real estate full disclosure	18 N.J.R. 392(a)	R.1986 d.129	18 N.J.R. 841(a)
5:29	Housing and Development: petitions for rules	18 N.J.R. 871(a)		
5:30-17	Local public contracts: cooperative pricing and joint purchasing systems	18 N.J.R. 1022(a)		
5:80-4	Housing and Mortgage Finance	17 N.J.R. 1174(b)		
5:80-8	Housing and Mortgage Finance Agency: housing project occupancy requirements	17 N.J.R. 1620(a)		
5:80-20	HMFA housing projects: applicant and tenant income certification	17 N.J.R. 2321(b)		
5:80-20	HMFA housing projects: applicant and tenant income certification	18 N.J.R. 523(a)		
5:91	Council on Affordable Housing: procedural rules	18 N.J.R. 821(a)		

(TRANSMITTAL 39, dated March 17, 1986)

**DEFENSE—TITLE 5A**

(TRANSMITTAL 1, dated May 20, 1985)

<b>EDUCATION—TITLE 6</b>				
6:11-2.1	Duties of State Board of Examiners	18 N.J.R. 595(a)		
6:12	Governor's Teaching Scholars Program	18 N.J.R. 135(a)	R.1986 d.158	18 N.J.R. 973(a)
6:20-2.13	Local districts: overexpenditure of funds	17 N.J.R. 2939(b)	R.1986 d.118	18 N.J.R. 643(a)
6:20-5.5	State aid for asbestos removal and encapsulation	18 N.J.R. 392(b)	R.1986 d.204	18 N.J.R. 1198(a)
6:20-5.6	Minimum salaries and State aid	18 N.J.R. 393(a)	R.1986 d.205	18 N.J.R. 1199(a)
6:21-16.1	Pupil transportation contracts	18 N.J.R. 138(a)	R.1986 d.156	18 N.J.R. 975(a)
6:22-1.6, 1.7, 2.4, 3.1	School facility planning; substandard facilities	18 N.J.R. 526(a)		
6:24	Controversies and disputes under school law	18 N.J.R. 404(b)	R.1986 d.157	18 N.J.R. 976(a)
6:30	Adult and community education	18 N.J.R. 871(b)		
6:43-1.3	Vocational and technical education: schools designated "other than full-time day"	17 N.J.R. 2940(a)	R.1986 d.119	18 N.J.R. 644(a)
6:68-5	Audio-visual public library services	18 N.J.R. 595(b)		
6:68-6	Institutional library services	18 N.J.R. 597(a)		
6:69-2	Library services to the disadvantaged	18 N.J.R. 599(a)		

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N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
<b>ENVIRONMENTAL PROTECTION—TITLE 7</b>				
7:1-3	Interim Environmental Cleanup Responsibility Act rules	18 N.J.R. 242(a)	R.1986 d.87	18 N.J.R. 645(a)
7:1-3.20	ECRA review process: exempt industrial categories	18 N.J.R. 529(a)	R.1986 d.188	18 N.J.R. 1099(c)
7:1-6	Disposal of solid waste	18 N.J.R. 883(a)		
7:1-7	Hazardous substance discharges: reports and notices	17 N.J.R. 1826(a)		
7:1E-2.3	Discharge of hazardous substances: department response	18 N.J.R. 456(a)	R.1986 d.161	18 N.J.R. 980(a)
7:2-11.22	Bear Swamp East natural area	18 N.J.R. 139(a)	R.1986 d.202	18 N.J.R. 1200(a)
7:2-11.22	Bear Swamp East natural area: public hearing	18 N.J.R. 532(a)		
7:2-12	Open lands management	17 N.J.R. 866(b)	R.1986 d.124	18 N.J.R. 645(a)
7:6-1.4, 1.12, 1.14, 1.15, 1.42	Boating rules	18 N.J.R. 876(a)		
7:7-2.2	Wetlands maps in Ocean County	17 N.J.R. 1710(a)		
7:7-2.2	Wetlands management in Atlantic County	18 N.J.R. 1026(a)		
7:7E	Coastal Resource and Development revisions: extension of comment period	17 N.J.R. 1797(b)		
7:7E	Coastal Resource and Development Policies: correction to Code and proposed revisions	17 N.J.R. 1797(c)		
7:11-2.2, 2.3, 2.9	Sale of water from Delaware and Raritan Canal and Spruce Run/Round Valley Reservoirs	18 N.J.R. 17(a)	R.1986 d.187	18 N.J.R. 1100(a)
7:12-1.2-1.6, 1.8, 2.1, 2.15	Shellfish-growing water classification	18 N.J.R. 784(a)		
7:13-7.1(c)29	Floodway delineations within Maurice River Basin	17 N.J.R. 2186(a)		
7:13-7.1(d)	Flood hazard delineations for Raritan River and Peters Brook	18 N.J.R. 600(a)		
7:13-7.1(d)14	Flood hazard along Lamington River in Morris County	17 N.J.R. 2324(b)	R.1986 d.123	18 N.J.R. 652(a)
7:13-7.1(d)47	Redelineation of Pine Brook in Bergen County	17 N.J.R. 2074(a)	R.1986 d.125	18 N.J.R. 652(b)
7:13-7.1(d)49	Floodway delineations in Union County	17 N.J.R. 1965(a)	R.1986 d.122	18 N.J.R. 651(a)
7:13-7.1(i)	Floodway delineations in Central Passaic Basin Projects G and R	17 N.J.R. 1176(a)	R.1986 d.120	18 N.J.R. 650(a)
7:14A-4.4, 4.7	Dioxin-containing waste	18 N.J.R. 879(a)		
7:14A-6.16	Disposal of solid waste	18 N.J.R. 883(a)		
7:17	Hard shell clam depuration: pilot plant program	18 N.J.R. 140(a)	R.1986 d.83	18 N.J.R. 657(a)
7:17	Hard shell clam depuration: pilot plant program	18 N.J.R. 141(a)	R.1986 d.82	18 N.J.R. 653(a)
7:19-3	Water allocation permit fees	18 N.J.R. 789(a)		
7:22	Wastewater treatment facilities: construction grants and loans	18 N.J.R. 243(a)		
7:24	Dam restoration grants	18 N.J.R. 395(a)	R.1986 d.186	18 N.J.R. 1101(a)
7:25-4.17	Status of indigenous nongame wildlife	18 N.J.R. 601(a)		
7:25-5	1986-1987 Game Code	18 N.J.R. 1026(b)		
7:25-8.1	Repeal clam dredging rule	18 N.J.R. 396(a)		
7:25-9	Minimum legal size for hard clams	18 N.J.R. 146(a)		
7:25-10	Possession of captive game animals and birds	18 N.J.R. 533(a)		
7:25-12.1	Sea clam quota			18 N.J.R. 711(b)
7:25-18	Marine fisheries	18 N.J.R. 102(a)	R.1985 d.121	18 N.J.R. 657(b)
7:25-19	Atlantic Coast harvest season	17 N.J.R. 2494(a)		
7:26-1.4, 1.6, 9.1, 12.1	Tolling agreements and reclamation of hazardous waste	17 N.J.R. 1968(a)	R.1986 d.160	18 N.J.R. 981(a)
7:26-1.4, 2, 2A, 2B, 5, 12.11, 12.12	Disposal of solid waste	18 N.J.R. 883(a)		
7:26-1.4, 7.4, 9.1, 12.1, 12.8	Reuse of hazardous waste	17 N.J.R. 2716(a)		
7:26-1.4, 7.5, 7.7, 8.13	Waste oil	18 N.J.R. 878(a)		
7:26-1.7	Solid waste disposal: exemption from registration	17 N.J.R. 1368(a)		
7:26-1.8	Solid waste disposal: land application operations	17 N.J.R. 2945(a)	R.1986 d.162	18 N.J.R. 982(a)
7:26-2.6, 2.7	Disposal of asbestos waste	17 N.J.R. 2719(a)		
7:26-2.9	Closure and post-closure of sanitary landfills	18 N.J.R. 252(a)		
7:26-2.9	Closure and post-closure of sanitary landfills	18 N.J.R. 924(a)		
7:26-2.9	Closure and post-closure care of sanitary landfills: escrow agreements	18 N.J.R. 1036(a)		
7:26-2.13	Resource recovery facilities and transfer stations: recordkeeping			18 N.J.R. 983(a)
7:26-6.5	Solid waste flow: Ocean County	17 N.J.R. 2590(a)	R.1986 d.159	18 N.J.R. 983(b)
7:26-6.5	Solid waste flow: Camden County	17 N.J.R. 2591(a)	R.1986 d.164	18 N.J.R. 983(c)
7:26-7.4, 8.3, 8.15, 9.2, 10.6, 10.	Restriction of land disposal of hazardous waste	17 N.J.R. 779(a)	R.1986 d.135	18 N.J.R. 841(b)
7:26-8.1, 8.2, 8.19, 9.3, 9.7, 12.2	Hazardous waste management	17 N.J.R. 2941(a)		
7:26-8.1, 8.2, 8.19, 9.3, 9.7, 12.2	Hazardous waste management: extension of comment period	18 N.J.R. 254(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
7:26-8.3, 8.4, 8.13, 8.15, 10.5-10.8, 11.1, 11.5, 11.6, 12.2	Dioxin-containing waste	18 N.J.R. 879(a)		
7:26-8.14, 8.15, 8.16	Hazardous waste criteria, identification and listing	18 N.J.R. 1037(a)		
7:26-8.16	Waste code numbers for hazardous constituents	18 N.J.R. 792(a)		
7:27-16	Air pollution by volatile organic substances	17 N.J.R. 1969(a)		
7:27B-3	Determination of volatile organic substances from source operations	17 N.J.R. 2194(a)		
7:45	Delaware and Raritan Canal State Park: Review Zone rules	17 N.J.R. 1711(a)		
7:45-1, 2, 3	Delineation of Review Zone within Delaware and Raritan Canal State Park: reopening of comment period	18 N.J.R. 457(a)		

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**HEALTH—TITLE 8**

8:9-1.11	Disposal of cremains: public hearing	17 N.J.R. 2835(a)		
8:21-10	Designated fluid milk products	18 N.J.R. 59(b)	R.1986 d.96	18 N.J.R. 660(a)
8:22-1	Campgrounds sanitation	18 N.J.R. 1038(a)		
8:26	Recreational bathing	18 N.J.R. 1040(a)		
8:31-16.1	Hospital long-range strategic plans	18 N.J.R. 148(a)	R.1986 d.112	18 N.J.R. 675(a)
8:31-25.1	Mobile intensive care: administration of medications	18 N.J.R. 602(a)		
8:31-30.1	Health facilities construction: plan review fees	18 N.J.R. 795(a)		
8:31A-7.4, 7.5, 7.14	SHARE: Medicaid rates and transfer of ownership	18 N.J.R. 150(a)	R.1986 d.140	18 N.J.R. 843(a)
8:31B-3.5, 3.22, 3.54	Hospital reimbursement: "efficiency standard"	17 N.J.R. 2946(a)	R.1986 d.114	18 N.J.R. 676(a)
8:31B-3.19	RIM methodology for nursing cost allocation: implementation date	17 N.J.R. 2464(a)		
8:31B-3.31	Hospital reimbursement: transfer of residency positions	18 N.J.R. 795(b)		
8:31B-3.31, 3.51	Hospital reimbursement: graduate medical education	17 N.J.R. 2947(a)	R.1986 d.138	18 N.J.R. 843(b)
8:31B-3.76-3.82	Hospital reimbursement: URO performance evaluation; post-billing denial of payments	18 N.J.R. 150(b)		
8:33B-1.3, 1.12	Extracorporeal shock wave lithotripsy services	18 N.J.R. 798(a)		
8:33F-1.2, 1.6, App. B	Renal disease: regional end-stage services	17 N.J.R. 2948(a)	R.1986 d.113	18 N.J.R. 677(a)
8:34-1.8	Nursing home administrators: limitations on responsibility	18 N.J.R. 74(a)	R.1986 d.88	18 N.J.R. 678(a)
8:34-1.9	Reexamination for Nursing Home Administrator's License	18 N.J.R. 75(a)	R.1986 d.89	18 N.J.R. 678(b)
8:34-1.31	Licensing of nursing home administrators	17 N.J.R. 2212(a)		
8:41-8	Mobile intensive care: administration of medications	18 N.J.R. 602(a)		
8:42A	Alcoholism treatment facilities	18 N.J.R. 796(a)		
8:43B-8.16	Obstetric and newborn services: use of oxytocic agents	17 N.J.R. 2213(a)	R.1986 d.167	18 N.J.R. 984(a)
8:43E-1	Hospital Policy Manual: Certificate of Need rules	17 N.J.R. 1220(a)		
8:43E-1	Hospital Policy Manual	18 N.J.R. 825(a)		
8:44-2.10	Reportable occupational and environmental diseases and poisons	17 N.J.R. 1831(a)		
8:53	Implementation of Local Health Services Act	17 N.J.R. 2836(a)		
8:57-1.19, 1.20, -6	Cancer registry	17 N.J.R. 2836(b)		
8:60-1.1, 4.2-4.8, 5.2, 5.4-5.7, 6.1, 6.3, 6.11	Asbestos licenses and permits	18 N.J.R. 156(a)		
8:65-10.1	Controlled dangerous substances: analogs of fentanyl	18 N.J.R. 254(b)	R.1986 d.184	18 N.J.R. 1102(a)
8:65-10.1	Controlled dangerous substances: Parafluorofentanyl	18 N.J.R. 603(a)		
8:65-10.2	Removal of Nalmefene from Schedule II of controlled substances	18 N.J.R. 536(a)		
8:65-11	Narcotic treatment programs	18 N.J.R. 924(b)		
8:71	Generic drug list additions (see 17 N.J.R. 2042(b), 2556(b), 2769(a), 18 N.J.R. 182(a))	17 N.J.R. 1043(a)	R.1986 d.139	18 N.J.R. 845(a)
8:71	Generic drug list additions (see 17 N.J.R. 2557(a), 2769(b), 18 N.J.R. 183(a), 418(a))	17 N.J.R. 1733(a)	R.1986 d.151	18 N.J.R. 985(a)
8:71	Generic drug list additions (see 18 N.J.R. 417(a), 984(b))	17 N.J.R. 2842(a)	R.1986 d.183	18 N.J.R. 1102(b)
8:71	Generic drug list additions: public hearing	18 N.J.R. 537(a)		

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**HIGHER EDUCATION—TITLE 9**

9:2-2	Fund for Improvement of Collegiate Education: policies and procedures	17 N.J.R. 2724(a)	R.1986 d.99	18 N.J.R. 679(a)
9:2-5	Management of computerized information	18 N.J.R. 799(a)		
9:2-11	Veterans Tuition Credit Program	17 N.J.R. 2844(a)	R.1986 d.103	18 N.J.R. 679(b)
9:7-2.2	Residency and student assistance	18 N.J.R. 801(a)		
9:7-2.3	Status of foreign nationals	18 N.J.R. 19(a)		
9:7-2.9	Student assistance programs: award combinations	17 N.J.R. 2725(a)		
9:7-3.1	Tuition Aid Grant Program: 1986-87 Award Table	18 N.J.R. 19(b)	R.1986 d.106	18 N.J.R. 680(a)

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9:7-4.1, 4.2, 4.3, 4.5, 4.8	Garden State Scholarship Program	17 N.J.R. 2726(a)	R.1986 d.108	18 N.J.R. 680(b)
9:9-1.6	Guaranteed Student Loans and payment of insurance fee	17 N.J.R. 2727(a)	R.1986 d.102	18 N.J.R. 681(a)
9:9-1.16	Interest liability on defaulted student loans	17 N.J.R. 2728(a)	R.1986 d.101	18 N.J.R. 682(a)
9:9-9.2	Direct PLUS program and co-signer requirement	17 N.J.R. 2728(b)	R.1986 d.100	18 N.J.R. 682(b)
9:11-1.2	Educational Opportunity Fund: student residency	18 N.J.R. 925(a)		
9:11-1.5	EOF: undergraduate grants	18 N.J.R. 926(a)		
9:11-1.7	EOF: grant amounts	18 N.J.R. 926(b)		
9:11, 12	Educational Opportunity Fund Program rules	17 N.J.R. 2214(b)	R.1986 d.107	18 N.J.R. 682(c)
9:12-1.4, 1.5	EOF program rules: correction	17 N.J.R. 2214(b)	R.1986 d.107	18 N.J.R. 682(c)
9:12-1.5, 2.3	Educational Opportunity Fund Program	17 N.J.R. 2214(b)		
9:12-1.5, 2.3	Educational Opportunity Fund Program	18 N.J.R. 801(b)		

## (TRANSMITTAL 30, dated January 21, 1986)

## HUMAN SERVICES—TITLE 10

10:36-1	Patient supervision at State psychiatric hospitals	17 N.J.R. 2593(a)		
10:36-1	Patient supervision at State psychiatric hospitals: public hearing	18 N.J.R. 20(a)		
10:36-2	Clinical review procedures for special status psychiatric patients	17 N.J.R. 2951(a)		
10:38	Interim assistance procedures for discharged clients of State hospitals	18 N.J.R. 802(a)		
10:42	Developmental Disabilities: Emergency Mechanical Restraint	17 N.J.R. 1832(a)		
10:49-1.1	Administration Manual: retroactive Medicaid eligibility	17 N.J.R. 2729(a)	R.1986 d.137	18 N.J.R. 845(c)
10:49-1.1, 1.2, 1.4	Medically Needy program	18 N.J.R. 803(a)		
10:50-1.5, 2.3	Medically Needy program	18 N.J.R. 803(a)		
10:51-1, App. B, D, E	Pharmaceutical Services Manual	18 N.J.R. 255(a)	R.1986 d.136	18 N.J.R. 846(a)
10:51-1.2, 1.14, 3.1	Medically Needy program	18 N.J.R. 803(a)		
10:51-1.14, 5.16	Pharmaceutical services: ineligible prescription drugs	17 N.J.R. 2730(a)		
10:51-4	Consultant Pharmacist Services	17 N.J.R. 2731(a)	R.1986 d.127	18 N.J.R. 847(a)
10:52-1.2, 1.3, 1.6, 1.8, 1.19	Medically Needy program	18 N.J.R. 803(a)		
10:52-1.5, 1.17	Out-of-state inpatient hospital services	18 N.J.R. 538(a)		
10:52-1.16	Termination of pregnancy in licensed health care facilities	17 N.J.R. 1375(a)		
10:53-1.2, 1.3, 1.5, 1.7, 1.15	Medically Needy program	18 N.J.R. 803(a)		
10:53-1.14	Termination of pregnancy	17 N.J.R. 1375(a)		
10:54-1.2, 1.4, 1.7, 1.9, 1.10	Medically Needy program	18 N.J.R. 803(a)		
10:54-1.23	Termination of pregnancy	17 N.J.R. 1375(a)		
10:54-4	Physician's Services: common procedure coding (HCPCS)	18 N.J.R. 927(a)		
10:55-2.2	Medically Needy program	18 N.J.R. 803(a)		
10:56-1.12, 2.1	Medically Needy program	18 N.J.R. 803(a)		
10:56-3	Dental Services: procedure codes and descriptions	18 N.J.R. 154(a)	R.1986 d.128	18 N.J.R. 847(b)
10:57-1.3, 1.7, 1.13, 2.3	Medically Needy program	18 N.J.R. 803(a)		
10:59-2.3	Medically Needy program	18 N.J.R. 803(a)		
10:61-1, 2	Independent laboratory services	18 N.J.R. 540(a)		
10:61-2.2	Medically Needy program	18 N.J.R. 803(a)		
10:62-1.4, 3.3	Medically Needy program	18 N.J.R. 803(a)		
10:62-3	Vision Care Manual: billing procedures	17 N.J.R. 2731(b)	R.1986 d.90	18 N.J.R. 689(a)
10:63-1.16, 2.1	Medically Needy program	18 N.J.R. 803(a)		
10:63-3.2, 3.4, 3.5, 3.6, 3.8, 3.10-3.15, 3.18, 3.19	Long-term care facilities: CARE Guidelines	18 N.J.R. 257(a)		
10:65-1.2, 2.5	Medically Needy program	18 N.J.R. 803(a)		
10:66-1.6	Termination of pregnancy	17 N.J.R. 1375(a)		
10:66-1.6	Medically Needy program	18 N.J.R. 803(a)		
10:66-2, 3	Independent clinic services	18 N.J.R. 541(a)		
10:66-3	Independent Clinic Services: common procedure coding (HCPCS)	18 N.J.R. 927(a)		
10:66-3	Independent clinic transportation services: HCPCS codes	18 N.J.R. 1053(a)		
10:67-2.3	Medically Needy program	18 N.J.R. 803(a)		
10:68	Chiropractic services and billing procedures	18 N.J.R. 1053(b)		
10:68-1.2	Medically Needy program	18 N.J.R. 803(a)		
10:68-2	Chiropractor billing procedures	18 N.J.R. 810(a)		
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10:82-5.10	ASH: emergency assistance	17 N.J.R. 2337(a)		
10:82-5.10	ASH: emergency assistance	Emergency	R.1986 d.130	18 N.J.R. 849(a) 18 N.J.R. 712(b)
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10:85-4.6	GAM: emergency grants	Emergency	R.1986 d.131	18 N.J.R. 850(a)
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