

NEW JERSEY REGISTER



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 See the Register Index for Subsequent Rulemaking Activity.
NEXT UPDATE: SUPPLEMENT OCTOBER 15, 1990

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INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until **January 2, 1991**. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal or group of proposals.

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

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

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February 19 issue:

Proposals	January 17
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NEW JERSEY REGISTER

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RULE PROPOSALS

AGRICULTURE

(a)

DIVISION OF DAIRY INDUSTRY

Stores

Proposed Readoption of N.J.A.C. 2:53

Authorized By: Woodson W. Moffett, Jr., Director, Division of Dairy Industry

Authority: N.J.S.A. 4:12A-1 et seq., specifically 4:12A-7.20.

Proposal Number: PRN 1990-595.

Submit comments by January 2, 1991 to:
Woodson W. Moffett, Jr., Director
Division of Dairy Industry
New Jersey Department of Agriculture
CN 332
Trenton, New Jersey 08625

The agency proposal follows:

Summary

N.J.A.C. 2:53, Stores, is scheduled to expire on March 3, 1991, pursuant to Executive Order No. 66(1978). The rules basically govern the pricing and sourcing of milk, posting prices and records and reports in retail Stores. The Department of Agriculture proposes to readopt these rules without change. The original chapter was filed and became effective prior to September 1, 1969 and the rules within the chapter have been extensively amended over the years. For instance, in 1977 amendments virtually rewrote the chapter. The most recent amendments became effective June 22, 1990. These changes included the repeal of subchapter 3, Sales Below Cost; Stores, and subchapter 4, Notice of Intent to Change Source of Supply, and the replacement of these rules with less restrictive rules on the same subjects at subchapters 6 and 7 (see 22 N.J.R. 2138(a)).

A summary of the existing subchapters follows:

Subchapter 1 is reserved.

Subchapter 2, Price Posting, requires that all stores post the prices it will charge for milk and milk products in a conspicuous location near the milk case or, in the alternative, price each container.

Subchapter 3 is reserved.

Subchapter 4 is reserved.

Subchapter 5, Store Records and Reports, requires that stores keep such records as are maintained in the normal course of business for a period of three years and provides that stores may be required to file reports with the Director as required in the administration of the Milk Control Act, N.J.S.A. 4:12A-1 et seq.

Subchapter 6, Sales Below Cost-Stores, prohibits the sale of milk below average variable cost and provides for the use of a five percent mark up above invoice cost as a proxy for average variable cost.

Subchapter 7, Notice of Intent to Change Source of Supply, requires that before stores change their milk supplier they must give a 48-hour notice to their present supplier, pay the amount owed the previous supplier for milk and milk products and file a report with the Division of Dairy Industry within three business days after changing suppliers.

Social Impact

The readoption of N.J.A.C. 2:53 assures that stores and consumers will continue to receive the benefit of effective milk control rules. Failure to readopt the rules would leave a void in the milk control program and could result in unstable markets and destructive competition. In particular, the rule which requires that stores post prices near the dairy case is of great importance to the consumer. Every consumer should know, before they get to the cash register, what they will be required to pay for the product. Without such requirement, stores would be in position to gouge consumers.

Economic Impact

The rules proposed for readoption are driven by economics and beneficially affect New Jersey consumers, stores and the dairy industry generally.

About 1.9 billion pounds of fluid milk and milk products (excluding butter, cheese and nonfat dry milk) are sold through stores each year at an annual cost exceeding \$400 million. The proposed readoption ben-

efits stores by prohibiting destructive competition and predatory prices which would impact most severely on small stores. The consumer is assured of adequate supplies of milk at reasonable prices. Stability and competitiveness in the marketplace are of direct benefit to stores and consumers. Other segments of the industry are also benefited by a stable milk market.

Regulatory Flexibility Analysis

Approximately 85 percent of the 10,000 retail stores, and approximately 95 percent of wholesale suppliers, are small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

The readoption of Chapter 53 will not add reporting and record keeping requirements greater than those which have been in effect since 1977. The only record keeping required by stores are those required in the normal course of business. Such records would provide information, if required, concerning cost by stores. The number of records required to be maintained are kept to a minimum by giving the storekeeper the option of selling milk at 5% above invoice cost, thus avoiding the necessity of complicated cost determinations.

Since 1977, the Department has not routinely required any reports from stores, but in the event of an enforcement action, there may be occasions when some type of report may be required from individual stores.

The capital cost and annual costs of compliance are minimal for both large and small businesses. The rules were designed to require only those records and reports which are essential in the enforcement of the rules; therefore, no differing requirements are established for large and small businesses.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 2:53.

COMMUNITY AFFAIRS

(b)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code

Gas Utility Meters

Proposed Amendment: N.J.A.C. 5:23-2.14

Authorized By: Melvin R. Primas, Jr., Commissioner,
Department of Community Affairs.

Authority: N.J.S.A. 52:27D-124.

Proposal Number: PRN 1990-591.

Submit comments by January 2, 1991 to:
Michael L. Tickin, Esq.
Chief, Legislative Analysis
Department of Community Affairs
CN 802
Trenton, NJ 08625

The agency proposal follows:

Summary

This proposed amendment exempts gas utilities from the requirement of either notifying the construction official or obtaining a permit when using their own qualified personnel to replace meters located within a structure with outside meters.

Social Impact

This amendment would eliminate the need for a permit when a gas utility, using its own personnel and equipment, changes from interior to exterior metering of gas consumption in a building. Because the utilities and their employees are familiar with their equipment and with this simple repetitive procedure, and because the utilities are also regulated entities, there will be no compromise of public health and safety.

Economic Impact

Utilities will save time and money if exempted from permit requirements. To the extent that this amendment facilitates the conversion to exterior meters, customers will benefit from more frequent actual readings and elimination of the need for the utilities to estimate usage.

Regulatory Flexibility Statement

The proposed amendment only affects gas utilities, none of which are "small businesses" as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

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

5:23-2.14 Construction permits—when required

(a) (No change.)

(b) The following are exceptions from (a) above:

1.-4. (No change.)

5. Gas utility companies shall not be required to obtain a permit or give notice to the enforcing agency for replacement of interior gas utility company-owned metering (meter and related appurtenances) by exterior gas utility company owned-metering if the work is performed by qualified employees of the gas utility company.

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

(a)

DIVISION OF HOUSING AND DEVELOPMENT**Uniform Construction Code
Interpretation: Casino Stools****Proposed New Rule: N.J.A.C. 5:23-9.6**

Authorized By: Melvin R. Primas, Jr., Commissioner,
Department of Community Affairs.

Authority: N.J.S.A. 52:27D-124.

Proposal Number: PRN 1990-589.

Submit comments by January 2, 1991 to:
Michael L. Ticktin, Esq.
Chief, Legislative Analysis
Department of Community Affairs
CN 802
Trenton, NJ J08625

The agency proposal follows:

Summary

N.J.A.C. 5:23-3.11(a)6 provides that the Department of Community Affairs has sole responsibility for plan review for casino hotels. The Casino Association has taken issue with the Department's interpretation of the exit requirements of the building subcode to the placement of stools in front of slot machines and similar devices. These stools are located on exit access aisles and affect the adequacy of the emergency egress provisions in a casino. Since the building subcode does not provide explicit standards for making these determinations, both the Casino Association and the Department concluded that it would be best if a uniform interpretation applying the applicable code provisions were adopted.

The interpretation provides that fixed stools are permitted to be installed in front of casino slot machines located in cross aisles, provided the following requirements are met:

1. Schematic drawings of the dimensions and location of the stools shall be submitted to the Department for review;
2. The required aisle accessway shall be maintained;
3. Stools that turn must do so in a way that will not impede passage; and
4. There shall be at least eight inches between the stool and the slot machine and at least 12 inches between adjacent stools.

Social Impact

Stools installed in accordance with these requirements will allow slot machine patrons to be seated while gambling, while not impeding their ability to exit easily and rapidly in the event of fire or other emergency.

Economic Impact

This interpretation is not retroactive and thus will not affect any existing casino stools. However, it will affect the number of slot machines or similar devices with stools that may be installed in any future construction or alteration. Since, as has been noted by a Casino Association representative, "there is a direct, measurable relationship between slot machines with stools and increased revenues," it is reasonable to suppose that this may have a marginal effect on casino revenue, as well as on the revenues of casino patrons.

Regulatory Flexibility Statement

The only businesses impacted by this rule are casinos. It is the Department's understanding that none of the casinos in Atlantic City are "small businesses" within the meaning of the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Full text of the proposed new rule follows:

5:23-9.6 Fixed central pedestal seating (stools) in casinos

(a) Fixed central pedestal seating (stools) shall be allowed within cross-aisles in casinos for gaming patrons who use standard size slot machines or other similar machines, within these cross-aisles, provided the following requirements are met:

1. Schematic drawings shall be submitted to the Department for review and approval which indicate the dimensions and locations of the stools, and the distances from adjacent fixtures, walls or other fixed objects;

2. Stool placement shall not result in any reduction of the required aisle accessway width when measured from the stool and any other adjacent obstacle, including, without limitation, other stools in back-to-back seating arrangements;

3. Stools that swivel and have a back rest shall be restricted so as to rotate in only one direction, operate in series, and be self-centering; and

4. A minimum clearance of eight inches shall be provided between the gaming machine and the stool and a minimum of 12 inches shall be provided between adjacent stools in order to ensure discharge clearances.

(b)

**NEW JERSEY COUNCIL ON AFFORDABLE
HOUSING****Procedural Rules****Proposed Readoption: N.J.A.C. 5:91**

Authorized By: The New Jersey Council on Affordable Housing,
Charles Griffiths, Chairman.

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

Proposal Number: PRN 1990-593.

Submit comments by January 2, 1991 to:
Douglas V. Opalski, Executive Director
N.J. Council on Affordable Housing
CN 813
Trenton, NJ 08625-0813

The agency proposal follows:

Summary

The New Jersey Council on Affordable Housing was established by the Fair Housing Act of 1985 to provide an administrative alternative to judicial involvement in exclusionary zoning cases. The Act provided municipalities with the ability to develop a comprehensive strategy for addressing their low and moderate income housing obligations. The procedural rules (N.J.A.C. 5:91) provide a legal framework for such matters as the submission of housing elements to the Council; the filing of objections; the conduct of negotiations between municipalities and objectors to the municipal housing element; the significance of negotiated agreements; the transfer of unresolved issues to the Office of Administrative Law; the procedural requirements of regional contribution agreements; procedures for submitting motions before the Council; and procedures for amending plans that have received substantive certification.

In accordance with Executive Order No. 66(1978), the Council's procedural rules, N.J.A.C. 5:91, will expire on June 16, 1991. Thus, the Council is publishing these rules for the purpose of readoption.

However, the Council is also in the process of a comprehensive review of all of its rules. Any comments offered by the public will be considered as part of this comprehensive review which should culminate in amended regulations in mid-1992 to early 1993.

Social Impact

The procedural rules have formed the basis for public participation in the process. They have allowed for orderly and timely input from the

public, including municipal officials, developers, housing advocates, professional planners and members of the legal profession.

The procedural rules remain vital to the public's participation in the Council's process. They provide direction to any party who requires action from the Council.

In general, the public has reacted positively to the procedural rules. One area that has been discussed is the procedure for determining contested issues transferred to the Office of Administrative Law. It has been suggested that the parties have more input in the issues transferred.

Economic Impact

To the extent that the procedural rules have expedited the flow of information culminating in a timely action by the Council, the rules have had a positive economic impact. The rules provide order and direction to a process that is less time consuming and less costly than pursuing litigation. Without such rules, parties would not have any direction in how to proceed before the Council on Affordable Housing.

There are no required costs to parties choosing to use this process, although the parties may elect to be represented by professional planners or attorneys, which would involve costs for services.

Regulatory Flexibility Analysis

The procedural rules of the Council on Affordable Housing impose requirements on municipalities, developers, and non-profit organizations that are interested in building housing. The number of small businesses which may be affected cannot be determined. The procedural rules establish the requirements for participation in the Council's process, specifically, the process for objecting to a municipal plan, participation in mediation, and participation in hearings before the Office of Administrative Law. The rules also delineate a motion process which is to be used if a party is requesting a special ruling from the Council. While professional representation is not required, some parties may elect to utilize the services of a professional planner and/or an attorney, which costs would vary according to the specific situation. There are no capital or annual compliance costs associated with these rules. The rules provide a forum for the resolution of disputes prior to litigation, and, in so doing, allow the small business, and any other party, an opportunity to resolve a dispute without the cost of litigation.

The Council has determined that differentiation based on business size is not appropriate in these rules, due to the nature of the process. The process demands the same information and procedures of all the parties and these requirements are not unduly burdensome to the regulated public.

Full text of the proposed re-adoption appears in the New Jersey Administrative Code at N.J.A.C. 5:91.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Marine Fisheries Administration

Atlantic Menhaden

Proposed Amendment: N.J.A.C. 7:25-22.3

Authorized By: Judith A. Yaskin, Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 23:2B-1 et seq., specifically 23:2B-6.

DEP Docket Number: 038-90-10.

Proposal Number: PRN 1990-592.

Submit comments by January 2, 1991 to:
 Administrative Practice Officer
 Department of Environmental Protection
 CN 402
 Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment to this section clarifies the wording of N.J.A.C. 7:25-22.3(b)2 to indicate that fishing for Atlantic menhaden for bait must occur no closer than 0.6 nautical miles from shore, jetties, or fishing piers in the Delaware Bay area as well as in the Atlantic Ocean.

The exact wording restores that which was deleted in 1989 upon adoption; however, this restriction was always intended as part of the rule and in fact has been observed as such by the regulated community, which consists at the present time of three licensees.

Social Impact

Because the industry as a whole already adheres to the rule as clarified by this amendment, there will be little social impact upon the regulated community. However, fishing for menhaden less than 0.6 nautical miles from shore, jetties or fishing piers tends to break up the schooling of the menhaden which in turn disrupts schooling patterns of game fish, such as bluefish, weakfish and striped bass, which feed upon and follow the inshore menhaden school. Thus, this restriction is anticipated to have positive impact upon the sports fishery.

Economic Impact

Although the rules are expected to have no economic impact upon the bait fishing industry, protection of a sportfishery should have a slight economic benefit for those commercial establishments, such as bait and tackle shops, which serve the sportfishermen.

Environmental Impact

Adoption of this amendment will have a positive environmental impact. No only should protection of the inshore school help to reduce the harvest of very young menhaden and thus directly benefit that resource, but protection of the resource will also benefit those fish and birds for whom menhaden are a primary source of food.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has determined that this amendment would have a slight impact on small business, as all three licensees in the Delaware Bay area would fit this definition. However, there is ample menhaden fishing opportunity offshore of the 0.6 nautical mile limit as evidenced by the fact that this limit is currently observed by the industry. Thus costs of compliance, which will not occasion any additional recordkeeping or professional services, are estimated to be minimal.

In developing the amendment, the Department has balanced the need to protect the environment against the economic impact of the proposed amendment and has determined that to minimize the impact of the rule would endanger the environment, public health and public safety and, therefore, no exemption from coverage is provided.

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

7:25-22.3 Taking of Atlantic menhaden for bait

(a) (No change.)

(b) Persons licensed to fish for Atlantic menhaden with a purse or shirred net in the marine waters of New Jersey, for the purpose of taking Atlantic menhaden for bait purposes only, shall be subject to the following:

1. (No change.)

2. Fishing shall be restricted to [the Atlantic Ocean] not closer than 0.6 nautical miles of any point along the shore, jetties or fishing piers in the Atlantic Ocean and [to] in that portion of the Delaware Bay south and east of a line from Fourteen Foot [light] Light to Deadman Shoal [light] Light (Bug [light] Light) and thence to Dennis Creek [light] Light. Fishing shall be restricted in Raritan Bay and Sandy Hook Bay, not closer than 0.3 nautical miles of any point along the shore, jetties or piers. It will be incumbent upon the captain of a purse seine vessel to determine the possibility of drifting inside the limit while fishing, before setting his or her net. Drifting into the restricted area along the shore[,] or around a jetty or pier while fishing shall be considered a violation of this subchapter.

3.-12. (No change.)

HEALTH

(a)

DIVISION OF HEALTH FACILITIES EVALUATION

Long Term Care Licensing Standards

Proposed Amendments: N.J.A.C. 8:39-19.5, 20.1, 29.1, 29.3 and 30.1

Authorized By: Frances J. Dunston, M.D., M.P.H.,
Commissioner, Department of Health (with approval of the
Health Care Administration Board).

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

Proposal Number: PRN 1990-598.

Submit comments by January 2, 1991 to:

Robert J. Fogg
Director, Standards and Quality Assurance
Health Facilities Evaluation
New Jersey State Department of Health
CN 367
Trenton, New Jersey 08625-0367

The agency proposal follows:

Summary

The Department proposes to amend N.J.A.C. 8:39-19.5, Mandatory staff qualifications: health history and examinations, in order to comply with a newly enacted statute which requires the Department of Health to mandate Mantoux tuberculin skin testing for all current and new employees of long-term care facilities (see P.L. 1990, c.36, approved June 13, 1990; 1990 Assembly No. 328). The current N.J.A.C. 8:39-20.1(a), which provides an optional advisory standard for Mantoux testing of new employees, will be deleted.

The Department further proposes to amend N.J.A.C. 8:39-29.1, Mandatory pharmacy structural organization, to state that the consultant pharmacist shall not also be the director of pharmaceutical services or the pharmacist provider. The amendment would make mandatory the current Advisory standard found at N.J.A.C. 8:39-30.1(a). This change is intended to avoid any potential conflict of interest between the pharmacy provider and the consultant pharmacist. N.J.A.C. 8:39-29.3 is being amended to clarify the role of the consultant pharmacist in the completion of monthly notes.

Social Impact

Adoption of the proposed amendment to N.J.A.C. 8:39-19.5, specifying requirements for employees of nursing homes to be examined for tuberculosis by means of a Mantoux tuberculin skin test, will have a beneficial social impact upon elderly residents and employees of long term care facilities. According to a recent Center for Disease Control (CDC) publication (CDC Morbidity and Mortality Weekly Review, July 13, 1990), elderly persons constitute approximately 88 percent of the nation's nursing home residents. Many of these residents are infected with tubercle bacilli and some are immunosuppressed. According to the CDC report, "such concentrations of elderly persons . . . create high-risk situations for tuberculosis transmission." The CDC report further points out that "nursing home employees are also at increased risk for tuberculosis when compared with other employed adults."

Adoption of the proposed amendment to N.J.A.C. 8:39-19.5 will make employee health rules consistent with State law, which now requires Mantoux tuberculin skin tests for employees of long-term care facilities. This is currently also a requirement for employees of licensed hospitals under N.J.A.C. 8:43G-20.2(d). Additionally, the proposed amendment may help to increase staff awareness of the importance of controlling and preventing tuberculosis in facilities providing long-term care for elderly residents. There are 364 licensed long-term care facilities in New Jersey at present and more than 46,000 residents, most of whom are elderly. Adoption of the proposed amendment will help to protect the health of high-risk elderly residents and of employees who provide care to them, since the amendment specifies procedures to be followed for Mantoux testing, which is intended to help control and prevent tuberculosis in long-term care facilities.

The proposed changes to N.J.A.C. 8:39-29.1, mandatory pharmacy structural organization, would have a beneficial social impact for individuals residing in the 46,687 long term care facility beds and receiving medication. This change would make mandatory the present advisory

standard which calls for no affiliation between either the consultant pharmacist and the director of pharmaceutical services or the provider pharmacist. This amendment would preclude any potential conflict of interest in the delivery of consultant pharmacy services. This separation is the current practice in institutions and facilities currently being operated directly by the State of New Jersey and in the field of pharmacy. It is anticipated that the non-affiliated consultant pharmacist will increase the chance of identifying inappropriate medications and therapies that are prescribed and promote proper drug utilization. This will reduce the chance of over-medication and adverse drug reactions which may result in a hospital admission. The change at N.J.A.C. 8:39-29.3(a) is intended to ensure that documentation of pharmacy services is in accordance with accepted professional practices, as well as New Jersey State Board of Pharmacy Rules, N.J.A.C. 13:39, and will, therefore, enhance the quality of patient care.

These changes have been reviewed and recommended by the Department's Nursing Home Advisory Group, which is composed of representatives from the long-term care industry and representatives of other state agencies knowledgeable in long-term care and patient's rights.

Economic Impact

Mantoux testing of long-term care facility employees will result in increased costs, either to the facilities or to their employees. According to data available to the Department, the cost of administering each Mantoux test is approximately \$3.50 per employee, including supplies and the cost in staffing time of a nurse who is qualified to administer and to interpret the test results. Based on national averages, approximately eight percent of the individuals tested will have significant reactions, and may require a follow-up chest X-ray. The cost of a chest X-ray performed at a physician's office will be approximately \$60.00. However, employees may have the option of receiving X-ray services through local health departments or chest clinics at no charge. If the long-term care facility provides the Mantoux test to employees, the CARE reimbursement system for long-term care facilities will provide a mechanism for long-term care administrators to appeal the associated increases in costs.

There may also be economic benefits to long-term care facilities, to elderly residents and to employees as a result of the proposed amendment. Since Mantoux testing is intended to control and prevent tuberculosis in long-term care facilities, there may be resultant savings in health care costs which would otherwise have been incurred as a result of the transmission of infection among elderly residents and employees.

The Department anticipates only a minimal economic impact by requiring a non-affiliated consultant pharmacist in long-term care facilities. It is believed, through evaluation of survey data available to the Department, that only a minority of long-term care facilities do not currently utilize a separate pharmacy consultant. Where a provider pharmacist is also providing the consultant service at a reduced charge to the facility, the increased cost of securing an independent consultant may be passed on to the facility and its patients. There should be no economic impact to the administrative agencies responsible for licensing and inspection of long-term care facilities. Improved drug utilization resulting from this amendment may have the effect of decreasing drug usage and errors and the associated costs.

Regulatory Flexibility Analysis

Approximately half of New Jersey's 364 long-term care facilities may be considered small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment to N.J.A.C. 8:39-19.5(a) requiring Mantoux testing of employees will result in some increases in the recordkeeping and reporting requirements already placed upon small businesses by the current rules. Records of Mantoux testing of employees and records of associated costs will need to be maintained. Increases in facility costs must be reported to CARE as part of the appeal process for reimbursement increases.

The amendments to N.J.A.C. 8:39-29.1 and 29.3, requiring the services of a non-affiliated pharmacy consultant and clarifying the requirement for monthly notes, will not significantly change the recordkeeping and reporting requirement placed upon small businesses by N.J.S.A. 8:39.

Changes in the rules have been designed to minimize the adverse economic impact on small businesses, while ensuring the provision of quality care to patients. The Department of Health has determined that compliance with the proposed amendments is necessary for all facilities which provide long-term care services, in the interest of public health and safety, and that there should be no differentiation based on business size.

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

8:39-19.5 Mandatory staff qualifications: health history and examinations

(a) The facility shall require all new employees to complete a health history and to receive an examination performed by a physician within two weeks prior to the first day of employment or upon employment. The facility shall establish criteria for determining the completeness of physical examinations for employees.

(b) Each new employee, including members of the medical staff employed by the facility, upon employment shall receive a Mantoux tuberculin skin test with five tuberculin units of purified protein derivative. The only exceptions shall be employees with documented negative Mantoux skin test results (zero to nine millimeters of induration) within the last year, employees with a documented positive Mantoux skin test result (10 or more millimeters of induration), employees who have received appropriate medical treatment for tuberculosis, or those employees for whom the test is medically contraindicated. Results of the Mantoux tuberculin skin tests administered to new employees shall be acted upon as follows:

1. If the Mantoux tuberculin skin test result is between five and nine millimeters or more of induration, the test shall be repeated one to three weeks later. If the test result is below five millimeters of induration, no follow-up test is required.

2. If the Mantoux test is significant (10 millimeters or more of induration), a chest x-ray shall be performed and, if necessary, followed by chemoprophylaxis or therapy.

(c) The facility shall have written policies and procedures establishing timeframes for subsequent Mantoux tuberculin skin tests for all employees after the initial test.

(d) The facility shall assure that all current employees who have not received the Mantoux test upon employment, except those exempted by (b) above, shall receive a test within three months of the effective date of this amended rule. The facility shall act on the results of tests of current employees in the same manner as prescribed in (b) above.

8:39-20.1 Advisory policies and procedures for infection control

[(a) Each new employee shall receive, upon employment, a Mantoux tuberculin skin test with five tuberculin units of purified protein derivative. The only exceptions should be employees with documented negative Mantoux skin test results (0-9 mm. of induration) within the previous year, and employees with a documented positive Mantoux skin test result (ten or more mm. of induration) who have received appropriate medical treatment for tuberculosis.

1. If the Mantoux tuberculin skin test is negative, the test should be repeated one to three weeks later. If the second tuberculin skin test is negative, subsequent tests should be performed at the discretion of the facility.

2. If the first or second Mantoux skin test is positive, a chest x-ray should be performed, and, if necessary, followed by chemoprophylaxis or therapy.

3. All Mantoux test results, including transverse diameter of induration in mm., and follow-up test results and treatments, if any, should be recorded in the employee's medical record.

4. Each employee who has been tested for tuberculosis should be retested on an annual basis according to the procedures described in this section.]

Recodify (b)-(e) as (a)-(d) (No change in text.)

8:39-29.1 Mandatory pharmacy structural organization

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

(c) **If the facility does not maintain an in-house pharmacy, the facility shall appoint a consultant pharmacist who is not also the director of pharmaceutical services or pharmacist provider and does not have an affiliation with either the director of pharmaceutical services or the pharmacist provider.**

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

8:39-29.3 Mandatory pharmacy reporting policies and procedures

(a) The [director of pharmaceutical services or] consultant pharmacist shall enter monthly notes or comments in the medical record of every patient receiving medication, on a pharmacist consultation

sheet, or another portion of the medical record, in accordance with N.J.A.C. 13:39.

8:39-30.1 Advisory pharmacy structural organization

[(a) If the facility does not maintain an in-house pharmacy, the facility should appoint a consultant pharmacist who is not also the director of pharmaceutical services or pharmacist provider.]

[(b)] If the facility has 60 or fewer beds, it should hold multidisciplinary pharmacy and therapeutics committee meetings at least quarterly and include the medical director in these meetings.

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Nurse-Midwifery Services Manual General Provisions, Billing Procedures

Proposed Readoption: N.J.A.C. 10:58

Authorized By: Alan J. Gibbs, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:4D-6a(5)b(3)(17), 7, 7a, b and c; 30:4D-12; 1905(a)(17) of the Social Security Act; 42 CFR 440.165.

Agency Control Number: 90-P-23.

Proposal Number: PRN 1990-604.

Submit comments by January 2, 1991, to:

Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN-712
Trenton, NJ 08625-0712

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 10:58, Nurse-Midwifery Services Manual, expires on March 3, 1991. This proposed readoption is designed to readopt all three subchapters of N.J.A.C. 10:58.

An administrative review has been conducted, and a determination made that all subchapters should be continued because the rules are necessary, reasonable, adequate, efficient, and responsive for the purposes for which they were promulgated.

The rules define health services provided by certified nurse midwives and the conditions for participation in the New Jersey Medicaid Program. The rules also define the basis of payment for nurse midwifery services and billing procedures including the use of Health Care Financing Administration's Common Procedure Coding System (HCPCS Codes). The HCPCS Codes are the basis of billing by fee-for-service providers.

The definition of a "certified nurse-midwife" (C.N.M.) means an individual who is a registered professional nurse licensed in New Jersey, is registered with the New Jersey Board of Medical Examiners, and has been certified by the American College of Nurse-Midwives.

A C.N.M. can provide midwifery services to Medicaid recipients during the maternity cycle, which is defined as a time period limited to pregnancy, labor, and birth including the 60-day postpartum period. This time limit for midwifery services is consistent with the federal law cited above.

C.N.M.'s can provide services under the HealthStart Program.

If a C.N.M. wishes to become an individual provider in the New Jersey Medicaid Program, the procedures for provider enrollment at N.J.A.C. 10:58-1.5 must be followed. In essence, the individual C.N.M. must submit an application, credentials, and other relevant information to the Division's Fiscal Agent.

The history of this rule indicates that two significant amendments were added since the last readoption. One amendment defined the postpartum period as being 60 days following delivery to comply with federal law (1902(e)(5) of the Social Security Act, codified as 42 U.S.C. 1396a) (See R. 1989 d.162, at 21 N.J.R. 761(a)). The other amendment allowed for nurse-midwifery services to be provided in the HealthStart Program (See R. 1988 d.62, at 20 N.J.R. 278(b)).

There are no textual changes associated with this readoption.

Social Impact

This proposed readoption impacts on Medicaid eligible pregnant women who need the services of a C.N.M. during the maternity cycle, including the 60-day postpartum period. Pregnant women who are considered low risk maternity patients can receive maternity care from a C.N.M. Pregnant women who are high risk patients would be referred to a physician for obstetrical care.

This proposed readoption impacts on C.N.M.'s, whether they are individual Medicaid providers or whether they are in the employ of other providers, such as a clinic or physician's office. C.N.M.'s must meet the same standards regardless of the setting in which they practice. C.N.M.'s who wish to participate as individual Medicaid providers must comply with the provisions of N.J.A.C. 10:58-1.5.

C.N.M.'s who participate in the HealthStart Program must comply with the provisions of N.J.A.C. 10:49-3.

Economic Impact

Because there are no changes associated with this readoption, the economic impact, which is as follows, remains the same. There is no cost to Medicaid recipients for nurse-midwifery services. The rules set forth a fee schedule for nurse-midwifery services rendered under the Medicaid program. The HCPCS Codes, which are referenced, but not reproduced in Subchapter 3, are the basis for reimbursement. The proposed readoption makes no change in the fee schedule; thus, there is no change affecting Medicaid providers.

The Division spent approximately \$39,278 in State Fiscal Year 1990 for nurse-midwifery services (Federal-State share combined). This figure represents payment to individual providers.

Regulatory Flexibility Analysis

This proposed readoption could impact on small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. However, the proposed readoption does not impose any additional reporting, recordkeeping or other compliance requirements on providers, except for those already contained in the existing text of the rule. The standards are applied uniformly to all providers because the standard of practice is the same for all providers.

A C.N.M. would, in the scope of his/her practice, maintain medical records for each patient, including patient's history, physical findings, nursing assessment, education and/or nutritional counseling, etc. In addition, Medicaid providers are required by state law (N.J.S.A. 30:4D-12) to maintain individual records to fully disclose the name of the recipient, date(s) of service, nature of service, and such other information as may be required by regulation. Therefore, this proposed readoption does not intend to impose any recordkeeping requirements other than those that would be part of a C.N.M.'s practice or required by state law.

In addition, certain standards that are imposed upon C.N.M.'s are required by either Federal or State law or regulation. For example, the requirement that individual providers sign a Medicaid provider agreement is a federal requirement (42 CFR 431.107). The standards for licensing and registering C.N.M.'s is regulated by the New Jersey Board of Medical Examiners, N.J.A.C. 13:35-9.1.

All C.N.M. providers are required to bill in the format prescribed in Subchapter 2 to insure a uniform billing system that should assist in claim processing. It is not anticipated that providers will need to hire additional staff to complete any required forms, although they may choose to do so. Subchapter 3, which refers to the HCPCS Codes, is the basis for Medicaid reimbursement.

The Division also requires the providers to maintain records relating to the delivery of services pursuant to N.J.S.A. 30:4D-12 and to insure the health, safety, and welfare of the recipients receiving services. These record keeping requirements are consistent with acceptable medical practice.

There are no capital costs associated with the rules proposed for readoption.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:58.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**Hearing Aid Services Manual****Proposed Readoption: N.J.A.C. 10:64**

Authorized By: Alan J. Gibbs, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:4D-6b(12), (17), 30:4D-7, 7a, b and c; 30:4D-12; 42 C.F.R. 440.70, 440.120.

Agency Control Number: 90-P-27.

Proposal Number: PRN 1990-605.

Submit comments by January 2, 1991 to:

Henry W. Hardy, Esq.

Administrative Practice Officer

Division of Medical Assistance

and Health Services

CN-712

Trenton, NJ 08625-0712

The agency proposal follows:

Summary

The purpose of this proposal is to readopt the entire Hearing Aid Services Manual, N.J.A.C. 10:64, which is due to expire March 3, 1991, pursuant to Executive Order No. 66(1978).

An administrative review has been conducted, and a determination made that the rule is necessary, adequate, reasonable, efficient and responsive for the purpose for which it was promulgated. The rule should be continued to enable Medicaid patients to continue receiving the type of assistance provided by the Hearing Aid Services Manual.

The Hearing Aid Services Manual was promulgated to set forth the basic policies and procedures (of the Medicaid program) relating to providing hearing aids to those Medicaid recipients who can be benefitted by those appliances.

Subchapter 1 contains such topics as policies and procedures governing authorization and dispensing of hearing aids, examinations necessary to establish the need for a hearing aid and prior authorization. The subchapter describes the responsibilities of the hearing aid dispenser both when the hearing aid, either new or reconditioned, is delivered to the Medicaid recipient, and during the ensuing period; a second topic concerns the dispenser's responsibilities in respect to warranty and maintenance. Other topics include replacement policies; follow-up visit; repair policy; standards for audiologic and hearing aid testing; and reimbursement policies.

Subchapter 2 concerns billing procedures for providers of hearing aids who participate in the New Jersey Medicaid Program. Topics included are submission of claim forms (HCFA-1500); timeliness of billing; billing for services, materials and repairs; and instructions for submission of claims to the fiscal agent.

Subchapter 3 provides instructions for filling out the various forms and exhibits for reimbursement.

Subchapter 4 references the Health Care Financing Administration (HCFA) Common Procedure Coding System (HCPCS Codes). These HCPCS Codes are the basis for Medicaid reimbursement.

The most significant amendment since the last readoption was the incorporation of the HCPCS Codes into N.J.A.C. 10:64-4. The codes are referenced, but not reproduced, in N.J.A.C. 10:64-4 (see R.1986 d.52, at 18 N.J.R. 478(a)).

There are no textual changes associated with this readoption.

Social Impact

The rules have enabled Medicaid patients who have a medical need for hearing aids to receive these items. The rules should be continued because this need continues for Medicaid recipients who are hearing impaired.

The rules impact upon dispensers of hearing aids by defining the conditions under which the Division is permitted to provide these items and those procedures which hearing aid suppliers must follow in order to submit claims for services rendered to Medicaid eligibles.

Economic Impact

The economic impact is as follows. There is no cost to recipients for services rendered through the Medicaid Program. The rules set forth a fee schedule for hearing aid services rendered under the Medicaid pro-

gram. The HCPCS codes referenced in subchapter 4 serve as the basis for reimbursement which is described in subchapter 1.

The Division spent approximately \$1,035,826 on Title XIX (Medicaid) Hearing Aid Services in State Fiscal Year 1990 (Federal-State share combined).

Regulatory Flexibility Analysis

This proposed readoption could impact on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16, because the majority of hearing aid suppliers employ fewer than 100 employees. The rules apply to hearing aid suppliers who participate in the New Jersey Medicaid Program. N.J.S.A. 30:4D-12(d) defines documentation for Medicaid services, requiring that the provider's records disclose the name of the recipient to whom the service was rendered, the date of the service and the nature and extent of the service rendered. The purpose of this documentation requirement is to enable verification of medical services for which the provider has billed the Program, that those services were performed and that they constituted quality medical care. It is not anticipated that providers will need to hire additional staff to complete the claim form, although they may choose to do so. This proposed readoption does not impose any additional reporting, recordkeeping and other compliance requirements. There is no differentiation among providers based upon size of the provider entity. The regulatory requirements are the same for all providers because the standard of service provision and care is the same for all providers. There are no capital costs associated with the rules proposed for readoption.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:64.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Psychologist's Services Manual

Proposed Readoption: N.J.A.C. 10:67

Authorized By: Alan J. Gibbs, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:4D-6b(10), 30:4D-7, 7a, b and c; 30:4D-12; 42 C.F.R. 440.60.

Agency Control Number: 90-P-28.

Proposal Number: PRN 1990-597.

Submit comments by January 2, 1991 to:

Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN-712
Trenton, NJ 08625-0712

The agency proposal follows:

Summary

The purpose of this proposal is to readopt the entire Psychologist's Services Manual, N.J.A.C. 10:67, which is due to expire March 3, 1991, pursuant to Executive Order No. 66(1978).

An administrative review has been conducted, and a determination has been made that the rules are necessary, adequate, reasonable, efficient and responsive for the purpose for which they were promulgated. The rules should be continued to enable Medicaid patients to continue receiving psychological services for mental health. This proposed readoption is designed to readopt all three subchapters of N.J.A.C. 10:67.

The Psychologist's Services Manual, N.J.A.C. 10:67, was promulgated to set forth the basic policies and procedures (of the Medicaid program) relating to providing psychological services to those Medicaid recipients who have medical need for mental health assistance. Subchapter 1 was readopted, effective February 19, 1985, with amendments effective March 18, 1985. Subchapter 2 was amended February 19, 1985, July 1, 1986 and October 5, 1987. The manual was further amended in 1986 by R.1986 d.52, when the entire subchapter was added to establish H.C.F.A. Common Procedure Coding System, HCPCS Codes, as the basis of reimbursement for psychologists.

Subchapter 1 contains such topics as the scope of reimbursable services, whether as inpatient, outpatient or in an approved community mental

health agency; policies concerning recordkeeping and the necessary elements of provider documentation; policies related to inpatient care; prior authorization procedures, and the conditions when prior authorization is required; and the basis of payment for psychological services.

Subchapter 2 concerns billing procedures for psychologists through Medicaid: timeliness of claim submission, verification of patients' eligibility for Medicaid benefits, and procedures for submission of claims to the fiscal agent.

Subchapter 3 references the Health Care Financing Administration (HCFA) Common Procedure Coding System (HCPCS Codes). These HCPCS Codes are the basis for Medicaid reimbursement.

The most significant amendment since the last readoption was the incorporation of the HCPCS Codes into N.J.A.C. 10:67-3. The codes are referenced, but not reproduced, in subchapter 3. (See R.1986 d.52, at 18 N.J.R. 478(a)).

There are no textual changes associated with this readoption.

Social Impact

The rules have enabled Medicaid patients with medical need for mental health services to obtain such services. The rules should be continued because the need for such services has not changed.

Medicaid patients who need psychological services can receive them in an inpatient setting, outpatient setting, or in an office setting.

The rules impact upon psychologists by defining those services the Division is permitted to cover, the scope of psychological services, and the protocol which psychologists must follow in order to submit claims for services rendered to Medicaid eligibles.

Economic Impact

There is no cost to recipients for services rendered through the Medicaid Program.

The rules set forth a fee schedule for psychological services rendered under the Medicaid program. The HCPCS Codes, which are referenced, but not reproduced, in Subchapter 3, are the basis for reimbursement. There is no change in the fee schedule associated with this readoption; thus, there is no change affecting Medicaid providers.

The Division spent approximately \$1,400,905. on Title XIX (Medicaid) Psychologist's Services in State Fiscal Year 1990 (Federal-State share combined).

Regulatory Flexibility Analysis

This proposed readoption could impact on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16. The rules apply to psychologists who participate in the New Jersey Medicaid Program. The regulatory requirements are the same for all psychologists, regardless of business size, because the standard of care is the same for all practitioners.

Psychologists are required to keep patient records in the normal course of their practice. The information required by the Division on the claim form is taken from the patient records maintained by the provider. It is not anticipated that providers will need to hire additional staff to complete the claim form, although they may choose to do so.

N.J.S.A. 30:4D-12(d) defines documentation for Medicaid services, requiring that the provider's records disclose the name of the recipient to whom the service was rendered, the date of the service and the nature and extent of the service rendered. The purpose of this documentation requirement is to enable verification of medical services for which the provider has billed the Program, that those services were performed and that they constituted quality medical care. This proposed readoption does not impose any additional reporting, recordkeeping and other compliance requirements. There is no differentiation among providers based upon size of the provider entity.

There are no capital costs associated with the rules proposed for readoption.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:67.

LABOR**(a)****NEW JERSEY STATE BOARD OF MEDIATION****Arbitration****Proposed Redooption: N.J.A.C. 12:105**

Authorized By: Raymond L. Bramucci, Commissioner,
Department of Labor.

Authority: N.J.S.A. 34:1-20, 34:1A-3(e) and 34:13A-1 et seq.,
specifically 34:13A-11.

Proposal Number: PRN 1990-606.

Submit comments by January 2, 1991 to:

Linda Flores
Special Assistant for External and Regulatory Affairs
Office of the Commissioner
CN 110
Trenton, New Jersey 08625-0110

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978), N.J.A.C. 12:105, concerning Arbitration through the New Jersey State Board of Mediation, expires on January 21, 1991. The Department of Labor and the New Jersey State Board of Mediation have reviewed these rules and determined them to be necessary, reasonable and adequate for the purpose for which they were originally promulgated.

The chapter proposed for redooption is applicable to private employers and employees who either have provisions for arbitration in their collective bargaining agreements or who voluntarily agree to abide by the rules for arbitration. A summary of each subchapter follows.

N.J.A.C. 12:105-1 sets forth the general provisions of the chapter, and states that the rules are deemed to be a part of an arbitration agreement between parties when collective bargaining agreements or submissions have provided for arbitration through the New Jersey State Board of Mediation. The subchapter also sets forth the method of interpretation and application of the rules.

N.J.A.C. 12:105-2 discusses the initiation of arbitration proceedings. Specifically, the subchapter sets forth the methods by which an arbitration proceeding can be commenced, such as a collective bargaining agreement. Additionally, arbitration can be initiated by the Board, regardless of the existence of a collective bargaining agreement, by filing a written agreement by the parties stating their consent to the arbitration. The subchapter also addresses the method for requesting expedited arbitration and procedural determinations.

N.J.A.C. 12:105-3 concerns the appointment of arbitrators. The subchapter discusses the method for nomination of arbitrators, conflicts of interest, and the filling of vacancies.

N.J.A.C. 12:105-4 discusses the arbitration hearing itself. The subchapter outlines the procedures to be followed for notifying the parties of the date, time and place of the hearing. The subchapter also requires arbitrators to sign an oath of arbitrator and requires the parties to sign an original and three copies of an arbitrator submission form prior to arbitration. The subchapter also provides that, after appointment to a hearing, the legal relationship of an arbitrator is with the parties and not with the Board.

Further, the subchapter addresses postponements and adjournments, representation by counsel, taking of a stenographic record, attendance at hearings, and decision-making by the arbitration board.

N.J.A.C. 12:105-4.10 discusses evidence which may be offered at the arbitration hearing and the submission of briefs by the parties.

N.J.A.C. 12:105-4.11 provides for inspection authority for the arbitrator.

The final two sections of the subchapter concern the close and the reopening of hearings.

N.J.A.C. 12:105-5 discusses the award made by an arbitrator. The subchapter sets forth time limits in which decisions must be rendered and the recourse for failure to render a timely decision. The subchapter also prescribes the form in which an award shall be made, and allows an arbitrator, upon agreement of the parties, to set forth the terms of a settlement in an award.

The balance of the subchapter addresses the delivery of the award, sets forth that an award is final and binding subject only to due process of

law, sets forth the arbitrator's status subsequent to the rendering of a decision, and establishes the waiver of a right to object.

Social Impact

N.J.A.C. 12:105 has established the procedures available for arbitration of disputes between private management and their employees. These rules have provided a successful method of dispute resolution in the past, and thus have had a positive social impact on both employers and employees. Since no changes have been proposed upon redooption, there is no anticipated negative social impact.

Economic Impact

The proposed redooption is not expected to have any economic impact on employers or employees, as the chapter merely provides the procedures to be followed in an arbitration proceeding. These arbitrations are in the private employment sector. It is anticipated that this procedure will reduce conflicts thereby minimizing economic loss to employers, employees and the citizens who utilize employer products. Realistically, the use of arbitration may result in cost reductions in the resolution of disputes between labor and management.

The Department of Labor and the New Jersey State Board of Mediation do not expect to be economically affected by the redooption.

Regulatory Flexibility Analysis

The proposed redooption does not impose any recordkeeping, reporting or compliance requirements on employers, generally. The rules apply to private employers and employees, some of which may be small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules are not applicable to businesses in general; rather, businesses are subject to the rules pursuant to a collective bargaining agreement or by voluntarily consenting to be a party to the arbitration. Therefore, it is difficult to determine the extent to which small businesses are affected, as it is not possible to predict how many would voluntarily agree to abide by the rules, or how many have collective bargaining agreements which call for arbitration. However, those small businesses that do elect to be subject to the arbitration rules or who are subject by virtue of a collective bargaining agreement will be expected to abide by the rules as prescribed. There is one general procedure established for arbitration, which is to be applied to all businesses, regardless of size.

Full text of the proposed redooption appears in the New Jersey Administrative Code at N.J.A.C. 12:105.

PUBLIC UTILITIES**(b)****BOARD OF PUBLIC UTILITIES****Notice of Public Hearing****Proposed New Rules Establishing Demand Side Management Resource Plans
N.J.A.C. 14:12**

Take notice that at its open public meeting held on November 7, 1990, the Board of Public Utilities proposed a new rule, designated as N.J.A.C. 14:12, Demand Side Management Resource Plan, and directed that same be transmitted to the Office of Administrative Law for publication in the New Jersey Register for public comment. It is anticipated that this proposed rule will be published in the Register on December 17, 1990.

This action follows a rulemaking pre-proposal, "Limiting Barriers to Effective Conservation Progress and Implementing Conservation Ratemaking Incentives", BPU Docket No. EX90040304, which was published in the June 4, 1990 Register at 22 N.J.R. 1692(a). As a result of the comments to the pre-proposal, the Board, through its proposed rule and pursuant to the authority delegated by N.J.S.A. 48:2-12 and 2-13, and N.J.S.A. 52:27F-1(g), 27F-1(q) and 27F-18, seeks to implement a mechanism to provide financial incentives to electric and gas utilities in order to foster an increased penetration of installed conservation, load management and energy efficiency (demand side management) measures in the homes and businesses of New Jersey.

This notice is being given to inform the public that, in addition to the written comment period to set out at the time that the proposed rule is published in the Register, the Board intends to hold a public hearing on the proposal on Thursday, December 20, 1990 at 10:00 A.M., Board of Public Utilities, Two Gateway Center, Newark, New Jersey 07102.

The text of the proposed rule is available for review at the offices of the Board. Interested persons may obtain a copy of the proposed rule by contacting:

Robert Chilton, Director
 Division of Electric
 Board of Public Utilities
 Two Gateway Center
 Newark, New Jersey 07102
 (201) 648-3621

TRANSPORTATION

(a)

**DIVISION OF TRAFFIC ENGINEERS AND LOCAL AID
 Speed Limits**

Routes U.S. 9 in Ocean County and N.J. 45 in Salem County

Proposed Amendments: N.J.A.C. 16:28-1.41 and 1.96

Authorized By: John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 39:4-98.

Proposal Number: PRN 1990-599.

Submit comments by January 2, 1991 to:

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

The agency proposal follows:

Summary

The proposed amendments will establish revised "speed limit" zones along U.S. 9 in Eagleswood Township, Ocean County, and N.J. 45 in Mannington Township, Salem County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

As part of a review of current conditions and based upon requests from the local governments, in the interest of safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of revised speed limit zones along Routes U.S. 9 in Ocean County and N.J. 45 in Salem County were warranted.

The Department, therefore, proposes to amend N.J.A.C. 16:28-1.41 and 1.96, based upon the requests from the local governments and the traffic investigations.

Social Impact

The proposed amendments will revise and establish "speed limit" zones along Routes U.S. 9 in Eagleswood Township, Ocean County, and N.J. 45 in Mannington Township, Salem County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. The amendments will clarify the requirements imposed upon the regulated public. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local governments will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of speed limit zone signs. The costs involved in the installation and procurement of signs vary depending on the material used, size, and the method of procurement. Motorists who violate the rules will be assessed the appropriate fine in accordance with the "Statewide Violations Bureau Schedule" issued under New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

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

primarily affect the motoring public and the governmental entities responsible for enforcement of the rules.

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

16:28-1.41 Route U.S. 9

(a) (No change.)

(b) The rate of speed designated for State highway Route U.S. 9, [including parts of Route 44 (and) (excluding Garden State Parkway Authority sections) described in this subsection shall be established and adopted as the maximum legal rate of speed for both directions of traffic.

1.-10. (No change.)

11. 45 miles per hour in Eagleswood Township, Ocean County to Route 72, Stafford Township (milepost 70.40); thence

i. 35 miles per hour school speed zone within the Eagleswood Township Elementary School zone, during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours; thence

12.-32. (No change.)

16:28-1.96 Route 45

(a) The rate of speed designated for the certain [part] parts of State highway Route 45 described [herein below] in this subsection shall be [and hereby is] established and adopted as the maximum legal rate of speed [thereat]:

1. For both directions of traffic:

i.-iii. (No change.)

iv. Zone four: 50 mph in Mannington Township, Salem County, extending into Pilesgrove Township to Route [US] U.S. 40 (milepost 8.8); thence

(1) 35 mph school speed zone within the Mannington Township School zone during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours; thence

v.-xix. (No change.)

(b)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

Restricted Parking and Stopping

Routes N.J. 72 in Ocean County and U.S. 206 in Burlington County

Proposed Amendments: 16:28A-1.39 and 1.57

Authorized By: John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.

Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-138.1.

Proposal Number: PRN 1990-600.

Submit comments by January 2, 1991 to:

Charles L. Meyers
 Administrative Practice Officer
 Department of Transportation
 Bureau of Policy and Legislative Analysis
 1035 Parkway Avenue
 CN 600
 Trenton, NJ 08625

The agency proposal follows:

Summary

The proposed amendments will establish additional "no stopping or standing" zones along Routes N.J. 72 in Stafford Township, Ocean County, and U.S. 206 in Southampton Township, Burlington County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon requests from the local governments in the interest of safety, and as part of a current review of conditions, the Department's Bureau of Traffic Engineering and Safety Programs conducted surveys and traffic investigations. The investigations and surveys proved that the revision of "no stopping or standing" zones along Route N.J. 72 in

Stafford Township, Ocean County, and U.S. 206 in Southampton Township, Burlington County, were warranted.

The Department, therefore, proposes to amend N.J.A.C. 16:28-1A.1.39 and 1.57 based upon the requests from the local governments, the traffic investigations, and surveys. Additionally, the Department is correcting errors in the text at N.J.A.C. 16:28A-1.57(a)4-6.

Social Impact

The proposed amendments will establish "no stopping or standing" zones along Routes N.J. 72 in Stafford Township, Ocean County, and U.S. 206 in Southampton Township, Burlington County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local governments will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no stopping or standing" zone signs. Motorists who violate the rules will be assessed the appropriate fine, as established by the State of New Jersey "Statewide Violations Bureau Schedule", issued under New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

The proposed amendments do not place any bookkeeping, recordkeeping or other compliance requirements on small businesses, as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules primarily affect the motoring public and those responsible for enforcement of the rules.

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

16:28A-1.39 Route 72 and (Service Road, Old Route 72)

(a) The certain parts of State highway Route 72 and (Service Road, Old Route 72) described in the [section] **subsection** shall be designated and established as "no [parking] **stopping or standing**" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing [along both sides] in Stafford Township, Ocean County;

i. **Along both sides:**

Recodify existing i.-ii. as (1)-(2) (No change in text.)

3. **For the entire length within the corporate limits of the Township of Stafford, including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking areas.**

[2. No stopping or standing in Stafford Township, Ocean County:]

[i.]iii. Along the northerly (westbound) side:

(1) (No change.)

16:28A-1.57 Route U.S. 206

(a) The certain parts of State highway Route U.S. 206 described in this subsection shall be designated and established as "no stopping or standing" zones.

1. (No change.)

2. No stopping or standing [along Route 206] in Southampton Township, Burlington County:

i. Along both sides [of Route 206]:

(1) From the junction of Route 70, **at the traffic circle**, to a point 1,200 feet north of, and a point 1,200 feet south of, **the circle**.

(2) **Beginning 500 feet south of the southerly curb line of Retreat Road to a point 500 feet north of the northerly curb line of Vincetown-Buddtown Road.**

(3) **Beginning 200 feet south of the southerly curb line of Route N.J. 38 to a point 400 feet north of the northerly curb line of Route N.J. 38.**

3. (No change.)

[4. No stopping or standing along Route 206 in Southampton Township, Burlington County:

i. Along both sides of Route 206:

(1) From the junction of Route 70, traffic circle, to a point 1,200 feet north of and a point 1,200 feet south of.

5. No stopping or standing in Easthampton and Pemberton Townships along both sides between Powell Road and North Road.

6. No stopping or standing along Route 206 in Southampton Township, Burlington County:

i. Along both sides of Route 206:

(1) From the junction of Route 70, traffic circle, to a point 1,200 feet north of and a point 1,200 feet south of.]

Recodify existing 7.-26. as **4.-23.** (No change in text.)

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

OTHER AGENCIES

(a)

ELECTION LAW ENFORCEMENT COMMISSION

**Notice of Withdrawal of Proposal
Personal Interest Disclosure Statement**

**Proposed New Rule: N.J.A.C. 19:25-7.8
Proposed Amendment: N.J.A.C. 19:25-1.7**

Take notice that the Election Law Enforcement Commission has, upon due consideration, determined to withdraw its proposed new rule N.J.A.C. 19:25-7.8 and proposed amendment to N.J.A.C. 19:25-1.7 published in the February 5, 1990 New Jersey Register at 22 N.J.R. 331(a).

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF DAIRY INDUSTRY

General Provisions

Readoption with Amendments: N.J.A.C. 2:48

Proposed: September 4, 1990 at 22 N.J.R. 2625(a).

Adopted: October 25, 1990, by Woodson W. Moffett, Jr.,
Director, Division of Dairy Industry.

Filed: October 25, 1990 as R.1990 d.572, **without change**.

Authority: N.J.S.A. 4:12A-1 et seq., specifically 4:12A-7 and 20.

Effective Date: October 25, 1990, Readoption; December 3, 1990,
Amendments.

Expiration Date: October 25, 1995.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 2:48.

Full text of the adopted amendments follows.

2:48-2.1 Advertising of milk and milk products

(a) (No change.)

(b) Any licensee offering milk products for sale to consumers in this State shall not represent such products as being milk unless such product meets the standards for milk as defined in the laws governing the production, handling and distribution of milk, cream and milk products in the State of New Jersey (see N.J.S.A. 24:10-57 et seq., as amended, and N.J.A.C. 8:21-10).

(c) (No change.)

(d) Milk products referred to in this regulation shall mean those milk products defined in N.J.S.A. 24:10-57.1 et seq. and N.J.A.C. 8:21-10.

Recodify existing Subchapter 4, Reports, as Subchapter 3. (No change in text.)

SUBCHAPTER 4. RESTRICTIONS ON THE USE OF COUPONS IN MILK PROMOTION

2:48-4.1 Coupons for milk restricted

(a) It shall be unlawful and a violation of these regulations for any licensee directly or indirectly through an entity associated in any way with the licensee to print or cause to be printed any "cents off" or "refund" coupon in any newspaper or other advertising media (including the milk container) which is redeemable either directly or indirectly through a third party by the consumer upon his purchase of any milk or fluid milk product, the result of which is to sell such product below cost as defined in rules of the Division, specifically N.J.A.C. 2:52-7 and N.J.A.C. 2:53-6.

Recodify existing N.J.A.C. 2:48-5.3 and 5.4 as 4.2 and 4.3. (No change in text.)

BANKING

(b)

DIVISION OF REGULATORY AFFAIRS

Surety Bonds

Adopted Amendments: N.J.A.C. 3:18-10.5 and 3:38-1.5

Proposed: September 17, 1990 at 22 N.J.R. 2868(a).

Adopted: November 2, 1990 by Jeff Connor, Commissioner,
Department of Banking.

Filed: November 8, 1990 as R.1990 d.603, **without change**.

Authority: N.J.S.A. 17:1-8.1, 17:11A-54 and 17:11B-13.

Effective Date: December 3, 1990.

Expiration Dates: N.J.A.C. 3:18-10.5—January 19, 1993;
N.J.A.C. 3:38-1.5—October 5, 1992.

Summary of Public Comments and Agency Responses:

The Department received one comment regarding the proposed amendments to the rules. The commenter found the proposed amendments to be acceptable. However, the commenter also indicated that bond companies are requiring an irrevocable letter of credit issued by a bank before they will issue surety bonds. Accordingly, the commenter suggests that the Department accept either a letter of credit or a surety bond.

The Department recognizes that licensees are having difficulty obtaining surety bonds, and will consider initiatives in the future to allow for alternative forms of security.

Full text of the adoption follows.

3:18-10.5 Bonds

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

(c) The bond shall run to the State, pro rata, for the benefit of the Department and for the benefit of all consumers injured by the wrongful act, omission, default, fraud or misrepresentation of a licensee, or a person acting on behalf of the licensee, in the course of activity as a licensee. The bond shall not be payable for claims made by business creditors.

3:38-1.5 Bonds

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

(d) The bond shall run to the State, pro rata, for the benefit of the Department and for the benefit of all consumers injured by the wrongful act, omission, default, fraud or misrepresentation of the mortgage banker, mortgage broker or solicitor in the course of activity as a licensee or solicitor. The bond shall not be payable for claims made by business creditors.

HEALTH

(c)

ALCOHOLISM AND DRUG ABUSE CONTROL

Notice of Administrative Correction

Controlled Dangerous Substances; Schedule V

N.J.A.C. 8:65-10.5

Take notice that the Department of Health has discovered an error in the New Jersey Administrative Code at N.J.A.C. 8:65-10.5(b). The correct spelling for the controlled dangerous substance coded as 9064 is Buprenorphine. An incorrect spelling was published at 17 N.J.R. 1234(a) and 17 N.J.R. 2138(c) and has remained in the New Jersey Administrative Code since September 3, 1985. The following correction is made in accordance with the provisions of N.J.A.C. 1:30-2.7.

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

8:65-10.5 Controlled dangerous substances, Schedule V

(a) (No change.)

(b) The following is the Schedule V listing of controlled dangerous substances by generic, established or chemical name and the controlled dangerous substances code numbers for Narcotic Drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, or mixture or preparation containing any of the following narcotic drugs and their salts is included in this schedule:

[Buphenorphine] **Buprenorphine** 9064

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

HUMAN SERVICES

(a)

DIVISION OF MENTAL HEALTH AND HOSPITALS

Community Mental Health Services Act Rules

Readoption: N.J.A.C. 10:37

Proposed: September 17, 1990 at 22 N.J.R. 2915(a).
 Adopted: November 2, 1990 by Alan J. Gibbs, Commissioner,
 Department of Human Services.
 Filed: November 2, 1990 as R.1990 d.591, **without change**.
 Authority: N.J.S.A. 30:9A-10.
 Effective Date: November 2, 1990.
 Expiration Date: November 2, 1995.

Summary of Public Comments and Agency Responses:

Comments were submitted to the Department regarding the proposed readoption by the New Jersey Association of Counties, the Mercer County Division of Mental Health and Mental Health Board, the New Jersey Association of Mental Health Agencies and the New Jersey State Nurses Association. No public hearing was requested or held regarding the proposal.

COMMENT: The New Jersey Association of Counties and the Mercer County Division of Mental Health and Mental Health Board requested an opportunity to consult, study and react to these rules further prior to submitting an in-depth analysis and commentary to the Department in the future.

RESPONSE: Although the Department must adopt these rules at this time to avoid the considerable problems which their expiration would present, the Department welcomes future analysis and commentary regarding these rules in consideration of possible amendments.

COMMENT: The New Jersey Association of Mental Health Agencies supported this proposed readoption.

RESPONSE: The Department agrees.

COMMENT: The New Jersey State Nurses Association did not comment on the proposed text of the readoption but requested to be included in the ongoing review by the Department to elicit input and feedback from providers, consumers, academics, advocates and professional associations regarding the standards contained in these rules, which was noted in the summary of the proposal.

RESPONSE: The Department agrees with the request and has acted to include the New Jersey State Nurses Association in the ongoing standards review process.

Full text of the readoption may be found in The New Jersey Administrative Code at N.J.A.C. 10:37.

(b)

DIVISION OF DEVELOPMENTAL DISABILITIES

Manual of Standards for Private Licensed Facilities for the Mentally Retarded

Readoption: N.J.A.C. 10:47

Adopted Repeal: N.J.A.C. 10:47-2

Adopted New Rule: N.J.A.C. 10:47-2.1

Proposed: September 17, 1990 at 22 N.J.R. 2915(b).
 Adopted: November 2, 1990, by Alan J. Gibbs, Commissioner,
 Department of Human Services.
 Filed: November 2, 1990 as R.1990 d.593, **without change**.
 Authority: N.J.S.A. 30:1-12, 30:1-15, 30:15-1 and 30:6D-23 et seq.
 Effective Date: November 2, 1990, Readoption; December 3,
 1990, Repeal and New Rule.
 Expiration Date: November 2, 1995.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 10:47.

Full text of the adopted repeal can be found in the New Jersey Administrative Code at N.J.A.C. 10:47.

Full text of the adopted new rule follows.

SUBCHAPTER 2. LICENSURE

10:47-2.1 Licensure requirements

(a) All facilities shall provide documentation of a license to operate a long-term care facility pursuant to the provisions of N.J.A.C. 8:39.

(c)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Transportation Services Manual

Provider Qualifications; Prior Authorization; Basis of Payment

Adopted Amendments: N.J.A.C. 10:50-1.1, 1.3, 1.5, 1.6, 2.6, 2.8, 3.2, Appendix I and Appendix II Adopted Repeal and New Rule: N.J.A.C. 10:50-1.4

Proposed: May 21, 1990 at 22 N.J.R. 1513(a).
 Adopted: November 1, 1990 by Alan J. Gibbs, Commissioner,
 Department of Human Services.
 Filed: November 2, 1990 as R.1990 d.592, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).
 Authority: N.J.S.A. 30:4D-6b(15); 30:4D-7, 7a, b, and c;
 30:4D-12; 42 CFR 440.170(a).
 Effective Date: December 3, 1990.
 Expiration Date: March 3, 1991.

Summary of Public Comments and Agency Responses:

There were four comments on the proposal. The commenters were the Medical Transportation Association of New Jersey; Able Ambulance and Invalid Coach Service, Inc.; Invalid Coach Service of New Jersey, Inc.; and the New Jersey Department of Health.

The commenters were concerned with the requirements for out-of-State based transportation providers. The commenters thought the requirement should be the same for all providers. The Division is revising its rule N.J.A.C. 10:50-1.3(a)3 upon adoption to indicate all ambulance and/or invalid coach companies providing service in New Jersey must obtain licensure from the New Jersey Department of Health pursuant to N.J.A.C. 8:40-2.4.

The commenters were concerned about hospitals following the procedures for billing Medicaid for Mobile Intensive Care Unit/Advanced Life Support (MICU/ALS). The agency's response is that hospitals have received actual notice of the Division's policies via two newsletters.

The commenters consider it unnecessary to forward copies of licenses to the Division's Fiscal Agent when they receive their original license from the New Jersey Department of Health. The agency's response is that proof of licensure is a statutory requirement pursuant to N.J.S.A. 30:4D-3h. However, in order to satisfy this requirement, the Division of Medical Assistance and Health Services will obtain the necessary credentials directly from the New Jersey Department of Health.

Commenters were concerned about the requirement that a Medicaid recipient must be transported to and/or from a provider of Medicaid-covered services. The Division's response is that this requirement is a longstanding policy which is and has to be consistent with Federal requirements for transportation of Medicaid recipients (42 CFR 440.170(a)). The Federal regulatory requirement is that transportation be provided to enable recipients to get medical examinations and treatment. The Division has no authority to waive this requirement.

Commenters thought that the conditions of ambulance reimbursement should conform with rules promulgated by the New Jersey Department of Health (N.J.A.C. 8:40-6.1). The Division needs more time to study this issue.

Commenters also requested additional reimbursement. There were no rate changes associated with this proposal. (The \$10.00 extra crew differential was a recordation of existing agency policy.) The amount of provider reimbursement is subject to legislative appropriations.

Summary of Changes Upon Proposal and Adoption:

The agency is making some changes upon adoption. One change revises N.J.A.C. 10:50-1.3(a)3 to indicate that all ambulance and/or invalid coach providers, whether in-State or out-of-State, must obtain licensure and/or approval from the New Jersey Department of Health before providing service in New Jersey. The licensure requirements are specified in the New Jersey Department of Health rules at N.J.A.C. 8:40-2.4. Therefore, this change is being made in response to public comments and is in conformance with existing regulations (promulgated by the New Jersey Department of Health). The New Jersey Medicaid statute (N.J.S.A. 30:4D-3h) requires providers to be licensed when this requirement is appropriate. Therefore, the change does not place any additional burden on providers. The law, and administrative procedures to implement the law, are already in place.

The Division is deleting the proposed language at N.J.A.C. 10:50-1.3(a)3ii pertaining to the need for transportation providers to forward a copy of licensure to the Division. In order to obtain the necessary information regarding licensure, administrative procedures will be established whereby the New Jersey Department of Health will forward the information directly to the Division. This administrative procedure should alleviate the burden of requiring transportation providers to submit documentation to two state agencies. However, the statutory requirement requiring licensure, when appropriate, remains in effect (N.J.S.A. 30:4D-3h).

Except as noted above, the text is being adopted exactly as it was proposed.

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

10:50-1.1 Scope

This manual describes the policies and procedures of the New Jersey Medicaid Program for reimbursement of approved providers of transportation services. Questions about this manual may be directed to any Medicaid District Office (MDO) listed in N.J.A.C. 10:49-1 Appendix A or to the Division of Medical Assistance and Health Services, CN-712, Trenton, New Jersey 08625.

10:50-1.2 Definitions

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

...
 "Patient" means a Medicaid recipient who is transported in an ambulance or invalid coach for the purpose of obtaining Medicaid-covered service.
 ...

10:50-1.3 General policies for participation

(a) The approval process for becoming a transportation service provider is as follows:

1. Each transportation provider must be individually approved for each type of service provided. The Division of Medical Assistance and Health Services, Department of Human Services, in conjunction with the fiscal agent for the New Jersey Medicaid Program, must approve each provider before reimbursement can be made to that provider for a transportation service.

2. Medicaid Provider Application (Form FD-20), Provider Agreement (Form FD-62) and the Ownership and Control Interest Disclosure Statement (HCFA-1513) may be obtained from the fiscal agent for the New Jersey Medicaid Program.

3. ***[Prerequisite for a New Jersey-based ambulance or invalid coach company for Title XIX (Medicaid) approval is possession of]***
An ambulance or invalid coach company providing service in New Jersey shall possess a Certificate of Need, provider license, and vehicle license(s) issued by the New Jersey Department of Health.

i. A potential provider seeking approval to provide ambulance and/or invalid coach service shall forward photocopies of the Certificate of Need approval letter, provider license, and vehicle license(s) to the fiscal agent for the New Jersey Medicaid Program.

***[ii. An approved provider of ambulance and/or invalid coach service shall forward to the fiscal agent for the New Jersey Medicaid Program photocopies of the provider license and vehicle license(s) when the licenses are renewed on an annual basis, and when ad-**

ditional vehicles are added to a provider's fleet. A provider shall also forward written notification to the fiscal agent when a vehicle is taken out of service.]*

4. A potential provider seeking approval to provide livery service shall attach to the Medicaid Provider Application (Form FD-20) the following documents, each of which shall bear the name of address of the livery company or the company's principal owner(s), for each vehicle in the provider's fleet:

i. A photocopy of the license to operate a livery service, issued by the clerk of the municipality in which the place of business is located;

ii. A photocopy of the State of New Jersey Insurance Identification Card, issued by the provider's insurance company; and

iii. A photocopy of the vehicle registration bearing the classification "Livery", issued by the New Jersey Division of Motor Vehicles.

(1) A potential provider shall also indicate on the photocopy of the vehicle registration the respective vehicle fleet number.

5. All documentation must bear the name and address of the livery company or the company's principal owner(s).

6. An approved provider of livery service shall forward to the fiscal agent for the New Jersey Medicaid Program photocopies of the above-mentioned documents (license, registration and insurance) when the documents are renewed on an annual basis, and when additional livery service vehicles are added to a provider's fleet. A provider shall also forward written notification to the fiscal agent when a livery service vehicle is taken out of service.

7. A Medicaid-enrolled provider of ambulance and/or invalid coach service seeking approval to provide livery service shall complete another Medicaid Provider Application (Form FD-20) and attach the required photocopies as indicated above.

8. For livery service, specific requirements concerning vehicles and drivers are located at N.J.A.C. 10:50-1.4.

9. The completed provider agreement, disclosure statement, and/or provider application shall be submitted to the fiscal agent for the New Jersey Medicaid Program.

10. Once approved, the applicant will receive a Medicaid provider number and an initial supply of pre-printed claim forms from the fiscal agent for the New Jersey Medicaid Program.

(b) As a condition of participation, the transportation provider agrees to bill the New Jersey Medicaid Program for services provided by the billing entity only. If the provider seeks reimbursement for services performed by any other organization or entity, whether a franchise, independent contractor, etc., full disclosure in writing of the financial and organizational arrangement between said entities shall be made to, and approved in advance by, the Division of Medical Assistance and Health Services.

10:50-1.4 Services covered by the New Jersey Medicaid Program

(a) Ambulance service is a covered service under the following conditions:

1. When such service is not free and available in the community;
 2. When the service is provided to a patient as indicated in N.J.A.C. 10:50-1.6 (b); and

3. When the use of any other method of transportation is medically contraindicated and the service is provided to a patient who:

i. Is transported in an emergency situation, for example, as a result of accident, injury, or acute illness;

ii. Is unconscious or in shock;

iii. Requires oxygen, ventilation, or other emergency treatment enroute;

iv. Has to remain immobile because of a fracture that has not been set or the possibility of a fracture;

v. Has sustained an acute stroke or myocardial infarction;

vi. Is experiencing severe hemorrhage;

vii. Has suffered severe brain damage;

viii. Requires intravenous therapy;

ix. Is post cardiac catheterization;

x. Is suffering from uncontrolled seizure disorders;

xi. Is confined in a total body cast;

xii. Is confined in hip spicas and/or other casts preventing hip flexion;

- xiii. Is confined in an isolette (incubator);
- xiv. Has undergone a tracheostomy (requiring suction);
- xv. Is heavily sedated;
- xvi. Is comatose;
- xvii. Is post pneumoencephalogram;
- xviii. Is suffering life threatening third degree burns; or
- xix. Needs to be restrained due to likelihood of serious harm:

(1) Substantial risk of physical harm to the person himself or herself as manifested by evidence of threats of, or attempts at, suicide or serious bodily harm;

(2) A substantial risk of physical harm to other persons as manifested by evidence of homicidal or other violent behavior or evidence that others are placed in reasonable fear of violent behavior and serious physical harm to them; or

(3) A very substantial risk of physical impairment or injury to the person himself or herself as manifested by evidence that such person's judgment is so affected that he or she is unable to protect himself or herself in the community and that reasonable provision for his or her protection is not available in the community.

4. The Department recognizes that there will be isolated instances necessitating ambulance transportation which do not meet the criteria in (a)3 above. Claims for these services will be honored providing the documentation of medical need is sufficient. Unavailability of other means of suitable transportation, such as an invalid coach, or the need for assistance in getting to or from the vehicle will not constitute a medical necessity.

5. The ambulance crew shall comply with the duties of the staff as specified in New Jersey Department of Health rule N.J.A.C. 8:40-6.27.

6. An air ambulance or helicopter, under extenuating circumstances, may be used as a carrier to transport the sick, injured or disabled Medicaid-eligible patient.

i. The service is restricted to the emergency condition where transportation by air is medically considered the only acceptable form of travel and the conditions are such that its implementation is feasible. The Division of Medical Assistance and Health Services retains the option to utilize this form of transportation in such situations where, at the Division's discretion, it could represent a significant cost savings when compared to ambulance or invalid coach service involving trips covering similarly long distances.

7. Mobile Intensive Care Unit/Advanced Life Support (MICU/ALS) service and associated Ambulance/Basic Life Support (Ambulance/BLS) service are reimbursable by the Medicaid Program only when billed on a single claim by the hospital providing the MICU/ALS service. Transportation companies providing the Ambulance/BLS service associated with a MICU/ALS run shall bill the hospital providing the MICU/ALS service and shall not bill the Medicaid Program directly for this service.

(b) Invalid coach service is a covered service under the following conditions:

1. When the service is provided to a patient as indicated in N.J.A.C. 10:50-1.6 (b); and

i. If the patient is wheelchair bound; or

ii. If the patient is ambulatory but unable to take an alternative mode of transportation (such as taxi, bus, livery, or private vehicle) without assistance or supervision.

2. The invalid coach driver and/or crew shall comply with the duties of staff as specified in New Jersey Department of Health rule N.J.A.C. 8:40-4.13. In addition, the invalid coach driver and/or crew shall:

i. Provide "portal-through-portal" (door-through-door) assistance at the patient's place of departure and destination; and

ii. Provide assistance in the placement and removal of the patient into and out of the vehicle at the patient's place of departure and destination.

3. In accordance with New Jersey Department of Health rule N.J.A.C. 8:40-4.1, invalid coach service shall not be provided to a patient who requires (based upon current medical condition or past medical history):

i. Transportation in a prone or supine position or who is bed or stretcher bound;

- ii. Constant attendance due to a medical and/or mental condition;
- iii. Aspiration;
- iv. Management or observation of intravenous fluids and/or intravenous medications;
- v. Emergency medical services or other emergency services, such as emergency inter-hospital transfer;
- vi. Treatment in the emergency department of a hospital (for other than routine, non-emergency, follow-up care of a previously diagnosed condition);
- vii. Treatment in, or admission to, the obstetrical unit (labor and delivery suite) or the intensive and/or coronary care unit of a hospital; or
- viii. Transportation in physical behavioral restraints.

4. The invalid coach shall carry no more than four patients at one time. All wheelchairs shall be restrained and the driver and all vehicle occupants shall wear automotive safety belts, as specified in New Jersey Department of Health rule N.J.A.C. 8:40-4.13.

5. The use of an extra crew for invalid coach services is covered when two or more persons are used to move an individual under the following circumstances:

- i. The patient is wheelchair bound;
- ii. The patient's place of departure or destination has no elevator service available; and
- iii. The patient is unable to ambulate even with the assistance of another person, such as the invalid coach driver; and

(1) The patient's place of departure or destination is accessible only by means of five or more steps; or

(2) The patient's place of departure or destination is accessible only by means of two or more steps and the patient weighs 200 or more pounds.

(c) Livery service is a covered service under the following conditions:

1. When the service is provided to an individual as indicated in N.J.A.C. 10:50-1.6(b).

2. Livery service provided to an individual to and/or from non-medical facilities, such as educational, vocational, or nutritional sites, is not Medicaid reimbursable. Livery service shall be limited to the transport of ambulatory passengers. Only a New Jersey-based company is eligible to participate in the New Jersey Medicaid Program as a provider of livery service.

3. Vehicle requirements are as follows:

i. The vehicle used to provide livery service shall not be more than six model years old at the time the service is provided and shall have a seating capacity of not less than five nor more than 10 persons, inclusive of the driver. Each vehicle used to provide livery service shall be licensed, registered and insured as indicated in N.J.A.C. 10:50-1.3(a)4.

ii. Any passenger car used to provide livery service shall be a four-door vehicle.

iii. In addition, each vehicle used to provide livery service shall:

(1) Display a valid inspection decal issued by the New Jersey Division of Motor Vehicles;

(2) Display livery license plates; and

(3) Display external markings to indicate company name and vehicle number.

iv. The Division of Medical Assistance and Health Services will conduct periodic vehicle inspections to ensure compliance with these requirements.

4. All drivers shall be appropriately licensed as follows:

i. In accordance with N.J.S.A. 39:3-10.1, a driver of a motor vehicle with a capacity of more than six passengers used for the transportation of passengers for hire shall possess a special driver's license issued by the New Jersey Division of Motor Vehicles.

ii. An out-of-State resident who drives a livery service vehicle in the State of New Jersey shall conform to the statutes relevant to livery service in his or her state of residence.

5. All providers shall make available their livery service to Medicaid-eligible individuals from 6 A.M. to 10 P.M., Monday through Saturday.

10:50-1.5 Authorization for transportation services

(a) Prior authorization from the Medicaid District Office (MDO) is required for all transportation services except for ground ambulance service and livery service. See (f) below for the policy concerning authorization for patients transported by invalid coach to/from a nursing facility.

(b) Procedures for obtaining prior authorization are as follows:

1. Written request: The provider submits a "Transportation Claim" (Form MC-12) to the MDO. Upon receipt of this document, a MDO professional staff person reviews the information to verify medical necessity. If the request is approved, the mode of transportation is checked, an authorization number is assigned, and the professional staff person signs the Form MC-12 in Item 16. If denied, however, the professional staff person indicates in the space provided the reason for the denial. The Medicaid District Office retains the third copy of the Form MC-12 and forwards the Fiscal Agent and Provider copies to the provider.

2. Verbal request: The provider calls the MDO and requests prior authorization. A MDO professional staff person completes a "Transportation Services—Information Sheet" (Form FD-60) and approves or denies the request. The provider is apprised by telephone of the MDO's decision. If the request is approved, an authorization number is given to the provider and is also entered on the Form FD-60 which is signed by the MDO professional staff person. If denied, however, the MDO professional staff person indicates in the space provided the reason for the denial. The MDO retains the third copy of the Form FD-60 and forwards the Fiscal Agent and Provider copies to the provider. After rendering the invalid coach service, the provider forwards a claim, accompanied by the Form FD-60, to the fiscal agent for the New Jersey Medicaid Program for processing.

(c) (No change.)

(d) A request for invalid coach authorization may be approved for an extended period of time when, in the opinion of MDO professional staff person, the Medicaid-eligible individual's health condition will not improve to the extent that a lower mode of service would be appropriate during the period under consideration. An extended authorization may range from one month through 12 months in duration.

1. When a provider of invalid coach service requests authorization for an extended period of time, either in writing or by telephone, the Form MC-12 or Form FD-60 shall be labeled "RECORD SHEET". It is not necessary for the provider to indicate the number of trips or the destination on the "RECORD SHEET," as this information will not be known in advance. Claims for actual trips provided during the extended period of time shall be forwarded by the provider directly to the fiscal agent for the New Jersey Medicaid Program for processing.

(e) (No change.)

(f) Authorization from the Medicaid District Office is not required for invalid coach service when a patient's place of origin or destination is a nursing facility or intermediate care facility for the mentally retarded. A nursing facility (formerly called a long-term care facility) is defined in N.J.A.C. 10:63-1.2. In these instances only, providers may render the invalid coach service and submit a Transportation Claim (Form MC-12) and Transportation Certification directly to the fiscal agent for the New Jersey Medicaid Program, without obtaining authorization from a Medicaid District Office. A post-payment review will be conducted on an ongoing basis to ensure the accuracy and validity of claims submitted for reimbursement.

1. The HCFA Common Procedure Coding System (HCPCS) number(s) used when billing the base allowance for invalid coach service in these instances must be followed by the modifier "XA", as indicated in N.J.A.C. 10:50-3.2.

10:50-1.6 Reimbursement policy

(a) The following definitions shall apply for the purpose of reimbursement:

1. "Loaded mile" means mileage accrued when a vehicle is actually carrying a patient/passenger. Mileage for ground ambulance, invalid coach, and livery service is measured by odometer from the point at which the patient/passenger enters the vehicle to the point at which he or she exits the vehicle.

i. In a multiple-load situation for ambulance service and invalid coach service, the charge for loaded mileage and waiting time is applicable to one patient only. Reimbursement is limited to the distance traveled by the patient whose place of departure and destination represent the greatest distance. No mileage charge is permitted for additional patients whose distance traveled lies between these two points.

ii. For livery service, the amount reimbursable for vehicle mileage accrued is on a per-passenger basis. However, when two or more passengers are transported in the same vehicle at the same time from the same departure point to the same destination point, mileage may only be charged for one passenger.

iii. For trips by ambulance and invalid coach in excess of 15 miles one way, loaded mileage is reimbursable beginning with the first mile, at a higher rate as indicated in N.J.A.C. 10:50-3.2. The higher rate of reimbursement is applicable to both the one way trip and to the return trip.

(1) When billing for trips in excess of 15 miles one way, the HCFA Common Procedures Coding System (HCPCS) number used to identify mileage charges must be followed by the modifier "22", as indicated in N.J.A.C. 10:50-3.2.

2. "Transportation reimbursement allowance" means that claims are paid on a fee-for-service basis, as indicated in N.J.A.C. 10:50-3, HCFA Common Procedure Coding System (HCPCS). For HCPCS code numbers and maximum fee schedule, see N.J.A.C. 10:50-3.2. The least expensive mode of transportation suitable to the recipient's needs is to be used.

3. "Waiting time" means that period of actual time in increments of 15 minutes and beyond 30 minutes following delivery of the patient to his or her destination, for ambulance and invalid coach service only. There is no reimbursement for waiting time on round trips, and it is limited to a maximum of one hour on one-way trips. Waiting time is applicable to one patient only in a multiple-load situation for invalid coach service. An explanation of the need for waiting time shall be attached to the claim (Form MC-12).

(b) Transportation service provided to a Medicaid recipient is reimbursable by the New Jersey Medicaid Program under the following conditions only:

1. The medical care provider/facility to which and/or from which the individual is being transported either participates as a provider in the Medicaid program or meets the requirements for participation as a provider in the Medicaid program; and

2. The medical service rendered to the Medicaid recipient by the provider/facility is a covered Medicaid service (as listed in N.J.A.C. 10:49-1.4) at the time the transportation is provided.

(c) Air ambulance or helicopter reimbursement shall be based on a rate authorized by the Medicaid District Office, not to exceed the charge made to non-Medicaid recipients for the same service.

(d) Hospital-based transportation service is reimbursable when a Medicaid-eligible individual is transported to the base hospital and admitted as an inpatient or treated as an outpatient. If the Medicaid-eligible individual is admitted, the hospital submits a claim for the service on Form UB-82 as a trailer. If the Medicaid-eligible individual is not admitted, the hospital submits a claim for the service on Form UB-82 as an outpatient service. A revenue code shall be used to identify the transportation service.

1. Hospital-based transportation service provided to a Medicaid-eligible individual who is transported to other than the base hospital is reimbursable on a fee-for-service basis in the same manner as a non-hospital-based transportation provider. In such instances, the hospital shall be enrolled as a transportation provider as defined in N.J.A.C. 10:50-1.2. A Transportation Claim (Form MC-12) and Transportation Certification shall be used when submitting a claim for transportation services, as described in N.J.A.C. 10:50-2.5 and 2.7.

2. (No change.)

(e) (No change in text.)

(f) If a nursing facility transports a Medicaid recipient, reimbursement is considered as part of the per diem rate. No further reimbursement is allowed.

(g) No additional payment is made for the use of medical supplies and/or equipment. Exception: Oxygen is reimbursable on a per-

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occurrence basis when provided to a Medicaid recipient during an ambulance trip or invalid coach trip.

(h) The appropriate modifier shall be entered on the Transportation Claim (Form MC-12) when billing for the following services:

1. Mileage, ambulance and invalid coach service, in excess of 15 miles one way (see N.J.A.C. 10:50-1.6(a) and 3.2(d)); and
2. Base allowance, invalid coach service, when a patient is transported to or from a nursing facility (see N.J.A.C. 10:50-1.5(f) and 3.2 (b)).

(i) If a transportation service is operated by an organization which has established a policy of providing service without cost for a specific class of individuals, or individuals living within a given area, then it shall be understood that such service is also available without cost to patients falling within such category who are covered under the New Jersey Medicaid Program.

(j) Services not directly reimbursable by the New Jersey Medicaid Program include transportation by taxi, train, bus, and other public conveyances. Reimbursement for arranging/providing these "lower mode" services shall be made by the appropriate county welfare agency/board of social services on behalf of the New Jersey Medicaid Program.

(k) Eligible transportation costs for Medicaid recipients who are required to make regular visits to medical facilities outside the immediate community are reimbursable only if the required services are not available within the community.

10:50-2.6 Combination Medicare/Medicaid claims

(a) Ambulance services reimbursable under Medicare and provided to a Medicare/Medicaid-eligible individual shall be billed on the Request for Medicare Payment-Ambulance (Form HCFA-1491C). Claims must be sent directly to the Medicare Carrier. The provider shall include on the claim form all the information required by the New Jersey Medicaid Program, such as:

1. Health Insurance Claim Number (Item 2);
2. HSP (Medicaid) Case Number (Item 5); and
3. Medicaid Provider Number (Item 23).

10:50-2.8 Automated Data Exchange

- (a)-(b) (No change.)
- (c) Requests for approval shall be submitted to the fiscal agent for the New Jersey Medicaid Program.

10:50-3.2 HCPCS code number and maximum fee schedule

HCPCS Code	Mod.	Description	Maximum Fee Allowance
(a) (No change.)			
(b) INVALID COACH SERVICE			
A0130		Non-Emergency Transportation: Wheelchair Van NOTE: Invalid Coach Service, One Way, Per Patient	20.00
Y0060		Invalid Coach Service, Round Trip, Per Patient XA—Invalid Coach Service(s) to/from a nursing facility. NOTE: The modifier "XA" must be used when a patient is transported to/from a nursing facility by invalid coach.	40.00
Y0070		Extra crew differential, one way	10.00
Y0065		Extra crew differential, round trip	20.00
(c) (No change.)			
(d) MILEAGE			
A0020		Ambulance Service, (BLS) Per Mile, Transport, One Way NOTE: For Medicaid reimbursement purposes, mileage both one way and return/round trip is payable at \$1.00 per loaded mile in both the ambulance and invalid coach.	1.00

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A0020-22	Ambulance Service, (BLS) Per Mile, Transport, One Way	8/1/88 1.20	5/1/89 1.50
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NOTE: The higher rate is applicable for trips in excess of 15 miles one way, beginning with the first mile. The higher rate is reimbursable for ambulance and invalid coach services and is applicable to both the one way and to the return trip.

HCPCS Code	Description	Maximum Fee Allowance
Y0260	Livery Service, Per Mile, Per Passenger	0.50
(e) WAITING TIME—AMBULANCE SERVICE—ONE WAY TRIP ONLY		
Y0005	Waiting Time—Ambulance Service—One Way Trip Only	
	¼ hour	2.50
	½ hour	5.00
	¾ hour	7.50
	1 hour	10.00
NOTE: Reimbursable only on one way trips and only after 30 minutes have elapsed. It is reimbursable in ¼ hour increments. Maximum reimbursement for waiting time is \$10.00 (1 hour).		
(f) (No change.)		
(g) OXYGEN		
A0070	Ambulance Service, Oxygen Administration and Supplies, Invalid Coach Service—Oxygen	12.00 per occurrence 12.00 per occurrence

APPENDIX I

Instructions for the completion of the "Transportation Claim" (Form MC-12):

- Items 1-12A: (No change.)
- Item 12B: Insert appropriate HCPCS (procedure) codes and modifiers as specified in Subchapter 3 of this manual. The HCPCS (procedure) codes and modifiers must accurately reflect the service provided.
- Item 12C-13B: (No change.)
- Item 13C: Self-explanatory. (For the definition of emergency conditions, see N.J.A.C. 10:50-1.2.) (Not applicable for invalid coach service or livery service.)
- Item 13D: Self-explanatory.
- Item 14: Authorization request information. (Not applicable for ambulance service, livery service, or invalid coach service when a patient's place of origin or destination is a nursing facility.)
- When requesting authorization for less than one month, indicate the number of trips and the month and year in which the service is expected to be provided. When telephone authorization is given, indicate the MDO-assigned authorization number in the space provided in Item 14.
- Occupancy: Indicate the number of patients in the vehicle.
- Items 15-16: (No change.)

APPENDIX II

Instructions for the completion of the "Transportation Certification":

- Section I, Items 1 and 2: Copy passenger's (recipient's) name, HSP (Medicaid) Case Number and Patient Person Number exactly as they appear on the Medicaid eligibility validation form.
- Section I, Item 3: Indicate date of service and check appropriate box to indicate one way, round trip, or other.
- Section I, Item 4: Enter address from which the passenger is transported.
- Section I, Item 5: Enter address to which the passenger is transported.

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Section I, Item 6: Enter address to which the passenger is returned, if different from Item 4.

Section I, Item 7: Check appropriate box.

Section I, Item 8: Check appropriate box.

Section I, Item 9: Check appropriate box. Not applicable for livery service.

Section II, Item A: Passenger's (recipient's) signature.

Section II, Item B: Driver's signature, printed name. In addition, the vehicle's fleet number is required for livery service. The Vehicle Recognition Number, as indicated on the Vehicle License issued by the New Jersey Department of Health, is required for ambulance and invalid coach service.

Section II, Item C: Office/facility representative's signature, printed name and title. Not applicable for livery service.

CORRECTIONS

(a)

THE COMMISSIONER

Notice of Administrative Correction Court Ordered Funeral Visits

N.J.A.C. 10A:18-7.7

Take notice that within the Department of Corrections, the visit authorization for all court ordered bedside and funeral visits has been transferred from the Special Assistant for Legal Affairs, Office of the Deputy Commissioner, to the Office of the Commissioner.

By this notice of administrative correction, pursuant to N.J.A.C. 1:30-2.7, the change is being incorporated into the text of N.J.A.C. 10A:18-7.7.

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

10A:18-7.7 Court ordered funeral visits

(a) (No change.)

(b) All court orders for bedside or funeral visits shall be referred immediately to the [Special Assistant for Legal Affairs, Office of the Deputy Commissioner,] **Office of the Commissioner** for visit authorization.

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(b)

DIVISION OF PROPERTY/LIABILITY

Commercial Insurance Rating Plans

Adopted New Rules: N.J.A.C. 11:13-6

Proposed: November 5, 1989 at 21 N.J.R. 3430(a).

Adopted: November 2, 1990 by Samuel F. Fortunato,

Commissioner, Department of Insurance.

Filed: November 2, 1990 as R.1990 d.594, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 17:1C-6(e) and 17:29AA-29.

Effective Date: December 3, 1990.

Expiration Date: November 12, 1992.

Summary of Public Comments and Agency Responses:

Fifteen written comments were received from insurance companies, insurance rating organizations, insurer trade organizations, a producer trade organization and a corporate commercial insurance buyer.

COMMENT: Two commenters expressed concerns over the six-month time period within which currently approved plans need to be refiled to conform with the new rules. One company objected to the expense required to refile the plans. It suggested that plans in current use be "grandfathered" and that the rules apply only to new submissions.

RESPONSE: The Department is confident that the time period of six months allows sufficient time for companies to refile these plans. Com-

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panies with previously approved plans must revise them to comply with the standards set forth in these rules. To allow plans in current use to be "grandfathered" would permit their use indefinitely. The expense of refileing is a one-time capital cost.

COMMENT: Several commenters requested clarification concerning the application of these rules to "special risks", defined at N.J.S.A. 17:29AA-3k.

RESPONSE: These rules apply to rates required to be filed in accordance with the Commercial Insurance Deregulation Act, N.J.S.A. 17:29AA-5. That section exempts special risks from the rate filing requirements, except as otherwise provided in N.J.S.A. 17:29AA-12.

COMMENT: One commenter stated that it believed that the proposed rule would reduce the number of those eligible for these rating plans and also eliminate the special programs designed to address particular markets.

RESPONSE: The rules establish standards for commercial rating plans to encourage sound underwriting principles, promote competition among insurers and promote fair and equitable treatment of insureds. Rating plans that meet the rules' standards will provide sufficient pricing flexibility to recognize differences in individual risks while avoiding unfairly discriminatory pricing.

COMMENT: Several commenters objected to the requirement that a risk be inspected prior to the application of a modification factor. The commenters stated that this will increase the expense involved with underwriting the policies and therefore result in higher premiums. A company also stated that retaining information about application of a plan and retrieval of the required information within 10 days is burdensome, impracticable and not cost effective.

RESPONSE: The Department believes that an initial inspection is necessary to establish the facts by which an insured qualifies for the risk premium modification. The scope of the inspection may be limited based on the risk insured and the reason for the modification. An inspection is not, however, needed annually upon renewal. Rather an inspection should be required only initially and when there has been a change in the risk for which the insurer has made a premium modification. The insurer should retain the information in their underwriting file to confirm the factual basis for the modification, such as an inspection report, photographs, engineering or professional evaluations, claim history, etc.

COMMENT: Several commenters expressed concern with the definition of "individual risk premium modification plan" as set forth in N.J.A.C. 11:3-6.2. The definition appears broad enough to include all rating plans and, in particular, experience rating plans. Another commenter suggested that the definition be revised to include both schedule rating and individual risk premium modification plans.

RESPONSE: The term "individual risk premium modification plan" has been changed to "commercial insurance rating plan" to describe more accurately intent to cover all such plans. Proposed N.J.A.C. 11:3-6.5, which set forth these standards, has been clarified to provide that the maximum 25 percent modification does not apply to experience and retrospective rating plans.

COMMENT: One commenter stated that the proposal was confusing in its use of the expense modification in connection with the application of individual risk premium modification plans.

RESPONSE: As stated above, the rule is being clarified to specify that expense modification is not subject to the 25 percent maximum modification.

COMMENT: Three commenters questioned the Department's authority to impose a maximum modification of plus or minus 25 percent, and for the minimum levels of premium.

RESPONSE: The Department grounds its authority in N.J.S.A. 17:29AA-29, which authorizes the Commissioner to promulgate regulations and N.J.S.A. 17:29AA-10, which provides that rates shall not be excessive, inadequate or unfairly discriminatory. The Department believes that the limited standards set forth in these rules promote the statutory criteria for rates as applied to individual risks.

COMMENT: One commenter suggested that the requirements of N.J.A.C. 11:13-6.4(b) are more appropriate to be included in the filing, rather than the plan itself.

RESPONSE: The Department agrees with the commenter and this section has been deleted.

COMMENT: A commenter suggested that N.J.A.C. 11:13-6.5(a)2, the terms of which provide a standard of minimum annual premium for "commercial other than auto", would be clearer if the specific lines were listed, namely: general liability, property, inland marine, crime, boiler and machinery, and surety.

RESPONSE: The Department disagrees with the commenter. The proposed rules apply to all those lines of insurance which require rates to be filed pursuant to N.J.S.A. 17:29AA-5.

COMMENT: A commenter requested clarification regarding the provision that the maximum total debits and credits for each underwriting factor in the plan be equal on a percentage basis. It noted that some plan elements do not have a balanced percentage factor. It gave the example of a credit for continuing education for professionals; a corresponding debit may not be appropriate.

RESPONSE: The rule (N.J.A.C. 11:13-6.5) is being clarified in subsection (c) to indicate that the plan is not subject to a common percentage in specific cases where application of both a credit and debit is not appropriate. The Department notes that another option for an insurer would be to file a rating rule to address those situations.

COMMENT: Two commenters requested clarification about whether the annual policy minimum premium is determined by the basic limits premium or the premium at limits.

RESPONSE: The annual policy minimum premium is determined by the basic limits premium.

COMMENT: One commenter stated that the eligibility standards for commercial automobile (\$5,000 covering at least five insured vehicles) were too stringent. It suggested a minimum standard of at least two insured vehicles.

RESPONSE: The Department disagrees. The Department notes that the rating organization with the largest number of members or subscribers currently uses a five-vehicle minimum. The Department believes this is an appropriate sized risk, as a minimum, for premium modification.

COMMENT: A commenter inquired whether the minimum premium eligibility requirements are to be calculated before or after the application of the modification factors, and whether a filer may establish minimum premiums higher than those proposed by the rule.

RESPONSE: The minimum premium eligibility requirements apply before the application of the modification factors. A filer may establish premium eligibility requirements higher than that proposed by the rule, which contains minimums. If a member or subscriber of a rating organization proposes to deviate from a rating plan filed on its behalf, it may file its own plan.

COMMENT: A commenter suggested that the requirement of N.J.A.C. 11:13-6.6(e), which requires an insurer to provide the Department with information upon request, be changed to read: "... within 10 days of the receipt of a written request."

RESPONSE: The Department agrees with this suggestion and the change has been incorporated in the adopted rule.

COMMENT: A commenter inquired whether the definition of "filer" includes rating organizations and insurers who make their own rates or if it includes insurers who are members of a rating organization but do not make their own rates.

RESPONSE: The definition of "filer" as set forth in N.J.A.C. 11:13-6.2 includes both rating organizations and insurers which file their own rates or deviations or exceptions to rates or rules filed by rating organizations on their behalf.

COMMENT: One commenter requested clarification about N.J.A.C. 11:13-6.6(b), which provides that the plan shall be applied uniformly to all insureds who qualify for debits or credits. It inquired whether this means that the insurer must apply the plan to all insureds who meet its eligibility criteria, even though it may mean a higher premium for some than if the plan was not applied. An alternative interpretation is that the plan must be applied uniformly to those insureds subject to it.

RESPONSE: The plan must be applied to all risks which are eligible; to do otherwise would unfairly discriminate against some.

COMMENT: One commenter requested clarification of N.J.A.C. 11:13-6.6(a) which states that plans shall be used to produce premiums which are in accordance with the statutory guidelines. The commenter noted that the Department can disapprove any plan it finds not in conformance with this criteria.

RESPONSE: The purpose of this section is to ensure that the plans comply with the rating criteria set forth in N.J.S.A. 17:29AA-10, which specifies that rates shall not be excessive, inadequate or unfairly discriminatory. Plans must meet that criteria both as filed and as applied.

COMMENT: A commercial insurance buyer requested that the Department undertake to monitor insurance companies to ensure that both debits and credits are applied so that premium modifications address risk issues as opposed to pure market considerations.

RESPONSE: N.J.A.C. 11:13-6.6(d) and (e) require that insurers develop and retain information in their underwriting file about the appli-

cation of a rating plan and that this information be available for examination by the Department.

COMMENT: A commenter suggested that the Department restrict the eligibility to property insurance and allow currently approved schedule rating plans to continue to apply to casualty lines of insurance.

RESPONSE: Rating plans as defined in these rules include what are called "schedule rating plans", "individual risk premium modification plans", "experience rating plans" and "retrospective rating plans". With the exception of the plus or minus 25 percent maximum modification, the standards proposed in these rules would apply to all such rating plans.

Summary of Agency Initiated Changes:

N.J.A.C. 11:13-6.3(c) has been revised for clarification of intent. Two minor editorial changes have also been made in N.J.A.C. 11:13-6.3(b).

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

SUBCHAPTER 6. COMMERCIAL INSURANCE*[:]* RATING PLANS *[FOR INDIVIDUAL RISK PREMIUM MODIFICATION]*

11:13-6.1 Purpose and scope

(a) This subchapter establishes standards for commercial insurance rating plans to modify rates in the development of premiums for specific risks.

(b) These standards are intended to:

1. Recognize expected loss differentials based on factors applied using sound underwriting principles;
2. Promote competition among insurers in the rating of individual commercial risks;
3. Promote fair and equitable treatment of insureds; and
4. Encourage loss control and safety measures.

(c) This subchapter applies to all insurers and rating organizations that file rates for commercial lines insurance.

11:13-6.2 Definitions

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

"Base rate" means the unit charge by which the measure of exposure or the amount of insurance specified in a policy of insurance or covered thereunder is multiplied to determine the premium, which rate is filed with the Commissioner pursuant to N.J.S.A. 17:29AA-5.

"Commercial lines insurance" includes all insurance policies so defined in N.J.S.A. 17:29AA-3a.

"Commissioner" means the Commissioner of the New Jersey Department of Insurance.

"Department" means the New Jersey Department of Insurance.

"Filer" means a rating organization or any insurer making its own rates and proposing to establish a new rate, a rate change, or a rating rule.

"*[Individual risk premium modification]* ***Commercial insurance rating* plan**" includes any plan of rates and rules for the adjustment of premiums from base rates for commercial lines insurance coverages.

"Policy" means any contract of commercial lines insurance including, but not limited to, all policies, contracts, certificates and endorsements.

"Supplementary rate information" includes any manual or plan of rates, statistical plan, classification, rating schedule, rating rule and any other rule used by an insurer in making rates.

11:13-6.3 ***[Rating plans for individual risk premium modification]* ***Commercial insurance rating plans*****

(a) Filers may submit ***[individual risk premium modification]* ***commercial insurance rating* plans**** that provide for modification of rates in the development of premiums for specific risks.

(b) ***[An individual risk premium modification]* ***A commercial insurance rating* plan**** ***[must]* ***shall***** be filed with the Commissioner in accordance with N.J.S.A. 17:29AA-5 and this ***sub*** chapter.

(c) *[An individual risk premium modification]* ***A commercial insurance rating*** plan being applied by any insurer as of *[the date of adoption of this rule]* ***December 3, 1990*** shall be refiled ***if necessary*** to conform with the requirements of this subchapter ***[within six months from its adoption.]*** ***by June 3, 1991.***

(d) No insurer shall charge or collect from any insured a premium for any commercial lines insurance policy that deviates from the base rates filed with the Commissioner, except in accordance with *[an individual risk premium modification]* ***a commercial insurance rating*** plan filed with the Commissioner in accordance with this subchapter.

11:13-6.4 Elements of plan

(a) *[An individual risks premium modification]* ***A commercial insurance rating*** plan shall consist of rating rules that set forth the following:

1. The criteria for an insured's eligibility for premium modification as described in the plan;
2. A list or lists of underwriting factors and such descriptive statements or explanations as may be necessary to understand the application or use of each factor;
3. The maximum debit for each factor;
4. The maximum credit for each factor; and
5. The total maximum debits and credits for all factors combined.

(b) An individual risk premium modification plan shall include a statement by the filer that the plan is submitted pursuant to, and will be applied in accordance with, the provisions of this subchapter.]

11:13-6.5 Standards for *[individual risk premium modification]* ***commercial insurance rating*** plans

(a) No ***commercial insurance*** policy ***for which rates shall be filed pursuant to N.J.S.A. 17:29AA-5*** shall be eligible for application of premium modification except as follows:

1. Commercial auto: Annual policy minimum premium of \$5,000 covering at least five insured vehicles.
2. Commercial other than automobile: Annual policy minimum premium of \$2,500.
3. Business owner's policy: Annual policy minimum premium of \$1,500.

(b) Underwriting factors described in the plan shall be reasonably related to an increase or decrease in the risk ***[or expense]*** expected.

(c) Maximum debits for each underwriting factor in the plan shall equal maximum credits for each underwriting factor in the plan on a percentage basis ***except when equal maximum credits and debits are clearly not appropriate and the filer of the plan provides a written explanation***.

(d) An individual risk premium modification plan shall provide for a maximum 25 percent debit or credit from base rates for any single policy. ***This limitation shall not apply to experience and retrospective rating plans or expense modifications.***

11:13-6.6 Application or use of *[individual risk premium modification]* ***commercial insurance rating*** plans

(a) *[Individual risk premium modification]* ***Commercial insurance rating*** plans shall not be used in a manner that results in excessive, inadequate or unfairly discriminatory rates.

(b) *[Individual risk premium modification]* ***Commercial insurance rating*** plans shall be applied uniformly to all insureds who qualify for debits or credits in accordance with the plan as filed.

(c) No individual policy premium shall be modified until the debits and credits applicable to both risk and expense modification in accordance with *[an individual risk premium modification]* ***the commercial insurance rating*** plan are determined by an inspection of the property.

(d) Insurers shall develop and retain information in their underwriting file about the application of *[an individual risk premium modification]* ***a commercial insurance rating*** plan to any modification of an individual policy premium. This shall include any information used to determine the eligibility for debit or credit in accordance with the filed plan, such as inspection reports, photographs, results of engineering or professional evaluations, claim history, etc.

(e) Insurers shall make this information available for examination by the Department, or supply it to the Department within 10 days of ***receipt of a*** written request.

LABOR

(a)

DIVISION OF UNEMPLOYMENT AND TEMPORARY DISABILITY INSURANCE

1991 Maximum Weekly Benefit Rates

1991 Taxable Wage Base under the Unemployment Compensation Law

1991 Contribution Rate of Governmental Entities and Instrumentalities

1991 Base Week

1991 Alternative Earnings Test

Adopted Amendments: N.J.A.C. 12:15-1.3, 1.4, 1.5, 1.6 and 1.7

Proposed: September 17, 1990 at 22 N.J.R. 2885(a).

Adopted: November 7, 1990, by Raymond L. Bramucci, Commissioner, Department of Labor.

Filed: November 7, 1990 as R.1990 d.597, **without change.**

Authority: N.J.S.A. 34:1-5, 34:1-20, 34:1A-3(e), 43:21-3(c), 43:21-4(e), 43:21-7(b)(3), 43:21-7.3(e), 43:21-19(t), 43:21-27, 43:21-40 and 43:21-41.

Effective Date: December 3, 1990.

Expiration Date: July 30, 1995.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

12:15-1.3 Maximum weekly benefit rates

(a) In accordance with the provisions of the Unemployment Compensation Law, the maximum weekly benefit rate for benefits under the Unemployment Compensation Law is hereby promulgated as being \$291.00 per week.

(b) The maximum weekly benefit rate for State Plan benefits under the Temporary Disability Benefits Law is hereby promulgated as being \$272.00 per week.

(c) These maximum benefits shall be effective for the calendar year 1991 on benefit years and periods of disability commencing on or after January 1, 1991.

12:15-1.4 Taxable wage base under the Unemployment Compensation Law

In accordance with the provisions of N.J.S.A. 43:21-7(b)(3), the "wages" of any individual with respect to any one employer for the purpose of contributions under the Unemployment Compensation Law shall include the first \$14,400 during the calendar year 1991.

12:15-1.5 Contribution rate of governmental entities and instrumentalities

(a) In accordance with the provisions of N.J.S.A. 43:21-7.3(e), the contribution rate for all governmental entities and instrumentalities electing to pay contributions under the Unemployment Compensation Law is hereby promulgated as being six-tenths of one percent (0.6 percent) for the entire calendar year.

(b) This contribution rate shall be effective on taxable wages paid in the calendar year 1991.

12:15-1.6 Base week

In accordance with the provisions of N.J.S.A. 43:21-19(t), the base week amount is hereby promulgated as being \$103.00 per week for benefit years and periods of disability commencing on or after January 1, 1991.

12:15-1.7 Alternative earnings test

In accordance with the provisions of N.J.S.A. 43:21-4(e) and 43:21-41, in those instances in which the individual has not established 20 base weeks, the alternative earnings amount for establishing eligibility is hereby promulgated as being \$6,200 for benefit years and periods of disability commencing on or after January 1, 1991.

(a)

DIVISION OF WORKERS' COMPENSATION

1991 Maximum Workers' Compensation Benefit Rates

Adopted Amendment: N.J.A.C. 12:235-1.6

Proposed: September 17, 1990 at 22 N.J.R. 2886(a).

Adopted: November 7, 1990, by Raymond L. Bramucci, Commissioner, Department of Labor.

Filed: November 7, 1990, as R.1990 d.596, **without change**.

Authority: N.J.S.A. 34:1-5, 34:1-20, 34:1A-3(e), and 34:15-12a.

Effective Date: December 3, 1990.

Expiration Date: May 5, 1991.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows:

12:235-1.6 Maximum workers' compensation benefit rates

(a) In accordance with the provisions of N.J.S.A. 34:15-12(a), the maximum workers' compensation benefit rate for temporary disability, permanent total disability, permanent partial disability, and dependency is hereby promulgated as being \$385.00 per week.

(b) This maximum compensation shall be effective as to injuries occurring in the calendar year 1991.

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF FISH, GAME AND WILDLIFE

Striped Bass

Adopted Amendment: N.J.A.C. 7:25-18.1

Proposed: October 1, 1990 at 22 N.J.R. 3078(a).

Adopted: November 13, 1990 by Judith A. Yaskin,

Commissioner, Department of Environmental Protection.

Filed: November 14, 1990 as R.1990 d.607, **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. 23:5-43 et seq.

DEP Docket Number: 032-90-09.

Effective Date: December 3, 1990.

Expiration Date: February 18, 1991.

Summary of Public Comments and Agency Responses:

This amendment was proposed on October 1, 1990 at 22 N.J.R. 3078(a). The public comment period closed on October 31, 1990. Written comments regarding the proposal were received from one sport-fishing club. Secondary notice was achieved by direct mail to 51 fishing clubs.

COMMENT: In view of new information, namely the dismal young-of-year index for 1990, it would not be prudent to allow any increased harvest at this time.

RESPONSE: Amendment 4 of the Atlantic States Marine Fisheries Commission's (ASMFC) Interstate Fisheries Management Plan for Striped Bass maintains that the striped bass resource can sustain the limited fishery set forth in this amendment and become fully restored as long as trophy fishing mortality does not exceed a rate of 0.25 which is currently projected as 63,800 pounds per year in New Jersey.

This allocation, upon which the trophy fish program is based, is unrelated to the young-of-year index for 1990. With a minimum size limit of 38 inches, successful participants in the trophy fish program will be

harvesting striped bass from year classes of the early 1980's, of which the 1982 class predominates.

COMMENT: Harvesting this previously unused allocation of 63,800 pounds may cause irreparable damage to the present population of breeding fish. Why target, at this time, the 1989 spawners before their offspring have a chance to reproduce?

RESPONSE: The 63,800 pound allocation was not previously unused but rather represents 20 percent of the State's average annual commercial landings from 1972 through 1979. The allocation was determined under Amendment 4 to the ASMFC Plan allowing for limited fisheries on the coastal migratory stock of striped bass at a fishing mortality rate of 0.25, while at the same time protecting the resource until a full restoration is achieved.

The trophy fish program targets all year classes with fish in excess of 38 inches. Because these fish mature at lengths of 24 to 38 inches, virtually all of the trophy fish have had at least one spawning opportunity (in 1989). The offspring of the 1989 spawners, which are still afforded ample protection by the Plan's existing, highly restrictive management measures, are unaffected by the mortality of their parents. The program is limited to the Atlantic Coast fishery, which can support the taking of trophy fish while the Division has specifically eliminated the Delaware River and the Delaware Bay and its tributaries from the trophy fish program in order to protect the spawners and all potential spawners of this depressed, genetically separate stock. Spawning grounds for the Atlantic fishery are largely in the Chesapeake Bay and thus are not affected by this rule.

COMMENT: If each recreational fisherman may now keep one fish, 28 inches or greater, does adding a second, larger, fish matter?

RESPONSE: Many New Jersey striped bass sport fishermen maintain that New Jersey does not receive a fair allocation for its recreational fishery at one fish per day. The trophy fish program affords recreational fishermen who participate the opportunity to keep an additional fish within the context of Amendment 4 resource allocations and will assure that New Jersey fishermen receive their fair share of the coastwide striped bass fishery.

Summary of Agency Initiated Changes:

The word "may" was changed to the word "shall" at N.J.A.C. 7:25-18.1(f)1 to clarify the fact that although the angler may elect to participate in the trophy fish program in addition to his or her normal daily possession limit, if he or she should make that election, he or she must apply to the Division for a "fish possession tag."

In N.J.A.C. 7:25-18.1(f)3, a typographical error was corrected by changing the word "first" to "fish" to conform with the remainder of the rule.

The Department has deleted the reference to calendar year 1990 at N.J.A.C. 7:25-18.1(f)3 and modified this paragraph to indicate that all applications will be processed in order of receipt regardless of the year. In addition, the Department has deleted paragraph N.J.A.C. 7:25-18.1(f)4 which concerns the acceptance of applications only during the period of January 1 through February 15 in each year beginning in 1991. Initially the Department had anticipated that "fish possession tags" would be issued annually because it was necessary to restrict the number of tags issued so as not to exceed the allowable harvest quota. The Department has determined that it will be more efficient and as enforceable to administer the program on a continuing basis. The Department believes that the quota can be enforced by regular monitoring of registered trophy fish at the fish checking stations and therefore anyone providing the information on the application form is entitled to receive one "fish possession tag." This change should enhance the recreational opportunities for anyone interested in participating in the striped bass trophy fish program.

The Department has recodified N.J.A.C. 7:25-18.1(f)5 as N.J.A.C. 7:25-18.1(f)4 and added a new paragraph N.J.A.C. 7:25-18.1(f)5 to clarify that any "fish possession tag" not utilized during the calendar year issued is valid in subsequent years, provided the Department has not closed this fishery. The rule as proposed was silent on the issue of expiration of the "fish possession tag."

The wording of N.J.A.C. 7:25-18.1(f)6 was altered to conform to the reporting form to be used by the Division. The information required is not changed.

The provision providing for the checking of a fish after the closing of a fish checking station has been deleted from N.J.A.C. 7:25-18.1(f)9 and added to N.J.A.C. 7:25-18.1(f)8. This consolidates the provisions concerning fish checking in one subsection.

The Department has deleted the reference to 63,800 pounds of striped bass at N.J.A.C. 7:25-18.1(f)11 and replaced it with "the quota as established by the Atlantic States Marine Fisheries Commission (ASMFC)."

ADOPTIONS

Although the quota established by the ASMFC for 1990 is 63,800 pounds there is no certainty that ASMFC quota will be the same in future years. Pursuant to N.J.S.A. 23:5-45.1, this rule is required to provide for compliance with the ASMFC allocation. This change will obviate the necessity of yearly amendments of N.J.A.C. 7:25-18.1(f)11.

Reference to the current quota of 63,800 pounds is made in new paragraph N.J.A.C. 7:25-18.1(f)12. A provision providing for notice of subsequent changes in the ASMFC quota is also added in new section N.J.A.C. 7:25-18.1(f)13.

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

7:25-18.1 Size limits

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

(e) A person shall not take, attempt to take or have in his or her possession any striped bass while on or angling in that portion of the Delaware River or its tributaries from the Trenton Falls to the northernmost border shared by the States of New Jersey and Delaware from April 1 through May 31 of each year.

(f) Pursuant to the provisions of N.J.S.A. 23:5-45.1c, except in Delaware Bay and the Delaware River and tributaries, the possession of one "trophy sized" striped bass, measuring not less than 38 inches in length, will be allowed in addition to the one fish allowed under the provision of N.J.S.A. 23:5-45.1(a) in accordance with the following provisions:

1. Any person intending to take one striped bass measuring not less than 38 inches in length in addition to his normal possession of one striped bass measuring not less than 28 inches in length ***[may]*** ***shall*** apply to the Division for a "fish possession tag." Applications may be obtained from either of the following:

i. The Division of Fish, Game and Wildlife
Striped Bass Trophy Fish Program
CN 400
Trenton, NJ 08625; or

ii. Fish checking stations, as authorized by the Division and identified by public notice in the New Jersey Register;

2. The application form shall be completely filled in to include the name, address and telephone number of the applicant and any other information requested therein;

3. ***[During 1990, applications]*** ***Applications*** for a fish possession tag will be accepted for participation in the trophy ***[first]*** ***fish*** program and processed in order of receipt by the Division ***[beginning on the effective date of this rule amendment]***;

[4. Beginning January 1, 1991, only those applications for a fish possession tag which are received during the period from January 1-February 15 of each year will be accepted for participation in the "trophy fish" program. In the event that more applications are received than can be accommodated by the program, fish possession tags will be awarded on the basis of a random drawing from among all applications received, the drawing to occur on the first business day after February 15; in the event that the number of available fish possession tags exceeds the number of applications received, the tags undistributed after the closing of the application period will be allocated to fish checking stations for distribution, as described below at (f)10;]

[5.]***4.*** Successful applicants will receive one, non-transferable fish possession tag. This tag is to be placed through the mouth and out behind the gill cover of the trophy fish and fastened to form a complete circle immediately upon capture;

5. Any fish possession tag not utilized during the calendar year in which it was issued will be valid for subsequent years except during those periods in which the Department has closed the State's waters to harvesting as provided below at (f)11;

6. Successful applicants shall keep records of their trophy fish fishing activity as requested on forms furnished by the Division. Such records shall include, but not be limited to, the days and hours fished, number of striped bass caught, size of striped bass caught, number and size of striped bass ***[kept]*** ***released*** and location of fishing activity;

7. A person shall not have in his or her possession at any time more than two striped bass, of which one shall be not less than the

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size provided for in N.J.S.A. 23:5-45.1 and the other shall be not less than 38 inches in length and shall have a properly affixed, completely fastened and legal fish possession tag;

8. Any striped bass taken under the provision of this subsection shall be transported to an authorized fish checking station by the person who caught the fish on the day so taken. A person shall not present for registration or permit to be registered in his or her name a striped bass which he or she did not catch*. **Any person who legally takes and tags a striped bass under these provisions and who cannot arrive at a fish checking station prior to closing time shall immediately report to the marine enforcement office at (609) 748-2050 and supply his or her name, the date, the time, and the striped bass tag number and shall check the fish at an authorized fish checking station the following day*;**

9. A person shall not possess any striped bass taken or tagged under the provisions of this subsection which is damaged or mutilated to the extent that its length cannot be determined, other than immediately prior to preparation or being served as food*. Any person who legally takes and tags a striped bass under these provisions and who cannot arrive at a fish checking station prior to closing time shall immediately report to the marine enforcement office at (609) 748-2050 and supply his or her name, the date, the time, and the striped bass tag number and shall check the fish at an authorized fish checking station the following day*;

10. If available, an additional fish possession tag may be provided to the angler upon recording of his or her prior legally tagged striped bass at an authorized fish checking station; and

11. When, at any time during the calendar year, the Division has projected that ***[63,800 pounds]*** ***the quota established by the Atlantic States Marine Fisheries Commission*** of striped bass will have been harvested within the next 72 hours under the provisions of this section, the Division will close the State's waters to any further harvesting upon two days public notice in the Newark Star-Ledger, Asbury Park Press and The Press (of Atlantic City).

***12. The quota described in (f)11 above shall be 63,800 pounds until such time as another quota is duly promulgated by the Atlantic States Marine Fisheries Commission.**

13. Upon promulgation of any change in the quota described in (f)11 above, the Division will provide public notice thereof in the Newark Star-Ledger, the Asbury Park Press and The Press (of Atlantic City).*

(g) Any person violating the striped bass size or possession limits as provided for in N.J.S.A. 23:5-45.1, or (e) and (f) above shall be liable to a penalty of \$100.00 per fish for the first offense and a penalty of \$200.00 per fish for each subsequent offense.

(h) All persons aboard any fishing vessel subject to this rule shall immediately comply with instructions and signals issued by a conservation officer, a marine police officer or other law enforcement officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch for the purpose of enforcement of this rule.

(i) (No change in text.)

TRANSPORTATION

(a)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

BUREAU OF LOCAL HIGHWAY DESIGN

Cost of Right-of-Way Acquisition

New Jersey Transportation Trust Fund Authority Act

Federal Aid Urban System Substitution Program:

County and Municipal Aid

Adopted Amendment: N.J.A.C. 16:20A-4.4

Proposed: September 17, 1990 at 22 N.J.R. 2900(a).

Adopted: October 18, 1990, by Robert A. Innocenzi, Deputy Commissioner (State Transportation Engineer), Department of Transportation.

Filed: October 29, 1990 as R.1990 d.582, without change.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-13, 27:7-47, 27:7-13.1 et seq., and The New Jersey Transportation Trust Fund Authority Act, N.J.S.A. 27:1B-1 et seq.

Effective Date: December 3, 1990.
Expiration Date: February 20, 1995.

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

Full text of the adoption follows.

16:20A-4.4 Cost of right-of-way acquisition
(a)-(i) (No change.)

(j) Where owners or tenant occupants of any property being acquired for the project will be displaced, the county or municipality shall provide a Relocation Plan and accomplish Relocation Assistance. If relocation assistance is involved, relocation assistance shall be provided in accordance with prevailing statutes and regulations.

(k)-(m) (No change.)

(a)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

BUREAU OF LOCAL HIGHWAY DESIGN

**Cost of Right-of-Way Acquisition
New Jersey Transportation Trust Fund Authority
Act: Municipal Fund**

Adopted Amendment: N.J.A.C. 16:20B-4.3

Proposed: September 17, 1990 at 22 N.J.R. 2901(a).
Adopted: October 18, 1990, by Robert A. Innocenzi, Deputy Commissioner (State Transportation Engineer).
Filed: October 29, 1990 as R.1990 d.581, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-13, 27:7-47, and the New Jersey Transportation Trust Fund Authority Act, N.J.S.A. 27:18-1 et seq.

Effective Date: December 3, 1990.
Expiration Date: February 20, 1995.

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

Full text of the adoption follows.

16:20B-4.3 Cost of right-of-way acquisition
(a)-(i) (No change.)

(j) Where owners or tenant occupants of any property being acquired for the project will be displaced, the county or municipality shall provide a Relocation Plan and accomplish Relocation Assistance. If relocation assistance is involved, relocation assistance shall be provided in accordance with prevailing statutes and regulations.

(k)-(m) (No change.)

(b)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

BUREAU OF LOCAL AND DISTRICT OPERATIONS

New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-Way Preservation Bond Act of 1989 Rules

Adopted New Rules: N.J.A.C. 16:21B

Proposed: September 17, 1990 at 22 N.J.R. 2901(b).
Adopted: October 18, 1990, by Robert A. Innocenzi, Deputy Commissioner (State Transportation Engineer), Department of Transportation.

Filed: October 30, 1990 as R.1990 d.589, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-13, 27:7-47 and the New Jersey Bridge Rehabilitation and Improvement and Railroad Rights-of-Way Preservation Bond Act of 1989, P.L. 1989, c.180.

Effective Date: December 3, 1990.
Expiration Date: December 3, 1995.

Summary of Public Comments and Agency Responses:

The proposed new rules were published in the September 17, 1990 New Jersey Register. The public comment period ran from September 17, 1990 to October 17, 1990. No comments were received during this period. Shortly after the close of the official comment period, the Department received a letter containing several comments on the proposed rules. Although received after the close of the comment period, the comments are relevant to the rule making docket and were considered during the promulgation process. The comments were as follows:

COMMENT: Will funding for individual bridge projects be authorized on a line item basis by the Legislature, and if so, will revisions to the project list require legislation?

RESPONSE: The bond act provides that "All appropriations from the bond fund shall be by specific allocation for each project, and any transfer of any funds so appropriated shall require the approval of the Joint Budget Oversight Committee, or its successor." Whether by legislation or by approval of the Joint Budget Oversight Committee, bond fund projects are subject to legislative oversight.

COMMENT: Will the Commissioner of Transportation have the final say on which projects will be funded and will the Commissioner present a list of recommendations to the Legislature for legislative approval?

RESPONSE: Projects are funded pursuant to legislative appropriations. The Department has prepared recommendations regarding the expenditure of bond funds and these will be submitted for legislative action.

COMMENT: It is suggested that any funds allocated for railroad overhead bridge projects, but not advanced within a three-year period, be eligible for reallocation as formula money to be used for highway bridge projects.

RESPONSE: It is the intention of the Department to utilize bond fund resources in an effective and timely manner. Decisions regarding the reallocation of any funds shall be done on a case-by-case basis following consultation with local officials, assessment of public safety needs, and all applicable priorities.

COMMENT: The rules permit the Commissioner to reallocate certain funds if they are not committed by contract within three years of their appropriation. It is suggested that the rules be revised to allow the Commissioner to extend the three-year period, when warranted.

RESPONSE: Reallocation of any funds shall be done after a thorough review of the applicable project. The merits of reallocation of project funds will be done on a case-by-case basis. The Department will not reallocate funds when it is not appropriate.

COMMENT: Because of potential for confusion, it is suggested that consideration be given to eliminating altogether the use of design and right-of-way costs in the determination of maximum State participation.

RESPONSE: The Department believes that the language regarding the determination of State participation in a project is consistent with provisions of the bond act. State participation in any project would be subject to agreements entered into by the State and local sponsors. Any confusion or questions can be settled prior to execution of contracts.

Full text of the adoption follows.

**CHAPTER 21B
NEW JERSEY BRIDGE REHABILITATION AND
IMPROVEMENT AND RAILROAD RIGHT-OF-WAY
PRESERVATION BOND ACT OF 1989 FUNDING RULES**

**SUBCHAPTER 1. GENERAL PROVISIONS, BRIDGE
FUNDING**

16:21B-1.1 Bridge bond funds

(a) This chapter implements bridge funding provisions of the New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-Way Preservation Bond Act of 1989, P.L. 1989, c.180. Funds for rehabilitation or improvement means the construction, reconstruction, demolition, removal, replacement, improvement, repair, re-

habilitation, or rebuilding of bridges carrying State, county or municipal roads, including railroad overhead bridges (highway over rail), as appropriated by the Legislature. These funds shall be referred to in this chapter as "bridge bond funds".

(b) The Commissioner of Transportation, after consultation with applicable local officials, shall make the final selection of projects to be funded with bridge bond funds.

(c) Bridge projects for which bridge bond funds have been appropriated shall be advanced and under contract within three years of the appropriation. In the event that a bridge project for which funds have been appropriated is not under contract after three years, the appropriated funds for that project shall be returned to the Commissioner, for reallocation as provided by law.

(d) A bridge, for the purposes of this chapter, is a structure with a minimum clear span of five feet.

16:21B-1.2 Project shares

(a) Bridge bond funds shall defray 100 percent of the cost of those bridges which carry State highways and which are constructed, owned or maintained by the State and those railroad overhead bridges over and across a railroad or electric railway operated by the State.

(b) Bridge bond funds shall defray not more than 90 percent of the cost of rehabilitation and improvement, with the county or municipality defraying not less than 10 percent of the cost, of those bridges which carry county or municipal roads, except those railroad overhead bridges carrying county or municipal roads which are provided for in (a) above.

(c) Notwithstanding the provisions of chapter 12 of Title 48 of the Revised Statutes, the railroad company whose tracks or right-of-way the bridge crosses, shall furnish, at its own expense, necessary track safety services and engineering reviews for railroad overhead bridges.

(d) Cost sharing prescribed in this section shall be determined after first reducing the cost of rehabilitation and improvement of bridges by the amount of Federal funding, when Federal funding is involved in a project.

16:21B-1.3 Standards

(a) Bridge projects shall conform to applicable design criteria of the American Association of State Highway and Transportation Officials (AASHTO) or applicable New Jersey Department of Transportation Standards. Any exceptions to these design criteria must be justified by the engineer responsible for the project to be in the public interest.

(b) Construction and materials shall conform with the applicable New Jersey State Department of Transportation Standard Specifications for Road and Bridge Construction.

(c) Evaluations, ratings, and reports shall conform to the national bridge inspection standards as contained in the current AASHTO Manual for Maintenance Inspection of Bridges.

16:21B-1.4 Audits

(a) Entities receiving bridge bond funds shall comply with audit requirements of the New Jersey Department of the Treasury and of the New Jersey Department of Transportation, and with any Federal audit requirements associated with Federal funding of projects.

(b) Local governments shall comply with the State of New Jersey Single Audit Policy defined by the Department of Treasury, Office of Management and Budget and the Single Audit Act of 1984 (Federal OMB Circular A-128).

(c) A single audit of a local government shall be performed annually by an independent auditor or public accountant who meets the independence standards specified in generally accepted government auditing standards in conformity with State audit policy.

(d) Department of Transportation agreements shall be subjected to audit compliance tests in accordance with requirements delineated in the Department of Treasury, OMB publication entitled "New Jersey Grants Management Information System Manual."

(e) Audit costs incurred by such entities to comply with this section shall not be reimbursable from the Department.

SUBCHAPTER 2. STATE AID TO LOCAL GOVERNMENTS FOR BRIDGE PROJECTS

16:21B-2.1 Applications for bridge bond funding

(a) Any county or municipality may submit project applications which contain executed agreements and resolutions for bridge bond funds to the New Jersey Department of Transportation through the Local Aid District Office for review and project approval for those State aid projects funded in accordance with N.J.A.C. 16:21B-1.2(b).

(b) Applications containing agreements and resolutions are available to local governments at the Local Aid District Office.

(c) All approved applications with executed agreements and resolutions for funding shall be implemented by contract in accordance with N.J.A.C. 16:21B-2.3 and 2.4 unless otherwise approved by the State.

16:21B-2.2 Procedure

(a) The application with agreement and resolution shall provide an engineering description of the existing road and bridge and the description of the proposed improvement indicating the length of span, proposed load limit, right-of-way width, paved and graded widths, shoulder widths, type and depth of proposed pavement, and an estimate of the cost of the proposed work for both the bridge and approach roadways. The Department may make a field investigation of all projects for which applications have been received.

(b) Applications will be reviewed and evaluated by the staff of the Local Aid District Office. Recommendations for approval will be presented to the Commissioner of Transportation or designee for execution.

16:21B-2.3 Local government responsibility

(a) The local government shall be responsible for engaging a professional engineer registered in the State of New Jersey to prepare construction plans and specifications and to provide construction engineering and inspection and material testing as required for the project.

(b) The local government shall provide such maps, reports, construction plans and specifications, and contract documents, as may be required by the State.

(c) The local government unit shall be responsible for obtaining all necessary permits, right-of-way, easements, and slope rights required.

(d) The local government unit shall have the following bridge evaluation responsibilities:

1. Be responsible for engaging a qualified consulting engineering firm to inspect, rate, and prepare reports;
2. Prior to executing an agreement with a consulting firm, submit two copies of the consultant proposal to the Local Aid District Office for review and approval; and
3. Make available for review any reports, ratings or other information as may be required by the State.

16:21B-2.4 Award of contract

(a) The local government shall advertise and award the contract, subject to the approval of the State, in accordance with the provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

(b) The local government shall submit the following to the Local Aid District Office 15 calendar days prior to the time of advertisement for construction bids:

1. Two copies of contract plans and specifications;
2. Two copies of the engineer's estimate of costs; and
3. Two copies of the responsible engineer's justification for any exceptions to the applicable design standards, or certification that none is involved.

(c) The local government shall submit the following to the Local Aid District Office within 30 calendar days of receipt of construction bids:

1. Two copies of the summary of construction bids; and
2. A resolution awarding the contract to the lowest responsible bidder, subject to the approval of the Department.

(d) The local government shall be advised of the approval of the award of the contract when all information relative to the bidding has been approved by the State.

TRANSPORTATION

ADOPTIONS

16:21B-2.5 Contract completion and payment

(a) The State may disburse funds after acceptance of completed work by the local government unit and the Department. Progress payments may be made on a monthly basis when authorized by the Department and when the requested progress payment exceeds \$10,000.

(b) The local government will prepare and submit the following to the Local Aid District Office, when all work has been completed satisfactorily:

1. A statement by the local government unit's engineer certifying that the work performed is accepted and approved upon completion of the work;

2. A certification by the local government unit's chief financial officer that all expenditures are supported by valid documentation and conform with the terms of the State's agreement, and a statement that the project is contained in the annual audit;

3. A request for reimbursement by the State, on vouchers to be supplied by the State; and

4. For bridge evaluations, the following information is also required:

i. An inventory listing of the structures inspected, including the structure identification number, the intersecting feature, the route number, and the municipality for each structure; and

ii. A notification of the filing location of the final study reports and any instructions for arrangements to review them.

(c) Action shall be taken to reimburse the local government unit after a final inspection of the completed work by the State.

(d) The local government unit shall maintain complete documentation of the project for a period of three years after receiving reimbursement by the State. An evaluation of the acceptability of the work by the Department and a determination of the extent of State participation in the cost thereof will be based on an inspection of the completed project and a review of documentation maintained by the local government unit.

16:21B-2.6 Cost of construction

(a) The State participation in the eligible cost of the completed rehabilitation and improvement work shall be as provided in P.L. 1989, c.180, any applicable legislative appropriation acts, and this chapter, in accordance with the availability of funds, concerning those bridges which carry county or municipal roads which are constructed, owned, or maintained by a county or municipality.

(b) Actual construction costs including construction supervision and material testing costs shall be eligible for reimbursement. The State shall participate in construction supervision and material testing costs in accordance with the current practices of the Department. The maximum State participation shall be limited to the lesser of:

1. Ninety percent of the total participating project cost including construction, design engineering and right of way acquisition costs;

2. One hundred percent of the participating construction cost including construction supervision and materials testing; or

3. The allotment amount as approved in the executed agreement or subsequent approved revisions or supplements.

16:21B-2.7 Cost of engineering, right-of-way, and bridge evaluation

(a) Design engineering and right-of-way costs are not eligible for reimbursement by the State; however, they may be included in the total project cost for calculation of the maximum State share.

(b) Consultant services for the evaluation of bridges with clear spans less than 20 feet will be eligible for reimbursement. Costs incurred by the local government unit for negotiation and administration of the consultant agreement shall not be eligible for reimbursement and shall not be included in the total project cost for calculation of the maximum State share. The maximum State participation shall be limited to the lesser of:

1. Ninety percent of the participating consultant agreement costs; or

2. The allotment amount as approved in the executed agreement or subsequent approved revisions or supplements.

16:21B-2.8 Emergency bridge projects

The New Jersey Department of Transportation will evaluate applications received from municipalities and counties throughout the

State for projects of an emergency nature. Rapid construction, reconstruction, or rehabilitation of projects of this type will reduce undue hardships to the traveling public or correct unsafe conditions in a timely fashion. The requirements of this chapter shall pertain to emergency projects.

SUBCHAPTER 3. STATE ADMINISTERED BRIDGE BOND PROJECTS

16:21B-3.1 State projects

Projects involving State owned bridges or where the Department of Transportation is the lead agency will be governed by the Department's policy and procedures for State projects.

SUBCHAPTER 4. RAILROAD OVERHEAD BRIDGE PROJECTS INVOLVING JURISDICTIONAL ASSIGNMENTS

16:21B-4.1 General provisions

(a) The Department of Transportation shall be the lead agency, when a railroad overhead bridge project involves a jurisdictional assignment. Project funding shall be in accordance with N.J.A.C. 16:21B-1.2. The 10 percent local match requirements shall only apply to the direct design, right-of-way, construction, and inspection costs of the project.

(b) Responsibilities and jurisdictional assignments for railroad overhead bridges shall be governed by P.L. 1988, c.171 (N.J.S.A. 27:5G-5 et seq.), the Railroad Overhead Bridge Act of 1988, and by N.J.A.C. 16:53B.

(c) The Department may accept or assign full or partial permanent jurisdictions or responsibilities to either the Department or to a county or municipality as provided in accordance with P.L. 1988, c.171 (N.J.S.A. 27:5G-5 et seq.) for those railroad overhead bridges whose ownership is not determined or is in doubt. The Department may assign responsibility for routine roadway maintenance to the governmental entity with jurisdiction for the approaching roadways. Jurisdiction or responsibility for other than roadway maintenance shall be accepted by the Department except in those cases where the Department determines by a preponderance of the evidence that a county or municipality already owns or has jurisdiction for a bridge.

(d) The provisions of (c) above shall not restrict interested parties from entering into voluntary jurisdictional agreements or allocations of responsibilities.

(e) The Department of Transportation through the Division of Right-of-Way shall administer and direct all phases of the real property or right-of-way acquisition in the event that a project requires the purchase of additional real property or right-of-way. Purchase of right-of-way or additional needed real property shall be made in accordance with the statutory requirements of N.J.S.A. 20:3-1 et seq. If relocation assistance is required, it shall be provided in accordance with applicable statutes and regulations. Unless determined otherwise by the Commissioner, real property or right of way shall be acquired in the name of the entity with approach road jurisdiction.

16:21B-4.2 Procedure

(a) The applicable local government unit(s) shall execute a cost sharing and jurisdictional agreement(s) with the Department of Transportation prior to work commencing on a project. The agreement(s) shall conform to the requirements of N.J.A.C. 16:53B.

(b) The agreement(s) shall provide an engineering description of the existing road and bridge, a description of the proposed improvement, and an estimate of the cost of the proposed work for both the bridge and approach roadways.

(c) Agreements shall be reviewed and evaluated by the staff of the Department of Transportation. Recommendations for approval will be presented to the Commissioner of Transportation or designee for execution.

16:21B-4.3 Emergency bridge projects

The New Jersey Department of Transportation shall evaluate situations throughout the State for projects of an emergency nature. Rapid construction, reconstruction, or rehabilitation of projects of this type will reduce undue hardships to the traveling public or correct unsafe conditions in a timely fashion.

SUBCHAPTER 5. GENERAL PROVISIONS, RAILROAD RIGHT-OF-WAY PRESERVATION (RESERVED)

SUBCHAPTER 6. STATE AID FOR RAILROAD RIGHT-OF-WAY PRESERVATION (RESERVED)

(a)

**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

Speed Limits

Routes N.J. 109 in Cape May County and N.J. 70 in Burlington County

Adopted Amendments: N.J.A.C. 16:28-1.22 and 1.30

Proposed: October 1, 1990 at 22 N.J.R. 3111(a).
Adopted: November 1, 1990 by John F. Dunn, Jr., Director,
Division of Traffic Engineering and Local Aid.
Filed: November 7, 1990 as R.1990 d.598, **without change**.
Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 39:4-98.
Effective Date: December 3, 1990.
Expiration Date: June 1, 1993.

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

Full text of the adoption follows.

16:28-1.22 Route 109

(a) The rate of speed designated for the certain parts of State highway Route 109 described in this subsection shall be established and adopted as the maximum legal rate of speed:

- 1. For both directions of traffic:
 - i. In Lower Township, Cape May County:
 - (1) Zone 1: 35 miles per hour between the City of Cape May northerly line (Cape Island Creek Bridge) and Third Avenue (northernmost intersection) (approximate mileposts 1.34 to 1.56); thence
 - (2) Zone 2: 45 miles per hour between Third Avenue (northernmost intersection) and Route U.S. 9 (approximate mileposts 1.56 to 3.06).

16:28-1.30 Route 70

(a) The rate of speed designated for the certain parts of State Highway Route 70 described in the subsection shall be established and adopted as the maximum legal rate of speed:

- 1. For both directions of traffic:
 - i. (No change.)
 - ii. In Burlington County:
 - (1) (No change.)
 - (2) Medford Township:
 - (A) 50 miles per hour between the Evesham Township-Medford Township line and Medford-Evesboro Road (County Road 618) (approximate mileposts 11.78 to 12.34); thence
 - (B) Zone 3: 45 miles per hour between Medford-Evesboro Road (County Road 618) and Jones Road-Sharp Run Plaza driveway (approximate mileposts 12.34 to 13.41); thence
 - (C) Zone 3a: 40 miles per hour between Jones Road-Sharp Run Plaza driveway and Haymes Creek Road (approximate mileposts 13.41 to 14.59); thence
 - (D) Zone 4: 50 miles per hour between Haymes Creek Road and the Medford Township-Southampton Township line (approximate mileposts 14.59 to 15.91);
 - (3) (No change.)
 - iii.-iv. (No change.)

(b)

**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

Speed Limits

Route U.S. 206 in Sussex County

Adopted Amendment: N.J.A.C. 16:28-1.72

Proposed: October 1, 1990 at 22 N.J.R. 3112(a).
Adopted: November 1, 1990 by John F. Dunn, Jr., Director,
Division of Traffic Engineering and Local Aid.
Filed: November 7, 1990 as R.1990 d.599, **without change**.
Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-98.
Effective Date: December 3, 1990.
Expiration Date: June 1, 1993.

Summary of Public Comments and Agency Responses:
No comment received.

Full text of the adoption follows.

16:28-1.72 Route U.S. 206

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

(d) The rate of speed designated for the certain parts of State highway Route U.S. 206 described in this subsection shall be established and adopted as the maximum legal rate of speed:

- 1. For both directions of traffic:
 - i. Somerset County:
 - (1) Bedminster Township:
 - (A) Zone 1: 50 mph (also Route U.S. 202) beginning at the Bridgewater Township-Bedminster Township line (Chambers Brook) extending into Bedminster Township to 1,120 feet north of Route I-78 overpass.
 - (B) Zone 2: 40 mph (also Route U.S. 202) from 1,120 feet north of Route I-78 overpass to 1,700 feet north of Route 525 (Washington Valley Road).
 - (2) Bedminster Township, Peapack-Gladstone Borough, Somerset County and Chester Township, Chester Borough, Morris County:
 - (A) Zone 3: 50 mph (also part Route U.S. 202) in Bedminster Township from 1,700 feet north of Route 525 (Washington Valley Road) extending through Peapack-Gladstone Borough, Bedminster, and Chester Townships and into Chester Borough to 450 feet south of Maple Avenue.
 - ii. Morris County:
 - (1) Chester Borough:
 - (A) Zone 4: 40 mph from 450 feet south of Maple Avenue to 1,100 feet north of Route 24 (Main Street).
 - (2) Chester Borough, Chester, Mount Olive and Roxbury Townships, Morris County:
 - (A) Zone 5: 50 mph in Chester Borough from 1,100 feet north of Route 24 (Main Street) extending through Chester and Mount Olive Townships and into Roxbury Township to Route I-80, Route 183 and Route U.S. 206 Interchange.
 - (3) Roxbury Township, Netcong Borough, and Mount Olive Township, Morris County; Stanhope Borough and Byram Township, Sussex County:
 - (A) Zone 6: 55 mph (also part Route I-80) in Roxbury Township from Route I-80, Route 183, and Route U.S. 206 Interchange extending through Netcong Borough, Mount Olive Township and into Stanhope Borough and Byram Township to Route 183.
 - (4) Stanhope Borough and Byram Township, Sussex County:
 - (A) Zone 7: 50 mph from Route 183 to Acorn Street.
 - (5) Byram Township:
 - (A) Zone 8: 40 mph from Acorn Street to Waterloo Road-Brookwood Road; thence
 - (B) Zone 9: 45 mph between Waterloo Road-Brookwood Road and Johnson Boulevard (approximate mileposts 98.71 to 100.61); thence

- (6) Byram Township and Andover Borough, Sussex County:
 - (A) Zone 10: 50 mph between Johnson Boulevard and 1,260 feet south of the D. L. and W. Railroad Overpass (approximate milepost 100.61 to 102.71.
 - (7) Andover Borough:
 - (A) Zone 11: 40 mph from 1,260 feet south of the D. L. and W. Railroad (main line) overpass to Maple Avenue; thence
 - (B) Zone 12: 30 mph from Maple Avenue to 100 feet north of Route 517; thence
 - (C) Zone 13: 40 mph from 100 feet north of Route 517 to the Andover Borough-Andover Township line; thence
 - (8) Andover Township:
 - (A) 40 mph to a point 250 feet north of the bridge over Whites Pond; thence
 - (9) Newton Town:
 - (A) 50 mph to a point 2,300 feet south of the southerly corporate line of the town of Newton; thence
 - (B) 45 mph to the intersection of Paterson Avenue; thence
 - (C) 35 mph to the intersection of Maple Street; thence
 - (D) 25 mph to a point 275 feet north of Clinton Street (milepost 109.32); thence
 - (E) 35 mph to Township of Hampton line (approximately 2,700 feet north of Clinton Street; milepost 109.70); thence
 - (10) Hampton Township:
 - (A) 40 mph to 2,150 feet south of Route 94 (milepost 111.00); thence
 - (B) 50 mph to the intersection of Routes U.S. 206 and 15 and County Road 565 (milepost 113.98); thence
 - (11) Frankford Township:
 - (A) 45 mph to the D. L. & W. Railroad (Sussex Branch) underpass; thence
 - (12) Montague Township:
 - (A) 50 mph to a point 1,600 feet south of the center line of Clove Road and Route U.S. 206; thence
 - (B) 40 mph to the northerly end of Route U.S. 206, except a 25 mph School Speed Limit within the Montague Elementary School Zone during recess when children are going to or leaving school during opening or closing hours.

(a)

**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

**Restricted Parking and Stopping
Routes U.S. 1 in Middlesex County and N.J. 33 in Mercer County**

Adopted Amendments: N.J.A.C. 16:28A-1.1 and 1.23

Proposed: September 17, 1990 at 22 N.J.R. 2904(a).
 Adopted: October 18, 1990, by John F. Dunn, Jr., Director,
 Division of Traffic Engineering and Local Aid.
 Filed: October 29, 1990 as R.1990 d.587, **without change**.
 Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-199.
 Effective Date: December 3, 1990.
 Expiration Date: June 1, 1993.

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

Full text of the adoption follows.

16:28A-1.1 Route U.S. 1

- (a) The certain parts of State Highway Route U.S. 1 described in this subsection shall be designated and established as "no stopping or standing" zones where stopping or standing is prohibited at all times, except as provided in N.J.S.A. 39:4-139.
 - 1. (No change.)
 - 2. No stopping or standing in South Brunswick Township, Middlesex County:

- i. Along both sides:
 - (1) For the entire length within the corporate limits of South Brunswick Township including all ramps and connections under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops.
 - 3.-5. (No change.)
 - (b) (No change.)
- 16:28A-1.23 Route 33
 - (a) The certain parts of State Highway Route 33 described in this subsection shall be designated and established as "no stopping or standing" zones where stopping or standing is prohibited at all times, except as provided in N.J.S.A. 39:4-139.
 - 1. No stopping or standing in the Borough of Hightstown, Mercer County:
 - i. (No change.)
 - ii. Along the eastbound side:
 - (1)-(3) (No change.)
 - (4) Beginning at the easterly curb line of Grape Run Road to a point 50 feet east of the easterly curb line of Broad Street.
 - iii. (No change.)
 - 2.-7. (No change.)
 - (c) (No change.)

(b)

**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

**Restricted Parking and Stopping
Routes U.S. 9 in Ocean County; U.S. 30 in Camden County; N.J. 34 in Monmouth County; and N.J. 54 in Atlantic County**

Adopted Amendments: N.J.A.C. 16:28A-1.7, 1.21, 1.24, and 1.105

Proposed: September 17, 1990 at 22 N.J.R. 2905(a).
 Adopted: October 18, 1990, by John F. Dunn, Jr., Director,
 Division of Traffic Engineering and Local Aid.
 Filed: October 29, 1990 as R.1990 d.583, **without change**.
 Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-199.
 Effective Date: December 3, 1990.
 Expiration Date: June 1, 1993.

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

Full text of the adoption follows.

AGENCY NOTE: The text of N.J.A.C. 16:28A-1.24(a)5i reproduced below reflects the text of the subparagraph as adopted by the Department (see 14 N.J.R. 982(a) and 15 N.J.R. 2045(b)). The erroneous text currently in the New Jersey Administrative Code will be corrected through this adoption.

16:28A-1.7 Route U.S. 9

- (a) The certain parts of State highway Route U.S. 9 described in this subsection shall be designated and established as "no stopping or standing" zones.
 - 1.-18. (No change.)
 - 19. No stopping or standing in Little Egg Harbor Township, Ocean County:
 - i. Along both sides:
 - (1) For the entire length within the corporate limits including all ramps and connections under the jurisdiction of the Commissioner of Transportation except in approved designated Bus Stops and Time Limit Parking Areas. Signs to be posted only in areas where an official township resolution has been submitted.
 - 20. (No change.)
 - (b)-(c) (No change.)

16:28A-1.21 Route U.S. 30

(a) (No change.)

(b) The certain parts of State highway Route U.S. 30 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times, and as specified. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:

1.-7. (No change.)

8. Along the north side in Berlin Borough, Camden County:

i. Beginning 105 feet from the westerly curb line of East Broad Avenue extending 60 feet west therefrom 8:00 A.M. to 5:00 P.M. Monday through Saturday.

Recodify existing 8.-29. as 9.-30. (No change in text.)

16:28A-1.24 Route 34

(a) The certain parts of State highway Route 34 described in this subsection shall be designated and established as "no stopping or standing" zones where stopping or standing is prohibited at all times.

1.-4. (No change.)

5. No stopping or standing in Colts Neck Township, Monmouth County:

i. Along both sides:

(1) From the southerly curb line of County Road No. 537-522 to a point 3,600 feet southerly thereof.

(2) (No change.)

(3) From the intersection of Flock Road-Phalanx Road to the intersection of Conover Road-Laird Road.

16:28A-1.105 Route 54

(a) The certain parts of State highway Route 54 described in this subsection shall be designated and established as "no stopping or standing" zones where stopping or standing is prohibited at all times.

1. No stopping or standing in Atlantic County:

i. Along both sides:

(1) In Buena Vista Township:

(A) (No change in text.)

(2) In the Town of Hammonton:

(A) Beginning at the southerly curb line of Second Road to a point 3,870 feet south therefrom.

(B) Beginning at the southerly curb line of Tilton Street to the northerly curb line of Third Street between the hours of 6:00 A.M. and 6:00 P.M., Monday through Friday.

(b) (No change.)

(a)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS

Restricted Parking and Stopping

Routes N.J. 10 in Essex County; N.J. 17 in Bergen County; N.J. 47 and N.J. 77 in Cumberland County; and U.S. 40-322 in Atlantic County

Adopted Amendments: N.J.A.C. 16:28A-1.8, 1.9, 1.33, 1.41 and 1.104

Proposed: September 17, 1990 at 22 N.J.R. 2906(a).

Adopted: October 18, 1990, by John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.

Filed: October 29, 1990 as R.1990 d.584, with a technical change not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, and 39:4-199.

Effective Date: December 3, 1990.

Expiration Date: June 1, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

An adopted amendment to N.J.A.C. 16:28A-1.104 published elsewhere in this issue of the New Jersey Register deletes paragraph (b)3 of that section. Therefore, proposed paragraph (b)4 adopted herein is recodified as (b)3.

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

16:28A-1.8 Route 10

(a) The certain parts of State Highway Route 10 described in this subsection shall be designated and established as "no stopping or standing" zones where stopping or standing is prohibited at all times.

1. (No change.)

2. No stopping or standing in Livingston Township, Essex County:

i.-ii. (No change.)

iii. Along both sides:

(1) East Mt. Pleasant Avenue—From the boundary line of the Town of West Orange and the Township of Livingston to the boundary line of Livingston Township and East Hanover Township.

(2) West Mt. Pleasant Avenue—From the boundary line of the Town of West Orange and the Township of Livingston to the boundary line of Livingston Township and East Hanover Township.

3.-7. (No change.)

(b) (No change.)

16:28A-1.9 Route 17

(a) (No change.)

(b) The certain parts of State Highway Route 17 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-1.99, permission is granted to erect appropriate signs at the following established bus stops:

1.-8. (No change.)

9. In Upper Saddle River Borough, Bergen County:

i. Along the westerly (southbound) side:

(1) Mid-block bus stop:

(A) Between Ramp G and Ramp F (Relocated East Crescent Avenue/Lake Street).

ii. Along the easterly (northbound) side:

(1) Mid-block bus stop:

(A) Between Ramp A and Ramp E (Exit to Mountainview Road).

10.-12. (No change.)

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

16:28A-1.33 Route 47

(a) The certain parts of State Highway Route 47 described in this subsection shall be designated and established as "no stopping or standing" zones where stopping or standing is prohibited at all times.

1. (No change.)

2. No stopping or standing in Cumberland County:

i. (No change.)

ii. In the City of Vineland:

(1) (No change.)

(2) Along the northbound (easterly) side:

(A) Delsea Drive—From the northerly curb line of Walnut Road (eastern connection) to a point 200 feet north thereof.

(3) Along the southbound (westerly) side:

(A) Delsea Drive—From a point 125 feet south of the projected center line of Walnut Road (eastern connection) to a point 225 feet north thereof.

3.-10. (No change.)

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

16:28A-1.41 Route 77

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

(c) The certain parts of State highway Route 77 described in this subsection shall be designated and established as "no parking" zones for cleaning purposes during certain designated days and hours.

1. In the City of Bridgeton, Cumberland County:

- i. No parking 7:00 A.M. to 12:00 noon Monday, along the east side between Washington Street and Mulford Drive.
- ii. No parking 7:00 A.M. to 12:00 noon, Tuesday, along the west side between Washington Street and Mulford Drive.
- iii. No parking 2:00 A.M. to 6:00 A.M.

(1) Along the northbound side—Beginning 101 feet north of the northerly curb line of East Commerce Street to a point 140 feet from the southerly curb line of Washington Street.

(2) Along the southbound side—Beginning at 106 feet from the southerly curb line of Washington Street to a point 165 feet from the northerly curb line of East Commerce Street.

(d) The certain parts of State Highway Route 77 described in this subsection shall be designated and established as restricted parking space, for use of persons who have been issued special Vehicle Identification Cards by the Division of Motor Vehicles. No other person shall be permitted to park in these areas. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established handicapped parking spaces.

1. Restricted parking in the City of Bridgeton, Cumberland County:

i. Along the northbound (easterly) side:

(1) Beginning 84 feet from the northerly prolongation of Rose Street and extending 22 feet northerly therefrom.

(2) Beginning 198 feet from the northerly curb line of Myrtle Street and extending 22 feet northerly therefrom.

ii. Along the southbound (westerly) side:

(1) Beginning 428 feet from the northerly curb line of Myrtle Street and extending 22 feet northerly therefrom.

16:28A-1.104 Route U.S. 40-322

(a) (No change.)

(b) The certain parts of State highway Route U.S. 40-322 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:

1.-2. (No change.)

3. (Repealed by R.1990 d.586, effective December 3, 1990.)

*[4.]**3.* In the City of Atlantic City, Atlantic County:

i. Along the eastbound (southerly) side:

(1) Mid-block bus stop:

(A) Entrance to Sun and Surf Motel—Beginning 45 feet west of the westerly entrance curb line of Sun and Surf Motel and extending 150 feet westerly therefrom.

(2) Near side bus stops:

(A) Entrance to Spencer Gifts—Beginning at the easterly curb line of the westerly entrance (at pedestrian crossing) of Spencer Gifts and extending approximately 120 feet easterly therefrom.

(a)

**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

**Restricted Parking and Stopping
Route N.J. 77 in Cumberland County**

Adopted Amendment: N.J.A.C. 16:28A-1.41

Proposed: September 17, 1990 at 22 N.J.R. 2908(a).
Adopted: October 18, 1990, by John F. Dunn, Jr., Director,
Division of Traffic Engineering and Local Aid.

Filed: October 29, 1990 as R.1990 d.585, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-199.

Effective Date: December 3, 1990.

Expiration Date: June 1, 1993.

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

Full text of the adoption follows.

16:28A-1.41 Route 77

(a) The certain parts of State Highway Route 77 described in this subsection are designated and established as "no stopping or standing" zones.

1. (No change.)

2. No stopping or standing in Upper Deerfield Township, Cumberland County:

i. Along both sides:

(1) For the entire length within the corporate limits of Upper Deerfield Township including all ramps and connections under the jurisdiction of the Commissioner of Transportation except in approved designated bus stops and time limit parking areas. Signs to be posted only in areas where an official township resolution has been submitted.

3.-5. (No change.)

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

(b)

**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

**Restricted Parking and Stopping
Route U.S. 40-322 in Atlantic County**

Adopted Amendment: N.J.A.C. 16:28A-1.104

Proposed: September 17, 1990 at 22 N.J.R. 2908(b).

Adopted: October 18, 1990, by John F. Dunn, Jr., Director,
Division of Traffic Engineering and Local Aid.

Filed: October 29, 1990 as R.1990 d.586, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-199.

Effective Date: December 3, 1990.

Expiration Date: June 1, 1993.

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

Full text of the adoption follows.

16:28A-1.104 Route U.S. 40-322

(a) (No change.)

(b) The certain parts of State Highway Route U.S. 40-322 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:

1. Along the southerly (eastbound) side in Atlantic County:

i. In the City of Pleasantville:

(1) Mid-block bus stop:

(A) Between Noahs Road and Doughty Road beginning 150 feet east of the easterly curb line of Noahs Road and extending 135 feet easterly therefrom.

ii. In Egg Harbor Township:

(1) Mid-block bus stop:

(A) Between Delancy Avenue and Fire Road beginning 713 feet west of the westerly curb line of Delancy Avenue and extending 135 feet westerly therefrom.

(2) Far side bus stop:

(A) Fire Road—beginning at the easterly curb line of Fire Road and extending 100 feet easterly therefrom;

(B) Beginning at the easterly curb line of Victory Drive and extending 100 feet easterly therefrom.

(3) Near side bus stop:

(A) Beginning at the westerly curb line of Palermo Avenue and extending 105 feet westerly therefrom.

2. Along the westbound (southerly) side in Atlantic County:
- i. In Egg Harbor Township:
 - (1) Far side bus stop:
 - (A) Beginning at the westerly curb line of County Lane and extending 100 feet westerly therefrom.
 - (2) Near side bus stop:
 - (A) Beginning at the easterly curb line of Fire Road and extending 105 feet easterly therefrom.

(a)**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID****BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS****No Passing Zones**

Routes N.J. 15 in Sussex County; N.J. 7 in Bergen and Essex Counties; N.J. 10 in Essex County; and N.J. 50 in Cape May County.

Adopted Amendment: N.J.A.C. 16:29-1.47

Adopted New Rules: N.J.A.C. 16:29-1.68, 1.69 and 1.70.

Proposed: September 17, 1990 at 22 N.J.R. 2909(a).
 Adopted: October 30, 1990 by John F. Dunn, Jr., Director,
 Division of Traffic Engineering and Local Aid.
 Filed: November 7, 1990 as R.1990 d.600, **without change**.
 Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 39:4-201.1.
 Effective Date: December 3, 1990.
 Expiration Date: June 1, 1993.

Summary of Public Comments and Agency Responses:

The Department received comments from four individuals regarding Route N.J. 50. There were no comments received concerning Routes N.J. 15, 7 or 10. While no changes have been made to the rules on adoption, the Department wishes to thank the commenters for their input. The Department points out that requests for changes should be submitted to the local governing body, or municipality. A summary of the comments and the agency responses follows:

COMMENT: The Department received a favorable comment regarding the establishing of "no passing" zones along Route 50 to approximately one mile south of Tuckahoe in Upper Township, Cape May County. However, there was a suggestion that the "no passing" zone should be extended to the traffic light at Route 631 (Tuckahoe Rd.).

RESPONSE: The Department has based the proposed and adopted passing/no passing zone recommendations on standard traffic engineering criteria, after investigation of the conditions currently found in this area. Thus, the no passing zones depicted on drawing #HNPZ-115, are proper for the current conditions.

COMMENT: The entire length of Route 50 in Tuckahoe should be made a "no passing" zone and the speed limit reduced. A traffic light and a left-turn lane on Route 50 at the intersection of Routes 49 and 50 should be considered.

RESPONSE: The Department has based the proposed and adopted passing/no passing zone recommendations on standard traffic engineering criteria after investigation of the conditions currently found in this area. Thus, the no passing zones depicted on drawing #HNPZ-115 are proper for the current conditions. As for the need for a reduction in the speed limit, the installation of a traffic signal and/or the creation of a left turn lane on Route 50, requests from the local governing body would be required to have an investigation into these matters initiated.

COMMENT: The Department received a favorable comment regarding the establishing of a "no passing" zone along Route 50 in Tuckahoe and a suggestion that further consideration should be given to extending the "no passing" zone from Route 49 to County Road 631 and lower the speed limit.

RESPONSE: The Department has based the proposed and adopted passing/no passing zone recommendations on standard traffic engineering criteria after investigation of the conditions currently found in this area. Thus, the no passing zones depicted on drawing #HNPZ-115 are proper for the current conditions.

COMMENT: The Department received a favorable comment regarding the establishment of a "no passing" zone along Route 50 in Upper Township, and a suggestion that, in view of the present conditions with driveways existing along the highway, the area between Triton Bar and the Center of Tuckahoe should be made a "no passing" zone.

RESPONSE: The Department has based the proposed and adopted passing/no passing zone recommendations on standard traffic engineering criteria after investigation of the conditions currently found in this area. Thus, the no passing zones depicted on drawing #HNPZ-115 are proper for the current conditions.

Full text of the adoption follows.

16:29-1.47 Route 15

(a) The following certain parts of State Highway Route 15 shall be designated and established as "No Passing" zones:

1. (No change.)

2. That part within the Townships of Sparta, Lafayette and Franklin, Sussex County, and described in drawing #HNPZ-111 dated October 20, 1989.

16:29-1.68 Route 7

(a) The following certain parts of State Highway Route 7 shall be designated and established as "No Passing" zones:

1. That part within the Town of Kearny, Hudson County and North Arlington Borough, Bergen County and described in drawing #HNPZ-113 dated November 8, 1989.

2. That part within the Towns of Belleville and Nutley, Essex County and described in drawing #HNPZ-114 dated November 8, 1989.

16:29-1.69 Route 10

(a) The following certain parts of State Highway Route 10 shall be designated and established "No Passing" zones:

1. That certain part within the Town of West Orange and Livingston Township, Essex County and described in drawing #HNPZ-112 dated October 27, 1989.

16:29-1.70 Route 50

(a) The following certain part of State Highway Route 50 shall be designated and established as "No Passing" zones:

1. That part within the Township of Upper, Cape May County and described in drawing #HNPZ-115 dated March 2, 1990.

(b)**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID****BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS****Miscellaneous Traffic Rules****Route I-80 Rest Areas (Eastbound and Westbound)****Adopted New Rule: N.J.A.C. 16:30-11.2**

Proposed: October 1, 1990 at 22 N.J.R. 3114(a).
 Adopted: November 1, 1990 by John F. Dunn, Jr., Director,
 Division of Traffic Engineering and Local Aid.
 Filed: November 7, 1990 as R.1990 d.601, **without change**.
 Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 39:4-208.

Effective Date: December 3, 1990.

Expiration Date: June 1, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:30-11.2 Route I-80 rest areas (eastbound and westbound) at approximate milepost 32.2

(a) Under the provisions of N.J.S.A. 39:4-208, the following provisions for the control of traffic upon the roadways of the Route I-80 rest areas at approximate milepost 32.2 are hereby adopted:

1. In Roxbury Township, Morris County:

i. Vehicles over five tons:

(1) The rest areas are open only to vehicles over five tons registered gross weight at approximate milepost 32.2, and when in the rest areas vehicles shall stop or stand only in designated areas and between the painted lines.

ii. No stopping or standing:

(1) No person shall stop or stand a vehicle at any time upon the roadways of the rest areas.

iii. One-way streets:

(1) All ramps and roadways within the rest areas are hereby designated as one-way streets, in a counterclockwise direction.

(a)

**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

Turns

Routes N.J. 35 in Monmouth County and N.J. 4 in Bergen County

Adopted Amendment: N.J.A.C. 16:31-1.4

Adopted New Rule: N.J.A.C. 16:31-1.28

Proposed: September 17, 1990 at 22 N.J.R. 2910(a).

Adopted: October 18, 1990, by John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.

Filed: October 29, 1990 as R.1990 d.588, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-123 and 39:4-183.6.

Effective Date: December 3, 1990.

Expiration Date: June 1, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:31-1.4 Route 35

(a) Turning movements of traffic on the certain parts of State highway Route 35 described in this subsection are regulated as follows:

1. No left turn:

i. In Monmouth County:

(1) Aberdeen Township:

(A) For the entire length for both directions of traffic in the undivided sections between mileposts 43.9 to 44.7 and mileposts 45.0 to 47.0.

(2) Middletown Township:

(A) North on Route 35 to west into the driveway of the Hovnanian office building:

(3) Belmar Borough:

(A) North on Route 35 at 8th Avenue to west into the driveway of Marine Basin.

(B) North on Route 35 at 9th Avenue to west into the driveway of Marine Basin.

(C) North on Route 35, 50 feet north of 9th Avenue to west into the driveway of Marine Basin.

(D) South on Route 35 to east on 7th Avenue.

(4) Shrewsbury Borough:

(A) North to west onto Haddon Avenue.

(B) From the exit of Shrewsbury Office Plaza to north on Route 35.

(C) Southbound on Route 35 to westbound into the Market Place Shopping Center.

(5) Old Bridge Township:

(A) For the entire length for both directions of traffic in the undivided sections between mileposts 43.9 to 44.7 and mileposts 45.0 to 47.0.

(6) Keyport Borough:

(A) For the entire length for both directions of traffic in the undivided sections between mileposts 43.9 to 44.7 and mileposts 45.0 to 47.0.

(CITE 22 N.J.R. 3638)

ii. In Ocean County:

(1) Mantoloking Borough:

(A) South on Route 35 to east on Williams Place.

iii. In Middlesex County:

(1) Sayreville Borough:

(A) North to west into the Amboy Cinema driveway.

2. No "U" turn:

i. In Monmouth County:

(1) Shrewsbury Borough:

(A) Between a point 200 feet north of White Street and a point 400 feet south of Obre Place.

16:31-1.28 Route 4 (Westbound Marginal Road)

(a) Turning movement of traffic on the certain parts of State Highway Route 4 (Westbound Marginal Road) described in this subsection are regulated as follows:

1. No right turn:

i. In Bergen County:

(1) River Edge Borough:

(A) From Route 4 (Westbound Marginal Road) to Bogert Road northbound.

(B) From Route 4 (Westbound Marginal Road) to Lakeview Road northbound.

(b)

**DIVISION OF PROCUREMENT
BUREAU OF EQUIPMENT, MATERIALS AND SUPPLIES**

Road Equipment Rental

Adopted Repeal: N.J.A.C. 16:42

Proposed: October 1, 1990, at 22 N.J.R. 3114(b).

Adopted: November 1, 1990, by Robert A. Innocenzi, Deputy Commissioner (State Transportation Engineer), Department of Transportation.

Filed: November 7, 1990 as R.1990 d.602 **without change**.

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

Effective Date: December 3, 1990.

Summary of Public Comments and Agency Responses:

No comments received.

OTHER AGENCIES

(c)

CASINO CONTROL COMMISSION

Temporary Amendment of Accounting and Internal Controls Pursuant to the Automated Coupon Redemption Machine Experiment

N.J.A.C. 19:45-1.1, 1.34, 1.35, 1.46 and New Rule N.J.A.C. 19:45-1.46A

Petitioner: Trump's Castle Associates and Trump Plaza Associates.

Authority: N.J.S.A. 5:12-69(c), 5:12-69(e) and 5:12-99(a).

Take notice that beginning December 10, 1990, the Casino Control Commission shall, pursuant to N.J.S.A. 5:12-69(e), conduct a new test for a period of 90 days (until March 10, 1991) for the purpose of determining if new rules should be adopted which would permit casino licensees to utilize an automated coupon redemption machine for the purpose of redeeming coin coupons.

Specifically, the test would allow Trump's Castle Associates and Trump Plaza Associates to utilize automated coupon redemption machines to redeem coin coupons on the casino floor. The new test will be conducted at Trump's Castle Associates and Trump Plaza Associates for the purpose of further evaluating the viability and operational suitability of automated coupon redemption machines. Signage will be posted at major casino

entrances in Trump Castle and Trump Plaza and on the machines themselves.

A petition for rulemaking on this subject was filed with the Commission on November 14, 1990. Should the test prove successful, the Commission will consider the adoption of the amendments and new rule in accordance with the public notice and comment requirements of the Administrative Procedure Act and N.J.A.C. 1:30.

COMMUNITY AFFAIRS

(a)

LOCAL FINANCE BOARD

Local Public Contracts

Adopted New Rules: N.J.A.C. 5:34

Adopted Repeals: N.J.A.C. 5:30-14

Adopted Recodification: N.J.A.C. 5:30-17 to 5:34-7

Proposed: March 5, 1990 at 22 N.J.R. 724(a).

Adopted: September 18, 1990, by the Local Finance Board, Barry Skokowski, Sr., Chairman and Director, Division of Local Government Services.

Filed: November 7, 1990 as R.1990 d.595, **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. 52:27BB-1 et seq. and 40A:11-11 et seq.

Effective Date: December 3, 1990.

Expiration Date: June 29, 1993, N.J.A.C. 5:30

December 3, 1995, N.J.A.C. 5:34

Summary of Public Comments and Agency Responses:

The Division of Local Government Services received several written comments. The comments made and the agency's responses are summarized below.

COMMENT: Two engineers made conclusory comments based upon a belief that N.J.A.C. 5:34-2 affected the professional status of engineers. In addition, it was noted that landscape architects are certified.

RESPONSE: N.J.A.C. 5:34-2 has absolutely no impact on the professional status of engineers. Engineering services continue to be professional services exempted from competitive bidding, pursuant to N.J.S.A. 40A:11-5(1)(a)(i). For clarification, the Division has deleted "engineering" from N.J.A.C. 5:34-2.2(b). The Division has also deleted "professional" from N.J.A.C. 5:34-2.4(a)(4) and inserted "certified."

COMMENT: One local official questioned the general structure of State and local government in New Jersey, and the Division's regulatory responsibilities. The commenter also questioned the need for the reporting requirements of N.J.A.C. 5:34-8(d)1 and 2.

RESPONSE: The concerns of this commenter are more appropriately addressed to the Legislature. Only the comment concerning reporting requirements directly relates to this proposal and, therefore, is the proper subject of a response. The Division believes the reporting requirements are needed to emphasize and reinforce the limited use of change orders which exceed the original contract price by more than 20 percent.

It is necessary to distinguish these change orders from those commonly employed. In addition, an annual audit is public information which assures availability to the community. N.J.A.C. 5:34-4.8(d)2 assures up to date information.

COMMENT: One local association requested an extension of the comment period.

RESPONSE: The Division believes a comment period of more than 60 days is sufficient. The Division also promptly mailed copies of this proposal to the association. The Division has, however, become aware of member concerns through staff attendance at a conference. The Division finds these concerns are addressed elsewhere.

COMMENT: A county official suggests that the use of minimum quantities in the definition of an open-end contract (N.J.A.C. 5:34-4.1(b)) would be problematic where a contract price is solicited with a universal discount and also where a variety of items are bid, but every item may not ultimately be needed.

RESPONSE: The Division believes a minimum quantity ensures fairness to the vendor and the realistic possibility of quantity prices for the local unit. The Division does not, however, wish to force purchases upon

the local unit. Appropriate language will be added to indicate zero is an acceptable minimum.

COMMENT: Four homemaker service organizations feared that N.J.A.C. 5:34-2 would eliminate the bidding exception granted such services by N.J.S.A. 40A:11-5(p).

RESPONSE: Homemaker services performed by voluntary, nonprofit agencies are specifically exempted by statute from bidding. The Division has no authority to alter this statute by regulation and this proposal has absolutely no impact on this statutory exemption. The extraordinary, unspecifiable exemption is separate and distinct.

COMMENT: It was suggested that N.J.A.C. 5:34-3.3(b) be deleted in its entirety. The commenter stated that leases should be allowed to provide for the acquisition of ownership at the beginning of the lease. In addition, the commenter stated that the second sentence of N.J.A.C. 5:34-33(b) would prohibit assignments.

RESPONSE: The Division believes that a lease which provides for the immediate acquisition of ownership with subsequent installment payments is actually not a lease but a financing arrangement not permitted by law. The Division agrees, however, that the second sentence of subsection (b) could restrict assignments. This was not intended, and appropriate changes have been made.

One commenter made a series of comments, as follows:

1. The penalty section cited in N.J.A.C. 5:34-1.1(c) is inapplicable and the general language at the end of the section should be deleted.

2. Contracts under N.J.A.C. 5:34-1.2 should be awarded by oral motion.

3. The language of N.J.A.C. 5:34-2.2(e) is vague.

4. The language relative to the award of extraordinary, unspecifiable contracts is unclear (N.J.A.C. 5:34-2.3(a)).

5. Suggested that the standard certification of N.J.A.C. 5:34-2.3(b) and the reporting form of N.J.A.C. 5:34-4.8(d)2 be included in an appendix to the regulations.

6. The former example of maintenance of highly complex computer systems as an EUS should be retained.

7. Revaluation services should be number 11 of N.J.A.C. 5:34-2.4(b) and the reference to N.J.S.A. 40A:4-56 is inappropriate.

8. Suggested that the bidding threshold of N.J.A.C. 5:34-3.2 be determined on an annualized basis.

9. Minimum and maximum quantities should be deleted from the definition of open-end contracts.

10. Governing bodies should be permitted to delegate the authorization of change orders.

11. The use of the term "net" in N.J.A.C. 5:34-4.2(a)9 and elsewhere is unclear.

12. The language "affects the overall scope of the work" in N.J.A.C. 5:34-4.3 is vague.

13. Several general comments centered upon confusion regarding N.J.A.C. 5:34-4.5.

14. Suggested that the foreseeable standard of N.J.A.C. 5:34-4.7 is contradictory.

15. Indicated that the general language of N.J.A.C. 5:34-4.8(a)2 is superfluous.

16. The contractor certification of N.J.A.C. 5:34-4.8(b) is not practical.

17. The language of N.J.A.C. 5:34-4.9(a)2 is unnecessary.

18. The requirement that the resolution awarding a contract specify the line item appropriation or ordinance should be deleted (N.J.A.C. 5:34-5.2(a)2).

19. The local attorney is not able to certify that the proper certificate of availability of funds has been provided (N.J.A.C. 5:34-5.2(a)4).

20. It is impractical to require that a contract contain a clause making its continuation past the appropriate date subject to the appropriation of sufficient funds (N.J.A.C. 5:34-5.3(a)2).

21. The personally responsible provision of N.J.A.C. 5:34-5.3(b)2 is inappropriate.

22. The inclusion of professional service and single undertaking contracts in N.J.A.C. 5:34-5.3(d)1 is inconsistent with N.J.A.C. 5:34-5.3(d)2.

23. The emergency contract provisions of N.J.A.C. 5:34-6.1(a) impose higher responsibilities than the statute (N.J.S.A. 40A:11-6) and are inconsistent with the emergency appropriation provisions of N.J.S.A. 40:4-46.

Responses to the preceding comments follow:

1. The Division agrees that the citation in N.J.A.C. 5:34-1.1(c) is incorrect and has revised it to N.J.S.A. 52:27BB-51. The Division, however, believes the general language of this subsection indicates the possi-

bility of other statutory sanctions which are dependent upon particular factual circumstances and is, therefore, appropriate.

2. The use of oral motions is too informal and is inappropriate for the expenditure of public funds.

3. The Division agrees that N.J.A.C. 5:34-2.2(e) is unclear and has amended it accordingly.

4. The procedure for the award of contracts under N.J.A.C. 5:34-2.3(a) is essentially repeated from N.J.S.A. 40A:11-6.1. In order to avoid confusion, the Division has revised this section merely to refer to the statute.

5. The Division believes the inclusion of forms as part of the rules denies future flexibility for adjustments to the forms.

6. Advancements in technology and continuous industry changes make maintenance of highly complex computer systems an inappropriate EUS example. There are occasions when competition is available and bidding possible due to standardization. There are simply too many variables in this area and the use of the exception must be decided on a case by case basis.

7. The Division agrees and appropriate changes have been made.

8. A purpose of the bidding law is to foster and encourage competitive bidding. The suggestion of the commenter is contrary to this statute.

9. Fairness to the vendor requires the use of minimum quantities. The section has been amended to indicate that zero is an acceptable minimum. Maximum quantities have been required previously without apparent problems.

10. The Division realizes the practical difficulties concerning authorization of change orders. The governing body is, however, accountable for the expenditure of funds. The fiscal integrity of the local unit requires the continuation of current practice. It should be noted that the designated representative of the governing body may authorize minor field site modifications.

11. The Division agrees and "net" has been deleted.

12. The standard contained in N.J.A.C. 5:34-4.3 has been used since 1977 and seems to be understood and successfully utilized.

13. The Division agrees and clarifications have been made.

14. The contradictory language "or prior to their actual discovery" has been deleted.

15. This type of language is commonly used to indicate that a particular section is to be strictly construed. It provides guidance concerning the proper use of these change orders.

16. The contractor certification of N.J.A.C. 5:34-4.8(b) does not necessarily include the use of experts and the Division does not believe it is unduly onerous.

17. The Division agrees and the former N.J.A.C. 5:34-4.9(a)2 has been deleted.

18. Sound fiscal practice requires the continuation of this provision.

19. The Division did not intend that the local attorney be satisfied that the certification was "proper" and that word has been deleted.

20. This is a fiscal practice required by law.

21. The Division agrees and the last sentence of N.J.A.C. 5:34-5.3(b)2 has been deleted.

22. The Division agrees and this language has been deleted.

23. The Division believes these requirements clarify and enhance the statutory provisions while not imposing higher responsibilities. N.J.S.A. 40:4-46 relates to financing for emergencies and not to the award of contracts. However, in an effort to avoid misinterpretation, N.J.A.C. 5:34-6.1(a)3 and 4 have been revised to more closely parallel decisions issued by the State Supreme Court.

COMMENT: A lengthy comment essentially stated that all phases of software development should be treated as an EUS and a single consultant should be allowed to perform the necessary studies, provide custom software and draft hardware specifications.

RESPONSE: Based upon a previous comment, N.J.A.C. 5:34-2.2(e) has been revised to clearly indicate that a consultant contracted as an EUS may also supply software only if same is competitively bid. The Division believes it is inappropriate to permit a biddable item, such as software, to be combined with an EUS so as to avoid bidding. The Division, however, agrees that the EUS example N.J.A.C. 5:34-2.4(a)5 is too narrow. It has been broadened to include design of systems and the preparation of specifications.

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

CHAPTER 34 LOCAL PUBLIC CONTRACTS

SUBCHAPTER 1. GENERAL PROVISIONS AND CONTRACTS THROUGH STATE AGENCY

5:34-1.1 Application, compliance and penalties

(a) Unless specifically stated to the contrary, the rules in this chapter apply to all local government agencies that are encompassed by the definition of contracting unit in N.J.S.A. 40A:11-2(1), by whatever name called.

(b) Every governing body and chief executive officer shall take all steps necessary so that all officials and employees shall be aware of and comply with the requirements of these rules.

(c) Any person knowingly failing to discharge the responsibilities required by these rules shall be subject to the misdemeanor penalties prescribed by N.J.S.A. 52:27BB-*[52]**51* in addition to such other sanctions as may pertain.

5:34-1.2 Contracts through State agency

Any local contracting unit purchasing, pursuant to N.J.S.A. 40A:11-12, materials, supplies or equipment under a contract entered into by the State Division of Purchase and Property shall authorize the award of such contract by resolution of the governing body unless the contract is awarded by a contracting agent pursuant to N.J.S.A. 40A:11-3.

SUBCHAPTER 2. EXTRAORDINARY, UNSPECIFIABLE SERVICES

5:34-2.1 Definition of extraordinary, unspecifiable services

Extraordinary, unspecifiable services are defined by the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., at N.J.S.A. 40A:11-2(7) as "services which are specialized and qualitative in nature requiring expertise, extensive training and proven reputation in the field of endeavor." N.J.S.A. 40A:11-5(1)(a)ii permits local contracting units to award contracts without competitive bidding for extraordinary, unspecifiable services. The application of this exception for extraordinary, unspecifiable services shall be construed narrowly in favor of open competitive bidding wherever possible.

5:34-2.2 General requirements limiting the use of the exception

(a) The assertion that the service can only be provided by a single contractor ("sole source") shall not be sufficient to justify avoidance of competitive bidding as an extraordinary, unspecifiable service (hereinafter referred to as EUS).

(b) The fact that the service is in the nature of a personal, human, social or training services contract, or includes within its description such terms as *["engineering,"]* "technical," "management," "consultant," or similar descriptions suggesting some special nature shall not in itself be sufficient to utilize this exception. The need for expertise, extensive training and proven reputation in the field of endeavor must be critical and essential to the project, and not merely a desire to have a reliable job performed.

(c) The services must be of such a qualitative nature that the performance of the services cannot be reasonably described by written specifications.

(d) Services that meet the requirements of EUS may not be combined with other work in a contract which is predominantly characterized as being a biddable activity so as to avoid the necessity of bidding for the work which in its own right is subject to competitive bidding.

(e) No firm, having been previously retained *under this exception* to study, survey or prepare specifications for a given system, function or equipment, may be selected *[as an EUS]* without competitive bidding to operate, implement or provide any material or services *[on the basis of intimate or specialized knowledge acquired as a result thereof. Appropriate care should be taken so that such a firm is not authorized to participate in bidding if its earlier participation in studies, etc. would give it unfair advantage]*.

5:34-2.3 Procedures for implementation of the exception

(a) If the estimated cost or price exceeds the informal quotation threshold of N.J.S.A. 40A:11-6.1, quotations as to the cost or price must be solicited by the contracting agent whenever practicable, and the contract shall be awarded *[on the basis of the lowest responsible quotation and which quotation is most advantageous to the contracting unit, price and other factors considered. If the award is not made on the basis of the lowest quotation, the contracting agent shall file a statement of explanation which shall be placed in the contract file. (See N.J.S.A. 40A:11-6.1 for full details.)]* ***in accordance with the requirements of N.J.S.A. 40A:11-6.1.***

(b) Before the governing body awards a contract under the EUS provisions which exceeds the bid threshold established in accordance with N.J.S.A. 40A:11-3, a designated administrative official of the contracting unit must file a certificate with the governing body clearly describing the nature of the work to be done, stating that it is not reasonably possible to draft specifications, describing the informal solicitation of quotations, and describing in detail why the contract meets the provisions of the statute and these rules. A mere recitation of the language in the statute shall not be sufficient for this purpose. A standard certification format is available from the Division of Local Government Services and must be utilized. The certification must be kept with the resolution awarding the contract.

(c) The governing body, in addition to stating the supporting reasons for its action in the resolution awarding the contract, is required to place a notice of the action in a newspaper. (See N.J.S.A. 40A:11-5(1)(a) for full requirement.)

5:34-2.4 Examples for purposes of guidance

(a) The Division believes that the following services satisfy all the criteria for an EUS and they are therefore listed as examples for purposes of guidance:

1. Specification drafting;
2. Management consultant studies;
3. Labor management consultants;
4. *[Professional]* ***Certified*** landscape architects;
5. EDP preliminary feasibility surveys ***[only]**, design of systems and preparation of specifications***;
6. Expert financial advisors;
7. Public relations consultants;
8. Insurance, including the purchase of insurance coverage and consultant services;
9. Child custody, foster care, and similar services when contracted directly with the individuals performing the services and not with any firm, corporation or partnership which employs others to perform the work;
10. Establishment of a fixed assets inventory when the total system includes an accounting component;
11. Expert witnesses; and
12. Clerk of the works or construction advisor (not the actual construction).

(b) The Division believes that the following services do not satisfy all the criteria for an EUS and they are therefore listed as examples for purposes of guidance:

1. Facilities management contracts (for data processing or other operations);
2. EDP services, including ***[design of systems,]*** programming, service bureau processing, rental of data processing equipment, purchasing of data processing equipment. These activities are in some cases complex but are specifiable;
3. Construction management contracts (involving price guarantee, responsibility for entering into contracts for actual construction, or actual or contingent responsibility for conducting the construction, etc.);
4. Physical taking of a fixed assets inventory;
5. Electrical equipment maintenance;
6. Maintenance of typewriters, dictating machines and other common office equipment;
7. Tradesmen;

8. Heating specialists;
9. Maintenance of motor vehicle fleets;
10. Feeding programs; and
- *11.*** Revaluation services ***[except as provided pursuant to N.J.S.A. 40A:4-56]*.**

SUBCHAPTER 3. CERTAIN LEASES OF EQUIPMENT AND SERVICE AGREEMENTS BEYOND THE FISCAL YEAR, ADOPTED PURSUANT TO N.J.S.A. 40A:11-15

5:34-3.1 Duration of contract

(a) Leases (which term includes rental agreements) and service agreements for items authorized by the applicable provision of N.J.S.A. 40A:11-15 shall not be renewed or extended beyond the maximum allowable statutory period. The specifications for rebidding after the maximum allowable statutory period should not require that the equipment be in the possession and/or service of the contracting unit.

(b) Such leases and service agreements may be written for any period of time not to exceed the maximum allowable statutory period, or for shorter periods with provision for renewal at the option of the contracting unit, provided that such renewal shall not cause the cumulative length to exceed the maximum allowable statutory period. Such renewals may be authorized only by resolution of the governing body.

5:34-3.2 Application of bidding requirements

All leases or service agreements authorized under N.J.S.A. 40A:11-15 shall be subject to competitive bidding if the cumulative amount to be expended during the duration of the multi-year lease exceeds the competitive bidding threshold of N.J.S.A. 40A:11-3.

5:34-3.3 Option to purchase, prohibitions, cancellation clause

(a) In addition to providing for the use of equipment during the period of the lease, the lease may provide for rental payments to be credited towards the purchase price for purpose of acquisition of the equipment if the contracting unit, at its sole option, decides to buy the equipment, and said option was included in the original specifications and in the original contract.

(b) Leases shall not, however, provide for the acquisition of ownership at the beginning of the lease term, with installment payments to be made thereafter. ***[This prohibition includes lease-purchase financing arrangements between a lessor and a lessee with financing provided by an outside non-contractual third party.]***

[(c) In instances in which a lessor desires to assign its right to receive lease payments to an outside non-contractual third party, provision for such assignment must have been permitted by the lease specifications and be included in the lease agreement, and the lessee must be notified in writing by the lessor before payments may be made to a third party pursuant to such an assignment.

[(c)]**[(d) While N.J.S.A. 40A:11-15 authorizes lease arrangements, such contractual arrangements must contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause. N.J.S.A. 40A:11-15 does, however, provide several exceptions to this requirement. (See N.J.S.A. 40A:11-15 for details.)

5:34-3.4 Equipment changes

(a) Equipment leased shall not be expanded, upgraded or otherwise materially changed or increased in cost during the term of the lease without competitive bidding, except as follows:

1. Equipment changes which were specifically described, either by itemization or by performance standards, in the original bidding specifications and for which all bidders were requested to submit proposals, when in accordance with a formal written plan of time-phased expansion, prepared prior to solicitation of bids, and when the proposals for such changes were considered in the determination of the successful bidder; or

2. An item of equipment which is discontinued by the vendor may be replaced with a comparable model which performs the same or increased workload provided that neither the workload nor the cost exceeds that specified in the original contract or the plan of expansion referred to in (a)1 above.

(b) Any such changes made in accordance with this section shall be made by an amendatory contract and the procedure followed shall be in compliance with the regulations regarding change orders.

SUBCHAPTER 4. CHANGE ORDERS AND OPEN-END CONTRACTS

5:34-4.1 Definitions

(a) A change order is a properly prepared document authorized by the governing body which directs and authorizes a contractor, consultant or other vendor performing work for or supplying materials and supplies to a local unit pursuant to a contract to change the quantity or character of work, service, or materials to be performed, rendered or furnished, from that originally specified or estimated and to correspondingly change the payment due therefor.

(b) Open-end contracts are contracts for which price bids were solicited on a unit basis because exact quantities needed were not known at the time bids were sought. Such contracts, when advertised and awarded, must include a minimum and a maximum number of units that can be ordered for each item under the contract. ***Zero is an acceptable minimum.*** Orders placed under such open-end contracts shall not be considered as change orders for purposes of this section, but shall be subject to the requirements specified in N.J.A.C. 5:34-4.9. Examples include, but are not limited to, blacktopping and office supplies such as stationery.

5:34-4.2 General requirements for all change orders

(a) No changes in quantities, work performed, services rendered, materials, supplies or equipment delivered or provided shall be authorized, permitted or accepted except by the procedures established herein. All change orders unless otherwise stated in this subchapter shall be subject to the following:

1. Each change order shall be in writing and shall be numbered consecutively (beginning with number one) and attached to the original purchase order or contract for each project.

2. Change orders which result in payment reduction below the originally contracted price may be made by locally established procedure, provided that any change orders increasing cost on the same contract shall include reference to such reductions.

3. Quantities of items or work shall not be changed in such a manner as to nullify the effect of the competitive determination of lowest responsible price which was made at the time of contract award, if at said time the changes could have been reasonably foreseen.

4. Responsibility required by these rules to be exercised specifically by the governing body, including authorization of change orders, shall not be delegated except for minor field (site) modifications pursuant to N.J.A.C. 5:34-4.3.

5. Change orders may be executed by the representative appointed by the governing body but the responsibility for the authorization of change orders shall not be delegated by the governing body except for minor field (site) modifications pursuant to N.J.A.C. 5:34-4.3.

6. Change orders shall be used to change the number of units or items originally advertised and contracted for, provided that:

- i. Unit prices or a price methodology were sought in the original specifications and included in the contract;
- ii. The original specification and the contract included a provision that the unit prices could be so used; and
- iii. If (a)6i and ii above were not contained in the original specification, a change order shall not be issued.

7. Change orders shall not be used to substantially change the quality or character of the items or work to be provided, inasmuch as such would have been a determining factor in the original bidding.

8. Change orders shall not serve the purpose of escalation clauses and, therefore, shall not be utilized to effectuate upward price adjustments.

9. Total number of change orders executed for a particular contract shall not cause the originally awarded contract price to be exceeded ***[cumulatively]*** by more than 20 percent ***[net]*** unless otherwise authorized by these rules.

10. If proposed change orders do exceed the 20 percent limitation of (a)9 above, no work shall be performed or purchases made until the procedures of N.J.A.C. 5:34-4.8 have been completed. If the governing body determines issuance of the change order is not justifiable, a new contract shall be executed in accordance with the procedures of the Local Public Contracts Law.

11. Before authorizing any change orders resulting in additional expenditures, the availability of funds shall be certified in writing by the chief financial officer or certifying finance officer, as appropriate.

12. The governing body shall be assured in writing that adequate appropriations are available in accordance with N.J.A.C. 5:34-4.5, Certification of ***[funds]* *Funds***.

13. The 20 percent limitation of (a)9 above shall not apply to emergency situations as defined within N.J.S.A. 40A:11-6.

14. Change order authorizations shall not be withheld until the completion of the entire project.

5:34-4.3 Procedures for minor field (site) modifications

The governing body shall be required to authorize all change orders, except that minor field (site) modifications (for example, additional fill stone needed, modifications of footings, additional rock blasting) may be authorized, provided that they do not affect the overall scope of work of the contract, by the designated representative of the governing body. These change orders shall result only in minor price increases to the originally awarded contract price.

5:34-4.4 General procedures for all change orders

(a) The governing body approval process for change orders shall be as follows:

1. The chief executive officer of the governmental unit or his or her designee shall file with the governing body a request for the change order, stating the facts involved and indicating that the proposed change order may be allowed under these rules. If the request and justification are prepared by other than an official of the governmental unit, they must be countersigned by the chief executive officer or his or her designee.

2. The governing body shall take such steps as it may find appropriate to assure that a change is necessary and that the work will be completed.

3. The governing body shall then pass a resolution authorizing a written amendatory contract to be entered into covering the change(s) to be made. The exact form of this amendatory contract shall be at the discretion of the local attorney.

4. The resolution described in (a)3 above shall be passed before execution of the change order. No work shall be performed or purchases made on the involved phase of the contract until the resolution is passed.

5:34-4.5 Professional and ***[or]* *Extraordinary, Unspecifiable Services*** consultant ***[contract]* *contracts*** ***[change orders]***

(a) The rules of this section ***[and N.J.A.C. 5:34-4.6 and 4.7]*** shall apply only to the particular type of contract in question ***[unless otherwise provided]***.

(b) In case of conflict with the general requirements of N.J.A.C. 5:34-4.2, the specific language of the particular section shall prevail but, otherwise, the requirements of N.J.A.C. 5:34-4.2 shall be satisfied.

(c) Changes should be within the scope of activities of the original contract, and not for the purpose of undertaking new or different work or projects. Changes in payments for activities within the scope of activities of the contract shall be in accordance with a schedule of specific charges or rates contained in the contract and shall be effectuated by a written change order authorized by the governing body. If such a schedule is not included in the contract, the contract should be amended to provide for same.

(d) The 20 percent limitation of N.J.A.C. 5:34-4.2(a)9 shall not apply to professional and*[or]* consultant *[contract change orders]* ***contracts***.

(e) If the change is not within the scope of activities of the original contract and the contract was awarded without competitive bidding being required by law or rule (as is the case for professional services and certain authorized extraordinary, unspecifiable services in accordance with N.J.S.A. 40A:11-5(1)(a)), any change beyond the original scope of activities shall be made by amendatory contract approved by the governing body.

[(f) If the consulting contract was not a professional service or a qualified EUS and was required to be subject to competitive bidding, any change beyond the original scope of activity shall be by new contract based on new bidding.]

5:34-4.6 Change orders for materials, supplies and equipment which are part of construction contract

***(a) The requirements of this section shall apply only to the particular type of contract in question.**

(b) In case of conflict with the general requirements of N.J.A.C. 5:34-4.2, the specific language of the particular section shall prevail but, otherwise, the requirements of N.J.A.C. 5:34-4.2 shall be satisfied.*

(c) Change orders for materials, supplies and equipment items which are part of a contract which is primarily a construction contract shall be processed in accordance with the rules governing construction contracts. Contracts awarded on a unit price basis (including, but not limited to, asphalt overlays, curbing) as an open-end contract shall be handled under the section dealing with open-end contracts. However, contracts awarded for the paving, construction or reconstruction of specifically described streets or sections shall be treated as construction contracts.

5:34-4.7 Change orders for construction, reconstruction and major repair contracts

***(a) The requirements of this section shall apply only to the particular type of contract in question.**

(b) In case of conflict with the general requirements of N.J.A.C. 5:34-4.2, the specific language of the particular section shall prevail but, otherwise, the requirements of N.J.A.C. 5:34-4.2 shall be satisfied.*

(a)**(c) Change orders for construction, reconstruction and major repair contracts shall be limited to the following types:

1. Unforeseeable problems, which are defined as conditions or circumstances that could not be foreseen at the time the specifications were written and the contract awarded *[or prior to their actual discovery]*; provided that a substantial amount of the construction would be delayed, which would result in substantial increases in costs above the original contract amount or substantial inconvenience to the public if bidding were to be required; and

2. Minor modifications to effect economies, improve service or resolve minor problems with affected property owners.

(b)**(d) Change orders for construction, reconstruction and major repair contracts shall not be made for the following:

1. Changes that materially expand upon the size, nature or scope of the project as it was originally described in the bid specifications; or

2. Extra work that could reasonably be effectuated by a separately bid contract without unduly disrupting the basic work or imposing adverse cost consequences.

5:34-4.8 Procedures for change orders which exceed 20 percent limitation

(a) General provisions regarding the procedures for change orders which exceed the 20 percent limitation are as follows:

1. The procedures in this section shall only be followed when a particular change order on any type of contract, except professional and consultant contracts, will cause the total amount of change orders executed for the particular contract to exceed the originally awarded contract price by more than 20 percent ***[net]***. The purpose of the procedures is to allow for such a change only in limited instances. Such a change shall not be permitted when the factual circumstances make it reasonably possible to execute a new contract

for the additional work. Such a change may be allowed, for example, when an unforeseen circumstance or differing site condition is combined with a situation which renders execution of a new contract an unreasonable interference with the efficient completion of the work.

2. The Division of Local Government Services emphasizes that generally such change orders are not justifiable and the ready issuance of them by contracting units would constitute an abuse of these ***[regulations]* *rules***.

(b) A written certification justifying the performance of the work or the furnishing of the services which would necessitate issuance of such a change order shall be filed by the contractor with the chief executive officer or his designee. This certification shall include an explanation of the factual circumstances which necessitate issuance of the change order; a statement indicating why these circumstances could not have been foreseen; a statement indicating why issuance of the change order would be in the best interests of the contracting unit and would not constitute an abuse of these rules; and, if the nature of the change order is technical, the certification shall include a certified statement from the contractor's appropriate expert, such as an engineer or architect. This statement shall explain in detail the factual circumstances which necessitate issuance of the proposed change order. A rewrite or paraphrase of the rules in this subchapter is not acceptable.

(c) The governing body approval process for change orders which exceed the 20 percent limitation is as follows:

1. The chief executive officer or his or her designee shall file a request for the change order with the governing body. This request shall include a statement indicating why the proposed change may be allowed under this subchapter. A copy of the certification required under (b) above must also be attached to the request.

2. If the certification required pursuant to (b) above includes a certified statement from an engineer or other expert as required by (b) above, the request to the governing body shall also include a statement from the contracting unit's engineer or an official or employee with the appropriate expertise. This statement shall explain in detail the factual circumstances which justify issuance of the proposed change order. A rewrite or paraphrase of the rules in this subchapter is not acceptable.

3. The governing body shall take appropriate steps to assure that the change order is proper and allowable under this subchapter.

4. The governing body shall then pass a resolution authorizing a written amendatory contract to be entered into covering the change(s) to be made. The exact form of this amendatory contract shall be at the discretion of the local attorney.

5. The resolution described in (c)4 above shall be passed before execution of the change order.

6. The governing body shall cause to be printed once, in a newspaper authorized by law to publish its legal advertisements, a brief notice indicating the additional amount to be expended, the original contract price, the nature of the original and additional work and why it is necessary to expend the additional funds. A copy of the advertisement shall also be filed with the clerk of the governing body and be available for inspection by the public.

(d) Reporting requirements under this section are as follows:

1. Actions taken under the provisions of this section shall be reported in the annual audit filed with the Division of Local Government Services.

2. On or before the last day of February, the clerk of the governing body shall report to the Division of Local Government Services all change orders from the previous year which exceeded the 20 percent limitation. This report shall be made on a form provided by the Division of Local Government Services.

5:34-4.9 Open-end contracts

(a) The issuance of purchase orders pursuant to an open-end contract shall be considered to be the carrying out of the contract and not a change order. The following requirements shall apply:

1. Orders under open-end contracts shall not be used for purposes such as changing the quality or character of items to be provided, nor to exceed the maximum number(s) of items or units provided for in the original specifications and contract. Such changes would constitute a change order.

[2. The contract shall not be for a period longer than 12 consecutive months unless specifically authorized by N.J.S.A. 40A:11-15.]

*[3.]**2.* The Certificate of Availability of Funds required by N.J.A.C. 5:34-5 shall be executed each time an order is placed, covering the amount of the order unless the local unit wishes to commit and certify the full amount at the outset. Note that the point at which the Certificate must be executed is just before the local unit incurs a contractual liability on its part.

*[4.]**3.* Orders shall be placed by the official authorized to serve as contracting agent, subject to such controls or approval requirements as the governing body, chief executive or other administrative officer may lawfully impose.

SUBCHAPTER 5. CERTIFICATION OF FUNDS AND APPLICABLE ACCOUNTING PROCEDURES

5:34-5.1 General requirements

(a) The chief financial officer, appointed pursuant to N.J.S.A. 40A:9-140.1 et seq., shall be responsible for determining the availability of sufficient funds. The delegation of this duty by the chief financial officer does not relieve him or her of this responsibility.

(b) The governing bodies of all other contracting units shall designate by resolution or ordinance, as appropriate, an individual to serve as the certifying finance officer. The certifying finance officer shall be responsible for determining the availability of sufficient funds. The delegation of this duty by the certifying finance officer does not relieve him or her of this responsibility.

(c) If a purchase or the execution of a contract does not require, either by State law or any State or local regulation, specific authorization by formal action of the governing body, then the authorized administrative official or employee issuing the contract or making the purchase shall ascertain from the chief financial officer or certifying finance officer, as appropriate, that there are available sufficient uncommitted appropriations to provide for the payment. The administrative official or employee shall be so authorized pursuant to N.J.S.A. 40A:11-3.

5:34-5.2 Procedure

(a) The following procedure shall be utilized by the governing body for the certification of funds:

1. The chief financial officer or certifying finance officer, as appropriate, charged with the responsibility of maintaining the financial records of the local unit shall certify in writing to the governing body the availability or lack thereof of adequate funds for each contract which is pending approval by the governing body. Said certification shall designate specifically the line item appropriation(s) of the official budget to which the contract will be properly charged, taking care that the same funds shall not be certified as available for more than one pending contract. Said officer shall be solely responsible for the accuracy of the certification.

2. No resolution authorizing the entering into of any contract pursuant to N.J.S.A. 40A:11-1 et seq. or any other law for the expenditure of public funds to a vendor, contractor or other entrepreneur shall be enacted unless it shall recite that such a certificate showing availability of funds has been provided. The resolution shall specify the exact line item appropriation(s) or ordinance which shall be charged.

3. The certification of availability of funds shall be attached to the original copy of the resolution or ordinance and kept in the files of the municipal clerk, clerk of the board of chosen freeholders or secretary to the governing body.

4. Before certifying to the legality of a resolution or ordinance authorizing the entering into of a contract, the local unit's attorney shall be satisfied that *[the proper]* **a* certificate of availability of funds has been provided.

5. A contracting unit's governing body shall not enter into or execute a contract unless it has been presented with a written certification from its chief financial officer or certifying finance officer, as appropriate, stating the availability of sufficient funds for the contract(s) pending approval by the governing body.

5:34-5.3 Methods of accounting for and certifying available funds for special situations

(a) Temporary budget: When a local unit is operating under a temporary budget, as provided for in N.J.S.A. 40A:4-19, it may enter into a contract for a period extending beyond the time period funded in the temporary budget, subject to the following:

1. The full cost of the contract for that fiscal year shall be certified against the temporary budget, which must contain sufficient appropriations therefor; or

2. If the full cost of that year is not charged against the temporary budget, at least the pro-rated amount reflecting all liability to be incurred through March 31, or later if permitted by statute, must be charged and certified, and the contract must contain a clause making its continuation past such date subject to the appropriation of sufficient funds. Immediately after the final budget adoption, a certificate of available funds shall be prepared for the remaining balance and filed with the original ordinance or resolution.

(b) Open end contracts: When a contract provides for certain goods or services to be provided upon request, up to an established maximum, and the local unit is not obligated to order, accept or pay for said goods or services except when it orders them, then the certification of available funds shall be as follows:

1. The full maximum amount covered by the contract shall be charged against the budget at the time the contract is awarded, and the full amount shall be certified; or

2. No amount shall be chargeable or certified until such time as goods or services are ordered or otherwise called for. Prior to incurring the liability by placing the order, the certification of available funds shall be made by the chief financial officer or certifying finance officer, as appropriate, and attached to the file copy of the purchase order or other such document. It shall be the responsibility of the official responsible for issuing the purchase order to notify and seek the certification of availability of funds from the chief financial officer or certifying finance officer, as appropriate. *[Failure to do so, causing lack of funds authorized to meet the payment of the order, will result in the official issuing the purchase order being personally responsible.]*

(c) Contracts up to 12 months not coinciding with fiscal year: When a contract is awarded for a period of up to 12 months not coinciding with the established fiscal year of the local unit, the following methods shall be followed for purposes of accounting and providing the certification of available funds:

1. If the contract is for a professional service or is essentially a single undertaking or project with one basic work project required (such as, but not limited to, contracts for revaluation, codification, management studies and feasibility surveys), rather than being divisible into separate steps or actions which in themselves are independently acceptable as complete work products, then the full cost of the contract shall be chargeable to and certified against the budget or appropriation of the year in which the contract is awarded. This method may also, at local option, be followed for contracts described in (c)2 below.

2. If the contract is not of the character described in (c)1 above, and provides for goods or services to be provided at separate intervals over the contract period, then the amounts for which liability is to be incurred shall be charged and certified to the two respective years' appropriations at the times, as appropriate, of the contract being awarded (with respect to the amount from the first fiscal year); the adoption of the temporary budget (for the period at least through March 31); and the adoption of the final budget (for the remainder of the contract for the second fiscal year).

(d) Multi-year contract requirements are as follows:

1. Contracts entered into pursuant to N.J.S.A. 40A:11-15 for periods in excess of 12 months shall be charged and certified as follows:

i. For construction and related services authorized by N.J.S.A. 40A:11-15(9), *[for professional services or single undertakings or projects with one, basic work product required, as described in (c)1 above.]* to the budget or appropriation in full at the time of contract award;

ii. For other contracts, to the respective budgets in accordance with the time(s) at which the respective work or services are performed or liability for payment otherwise incurred, and subject to such requirements of this section as might apply with respect to temporary budgets, open-end contracts or contracts not commencing at the beginning of the fiscal year.

2. All multi-year leases and contracts except contracts specifically exempted pursuant to N.J.S.A. 40A:11-15 shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation or contain an annual cancellation clause.

(e) Advance award of contracts: No contract shall be awarded in one fiscal year if the date on which it properly takes effect falls in the next fiscal year unless the local unit's attorney rules that this action does not constitute the binding of a future governing body in an unlawful manner and unless the contract includes a provision making it subject to the availability and appropriation of sufficient funds in the year in which it takes effect.

(f) Payment from proceeds shall be as follows:

1. The general rule is that liabilities shall not be incurred and payments shall not be made without sufficient appropriation. (See N.J.S.A. 40A:4-57.) When a contractual liability may be incurred and a payment may lawfully be made without an appropriation, such as for professional services for liquidation or foreclosure of tax title liens as provided by N.J.S.A. 40:50-6, the certification of available funds should simply recite that fact and cite the statute.

2. Contracts for services to be paid from savings generated or from State or Federal aid funds not yet received and appropriated are not permitted; an appropriation must be made at the outset.

SUBCHAPTER 6. EMERGENCY PURCHASES AND CONTRACTS

5:34-6.1 General requirements

(a) No contracts shall be entered into on an emergency basis pursuant to N.J.S.A. 40A:11-6 unless the circumstances meet all of the following requirements:

1. An actual or imminent emergency must exist requiring the immediate delivery of the article or the performance of the service;

2. The emergency condition must affect the public health, safety or welfare and require the immediate delivery of the article or the performance of the service to alleviate such effect;

*[3. The emergency purchasing procedure may not be used if the need for the articles or services could have been reasonably foreseen.

4. Emergency situations may not be created as a result of inadequate planning, delay, failure to take into account construction seasons, or administrative convenience;]*

3. The emergency purchasing procedure may not be used unless the need for the articles or services could not have been reasonably foreseen or the need for such articles or services has arisen notwithstanding a good faith effort on the part of the contracting unit to plan for the purchase of any articles or services required by the contracting unit;

*[5.]***4.*** The contract shall be of such limited duration as to meet only the immediate needs of the emergency; and

*[6.]***5.*** Under no circumstances shall the emergency purchasing procedure be used to enter into a multi-year contract.

5:34-6.2 Procedure for emergency purchases and contracts

(a) A written requisition for the performance of work or labor, or the furnishing of materials, supplies or services, as defined in N.J.A.C. 5:34-6.1 is filed with the contracting agent (usually the purchasing agent) or his or her deputy in charge describing the nature of the emergency, the time of its occurrence and the need for invoking this section, certified by the officer or director in charge of the department wherein the emergency occurred, or by his or her designee. The contracting agent or his or her deputy in charge, if he or she is satisfied that the emergency exists, is then authorized to award a contract for said work or labor, materials, supplies or services.

(b) A governing body may by resolution reserve the power to award emergency contracts. Said resolution may distinguish between situations involving imminent peril to life or property and situations that are urgent but could wait until the governing body can convene.

(c) Upon the furnishing of such work or labor, materials, supplies or services, in accordance with the terms of the contract or agreement, the contractor furnishing such work or labor, materials, supplies or services, shall be entitled to be paid therefor and the contracting unit shall be obligated for said payment. The governing body of the contracting unit shall take such action as shall be required to provide for the payment of the contract price.

(d) Payments made under emergency circumstances shall not be in excess of the available budgeted appropriations, as such would constitute a violation of the Local Budget Law, N.J.S.A. 40A:1 et seq., at N.J.S.A. 40A:4-57.

Recodify existing N.J.A.C. 5:30-17.1 through 5:30-17.9 as N.J.A.C. 5:34-7.1 through 5:34-7.9. (No change in text.)

N.J.A.C.	Expiration Date
14:9	4/15/90
14:10	9/8/91
14:10-6	9/5/91
14:11	1/27/92
14:17	4/24/94
14:18	7/26/95
14:25	3/5/95

N.J.A.C.	Expiration Date
16:53	7/17/94
16:53B	7/3/94
16:53C	6/16/93
16:53D	5/3/94
16:54	4/7/91
16:55	6/14/93
16:56	8/7/94
16:60	6/14/93
16:61	6/14/93
16:62	2/26/95
16:72	3/31/91
16:73	1/30/92
16:74	10/20/91
16:75	5/13/93
16:76	2/6/94
16:77	3/5/95
16:78	10/7/90
16:79	10/20/91
16:80	11/7/93
16:81	11/7/93
16:82	9/5/94

ENERGY—TITLE 14A

N.J.A.C.	Expiration Date
14A:2	4/17/89
14A:3	10/7/90
14A:6	1/16/95
14A:7	9/16/90
14A:8	1/16/95
14A:11	1/16/95
14A:13	2/2/92
14A:14	1/30/94
14A:20	2/3/91
14A:21	11/21/90
14A:22	6/4/89

TREASURY-GENERAL—TITLE 17

STATE—TITLE 15

N.J.A.C.	Expiration Date
15:2	5/2/93
15:3	7/7/91
15:5	2/17/92
15:10	2/18/91

N.J.A.C.	Expiration Date
17:1	5/6/93
17:2	11/8/94
17:3	8/15/93
17:4	6/8/95
17:5	12/2/90
17:6	11/22/93
17:7	12/19/93
17:8	10/15/95
17:9	10/3/93
17:10	5/6/93
17:12	10/13/94
17:13	10/13/94
17:14	10/13/94
17:16	12/2/90
17:19	3/8/95
17:20	9/26/93
17:25	5/26/94
17:27	10/7/93
17:28	8/17/95
17:29	9/26/95
17:30	5/4/92
17:32	3/21/93
17:33	4/17/94
17:40	11/19/95

PUBLIC ADVOCATE—TITLE 15A

N.J.A.C.	Expiration Date
15A:2	12/27/94

TRANSPORTATION—TITLE 16

N.J.A.C.	Expiration Date
16:1	10/1/95
16:1A	6/16/94
16:5	11/20/94
16:6	8/7/94
16:7	3/6/94
16:13	9/4/95
16:20A	2/20/95
16:20B	2/20/95
16:21	8/6/95
16:21A	11/20/94
16:21B	12/3/95
16:22	2/3/91
16:24	2/5/95
16:25	8/15/93
16:25A	7/18/93
16:26	9/5/94
16:27	9/8/91
16:28	6/1/93
16:28A	6/1/93
16:29	6/1/93
16:30	6/1/93
16:31	6/1/93
16:31A	6/1/93
16:32	2/8/95
16:38	10/15/95
16:41	7/28/92
16:41A	1/23/95
16:41B	7/2/95
16:43	5/10/95
16:44	5/25/93
16:45	9/18/94
16:46	11/6/94
16:49	2/8/95
16:51	4/6/92

TREASURY-TAXATION—TITLE 18

N.J.A.C.	Expiration Date
18:1	7/21/94
18:2	9/6/93
18:3	3/14/94
18:5	3/14/94
18:6	3/14/94
18:7	3/14/94
18:8	2/24/94
18:9	6/7/93
18:12	7/29/93
18:12A	7/29/93
18:14	7/29/93
18:15	7/29/93
18:16	7/29/93
18:17	7/29/93
18:18	3/14/94
18:19	3/14/94
18:22	2/24/94
18:23	2/24/94
18:23A	9/4/95
18:24	6/7/93
18:25	1/6/91
18:26	6/7/93

N.J.A.C.
18:35
18:36
18:37
18:38
18:39

Expiration Date
6/7/93
3/19/95
7/23/95
2/16/93
9/8/92

N.J.A.C.
19:20
19:25
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19:54
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19:65
19:75

Expiration Date
2/5/95
10/1/95
7/23/95
8/20/95
8/24/94
5/12/93
5/12/93
4/27/94
9/29/93
3/24/93
4/28/93
4/28/93
10/13/93
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19:3
19:3B
19:4
19:4A
19:8
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Expiration Date
5/26/93
Exempt (N.J.S.A. 13:17-1)
5/26/93
6/20/93
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19:75

Expiration Date
2/5/95
10/1/95
7/23/95
8/20/95
8/24/94
5/12/93
5/12/93
4/27/94
9/29/93
3/24/93
4/28/93
4/28/93
10/13/93
3/24/93
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7/7/91
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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 October 1, 1990 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to adopt a proposed rule on a timely basis requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(c).

Terms and abbreviations used in this Index:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1990 d.1 means the first rule adopted in 1990.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A series number and supplement date certifying the currency of rules found in each Title of the New Jersey Administrative Code: Rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find the issue of publication of a rule proposal or adoption.

MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: SUPPLEMENT SEPTEMBER 17, 1990

NEXT UPDATE: SUPPLEMENT OCTOBER 15, 1990

Note: If no changes have occurred in a Title during the previous month, no update will be issued for that Title.

N.J.R. CITATION LOCATOR

If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register	If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register
21 N.J.R. 3689 and 3812	December 4, 1989	22 N.J.R. 1807 and 1964	June 18, 1990
21 N.J.R. 3813 and 3986	December 18, 1989	22 N.J.R. 1965 and 2062	July 2, 1990
22 N.J.R. 1 and 88	January 2, 1990	22 N.J.R. 2063 and 2202	July 16, 1990
22 N.J.R. 89 and 272	January 16, 1990	22 N.J.R. 2203 and 2386	August 6, 1990
22 N.J.R. 273 and 584	February 5, 1990	22 N.J.R. 2387 and 2622	August 20, 1990
22 N.J.R. 585 and 686	February 20, 1990	22 N.J.R. 2623 and 2860	September 4, 1990
22 N.J.R. 687 and 884	March 5, 1990	22 N.J.R. 2861 and 3072	September 17, 1990
22 N.J.R. 885 and 1010	March 19, 1990	22 N.J.R. 3073 and 3182	October 1, 1990
22 N.J.R. 1011 and 1182	April 2, 1990	22 N.J.R. 3183 and 3274	October 15, 1990
22 N.J.R. 1183 and 1290	April 16, 1990	22 N.J.R. 3275 and 3420	November 5, 1990
22 N.J.R. 1291 and 1408	May 7, 1990	22 N.J.R. 3421 and 3606	November 19, 1990
22 N.J.R. 1409 and 1648	May 21, 1990	22 N.J.R. 3607 and 3666	December 3, 1990
22 N.J.R. 1649 and 1806	June 4, 1990		

N.J.A.C. CITATION	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
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1:1-3.2, 14.10	Interlocutory appeal for review of hearing location	22 N.J.R. 3278(a)	
1:1-3.3, 9.6, 12.1, 14.4, 14.7, 14.14, 18.4, 19.2	Scheduling, processing, and conclusion of contested cases	22 N.J.R. 3278(b)	
1:1-9.5	OAL Notice of Filing: preproposal regarding notification of parties to contested case	22 N.J.R. 2066(b)	
1:6A-18.3	Special Education hearings: administrative correction		22 N.J.R. 3478(a)
1:10-8.1	Transmission of Economic Assistance cases	22 N.J.R. 2389(a)	
1:10-18.2	Economic Assistance hearings: exception to initial decision	22 N.J.R. 3278(b)	
1:10B-18.2	Medical Assistance hearings: exception to initial decision	22 N.J.R. 3278(b)	
1:11-10.1	Discovery in private passenger automobile insurance rate hearings	21 N.J.R. 3815(a)	
1:13-14.4	Motor Vehicle cases: failure to appear	22 N.J.R. 3278(b)	
1:13A-14.1	Lemon Law hearings: failure to appear	22 N.J.R. 3278(b)	
1:30	Agency rulemaking	22 N.J.R. 3281(a)	

Most recent update to Title 1: TRANSMITTAL 1990-5 (supplement September 17, 1990)

AGRICULTURE—TITLE 2				
2:1-2, 3	Department organization and rules of practice	22 N.J.R. 2865(a)	R. 1990 d.579	22 N.J.R. 3478(b)
2:6-1	Distribution and use of veterinary biologics	22 N.J.R. 2068(a)		
2:16	Plant certification	22 N.J.R. 3285(a)		
2:19-2	Rose mosaic disease control	22 N.J.R. 2069(a)	R. 1990 d.494	22 N.J.R. 3146(a)
2:20-2	White pine blister rust control	22 N.J.R. 2070(a)	R. 1990 d.495	22 N.J.R. 3146(b)
2:48	Dairy industry rules	22 N.J.R. 2625(a)	R. 1990 d.572	22 N.J.R. 3619(a)
2:76-6.2, 6.5, 6.6, 6.9-6.12, 6.15-6.17	Farmland preservation program	22 N.J.R. 1244(a)	R. 1990 d.529	22 N.J.R. 3359(a)

Most recent update to Title 2: TRANSMITTAL 1990-7 (supplement August 20, 1990)

BANKING—TITLE 3				
3:0	Compensation to mortgage bankers, brokers and real estate licensees for placing mortgage loans: preproposal	22 N.J.R. 275(a)		
3:1	General provisions of Department	22 N.J.R. 3425(a)		
3:1-4.2, 4.7, 4.9, 4.10	Protection of governmental unit deposits	22 N.J.R. 1809(a)		
3:7	Safe and sound methods of banking	22 N.J.R. 2205(a)	R. 1990 d.497	22 N.J.R. 3213(a)
3:17-1.1, 1.4	Consumer loan advertisements	22 N.J.R. 2626(a)		
3:18-10.5	Secondary mortgage licensees	22 N.J.R. 2868(a)	R. 1990 d.603	22 N.J.R. 3619(b)
3:26	Savings and loan associations	22 N.J.R. 3428(a)		
3:27	Mortgage loans by savings and loan associations	22 N.J.R. 2206(a)	R. 1990 d.498	22 N.J.R. 3213(b)
3:29-1.1-1.4, 1.6, 1.7, 1.8	Savings and loan associations: audit requirements	22 N.J.R. 1968(a)		
3:38-1.5	Secondary mortgage licensees	22 N.J.R. 2868(a)	R. 1990 d.603	22 N.J.R. 3619(b)
3:41	Cemetery Board rules	22 N.J.R. 2627(a)	R. 1990 d.537	22 N.J.R. 3363(a)

Most recent update to Title 3: TRANSMITTAL 1990-5 (supplement July 16, 1990)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
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Most recent update to Title 4: TRANSMITTAL 1990-3 (supplement July 16, 1990)

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4A:3-5.2, 5.5	Overtime compensation	22 N.J.R. 2627(b)	R.1990 d.552	22 N.J.R. 3481(a)
4A:4-2.4	Promotional examinations	22 N.J.R. 2628(a)	R.1990 d.554	22 N.J.R. 3482(a)
4A:4-5.5	Working test period	22 N.J.R. 2629(a)	R.1990 d.553	22 N.J.R. 3482(b)
4A:8-2.2	Employee layoff rights	22 N.J.R. 2629(b)	R.1990 d.555	22 N.J.R. 3482(c)

Most recent update to Title 4A: TRANSMITTAL 1990-4 (supplement August 20, 1990)

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5:10-22.5	Hotels and multiple dwellings: ceiling height	22 N.J.R. 2207(a)	R.1990 d.544	22 N.J.R. 3363(b)
5:10-22.5	Ceiling heights in multiple dwellings	22 N.J.R. 3430(a)		
5:14	Neighborhood Preservation Balanced Housing Program	22 N.J.R. 1700(b)		
5:23-1.1, 3.1, 3.11B	Uniform Construction Code: underground storage tank systems	22 N.J.R. 2629(c)	R.1990 d.562	22 N.J.R. 3482(d)
5:23-2.14, 3.14	Uniform Construction Code: temporary greenhouses	22 N.J.R. 1969(b)	R.1990 d.558	22 N.J.R. 3483(a)
5:23-3.4, 3.5, 3.8A, 3.10, 3.11, 3.11A, 3.14-3.18, 3.20, 4A.8	Uniform Construction Code: subcodes	22 N.J.R. 2208(a)	R.1990 d.507	22 N.J.R. 3214(a)
5:23-4.17	Uniform Construction Code: appropriation of municipal fees	22 N.J.R. 1871(a)	R.1990 d.489	22 N.J.R. 3147(a)
5:23-7.13, 7.18	Barrier-Free Subcode: parking spaces; platform lifts	22 N.J.R. 2869(a)		
5:23-9.3	Uniform Construction Code: FRT plywood as roof sheathing	21 N.J.R. 3870(a)		
5:23-9.3	Uniform Construction Code: public meeting regarding FRT plywood use as roof sheathing	22 N.J.R. 706(a)		
5:23-9.4	Uniform Construction Code: earthquake zones and seismic design requirements	22 N.J.R. 592(a)	R.1990 d.490	22 N.J.R. 3148(a)
5:23-11	Uniform Construction Code: preproposal on indoor air quality subcode	22 N.J.R. 3209(a)		
5:24-1.1, 1.2, 1.3, 1.6, 1.7, 1.8, 1.10, 1.11	Mobile home park conversion or retirement from rental market	22 N.J.R. 2214(a)	R.1990 d.508	22 N.J.R. 3218(a)
5:25	New home warranties and builders' registration	22 N.J.R. 1701(a)		
5:25-5.4	New Home Warranty Security Plan: builder premium rates	21 N.J.R. 3698(a)		
5:25-5.4	New Home Warranty Security Plan: builder premium rates	22 N.J.R. 277(a)		
5:26	Planned real estate development full disclosure	22 N.J.R. 1702(a)		
5:28	State Housing Code	22 N.J.R. 1456(a)		
5:29	Landlord-tenant relations	22 N.J.R. 2070(b)		
5:29-1.2	Landlord registration form for one and two-unit rental dwellings: administrative correction	21 N.J.R. 3699(a)		
5:30-14, 17	Repeal: recodify (see 5:34)	22 N.J.R. 724(a)	R.1990 d.595	22 N.J.R. 3639(a)
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5:92-12.13, 12.15, 12.16, App.	Council on Affordable Housing: extension of comment period regarding central air conditioning in income-qualified units	22 N.J.R. 1975(a)		

Most recent update to Title 5: TRANSMITTAL 1990-9 (supplement September 17, 1990)

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Most recent update to Title 5A: TRANSMITTAL 1990-2 (supplement June 18, 1990)

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6:3-1.11, 1.12, 1.24	Teacher preparation and certification	22 N.J.R. 1873(a)	R.1990 d.510	22 N.J.R. 3240(a)
6:3-7	Education of homeless children and youth	22 N.J.R. 2630(a)		
6:5-2	Organization of Department	Exempt	R.1990 d.561	22 N.J.R. 3484(a)
6:11	Teacher preparation and certification	22 N.J.R. 1873(a)	R.1990 d.510	22 N.J.R. 3240(a)
6:20-1.1, 1.2, 4.1-4.4, 4.7-4.10, 4.11	Attendance and pupil accounting	22 N.J.R. 2633(a)		

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6:28-2.3, 3.1	Special education: administrative corrections			22 N.J.R. 3365(a)

Most recent update to Title 6: TRANSMITTAL 1990-6 (supplement September 17, 1990)

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7:2	State Park Service rules	22 N.J.R. 2652(a)		
7:5	Matching Grants Program for Local Environmental Agencies	22 N.J.R. 2392(a)	R.1990 d.577	22 N.J.R. 3505(a)
7:7-2.3	Waterfront development	22 N.J.R. 2361(a)	R.1990 d.503	22 N.J.R. 3222(a)
7:7-2.3	Waterfront development: extension of comment period	22 N.J.R. 2669(a)		
7:7E-5.3	Coastal growth ratings: preproposal regarding Western Ocean County	22 N.J.R. 1214(a)		
7:8-1.1, 1.2, 1.5, 2.2, 2.3, 3.1, 3.4, 3.5, 3.6	Water Pollution Control Act	22 N.J.R. 2870(a)		
7:9	Water pollution control	22 N.J.R. 3297(a)		
7:11-5	Use of water from Manasquan Reservoir water supply system	21 N.J.R. 3701(a)		
7:12-1.2, 9	Soft clam and hard clam depuration	22 N.J.R. 97(a)	R.1990 d.548	22 N.J.R. 3508(a)
7:14-8.1, 8.2, 8.5	Water Pollution Control Act	22 N.J.R. 2870(a)		
7:14A-1.8	NJPDES permit program: preproposal regarding minimum discharge fees	22 N.J.R. 1652(a)		
7:17	Repeal (see 7:12-1.2, 9)	22 N.J.R. 97(a)	R.1990 d.548	22 N.J.R. 3508(a)
7:18-6.6	Certification of laboratories for water analysis: administrative correction			22 N.J.R. 3365(b)
7:22A-1.1, 1.2, 1.3, 1.4, 1.7, 3.1, 4, App.	Water Pollution Control Act	22 N.J.R. 2870(a)		
7:25-4.13, 4.17	Endangered and nongame wildlife species	22 N.J.R. 1308(a)		
7:25-6	1991-92 Fish Code	22 N.J.R. 2071(a)		
7:25-18.1	Taking of striped bass	22 N.J.R. 3078(a)	R.1990 d.607	22 N.J.R. 3628(b)
7:25-18.5-18.11	Gill netting in Delaware Bay	22 N.J.R. 1311(a)		
7:26	Hazardous waste management	22 N.J.R. 2882(a)	R.1990 d.578	22 N.J.R. 3514(a)
7:26-2, 2A, 2B, 8	Management of resource recovery facility combustion residual ash: preproposal	22 N.J.R. 108(b)		
7:26-4.3, 4.4, 4.6, 15.6	Fee schedule for solid waste facilities	22 N.J.R. 3079(a)		
7:26-6.5	Interdistrict and intradistrict solid waste flow: Camden, Gloucester, Essex and Sussex counties	22 N.J.R. 284(a)		
7:26-7.2, 7.4, 8.1, 8.5, 8.7, 8.13, 8.20	Hazardous waste management: waste code hierarchy; waste determination; waste oils listing; container labeling	22 N.J.R. 288(a)		
7:26-8.2	Hazardous waste exclusions: administrative correction			22 N.J.R. 3148(b)
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7:26-8.15	Hazardous waste listing: administrative correction			22 N.J.R. 3227(a)
7:26-8.17, App. I	Delisting of hazardous waste at Beecham Laboratories	22 N.J.R. 3430(b)		
7:26-8.19	Listing of hazardous wastes	22 N.J.R. 3299(a)		
7:26-8.21	Hazardous constituents for groundwater monitoring: administrative correction			22 N.J.R. 3366(b)
7:26-9.2, 10.6, 10.8, 11.3, 11.4, 12.2, 12.4	Hazardous waste management	22 N.J.R. 3186(a)		
7:26-9.2, 10.6, 10.8, 11.3, 11.4, 12.2, 12.4	Hazardous waste management: extension of comment period	22 N.J.R. 3431(a)		
7:26-10.6	Surface impoundments: administrative correction			22 N.J.R. 3227(b)
7:26A	Solid waste recycling	22 N.J.R. 3088(a)		
7:27-8	Air pollution control permit and certificate process	22 N.J.R. 292(a)		
7:27-8.2	Air pollution control permit and certificate process: correction to proposed amendment	22 N.J.R. 593(a)		
7:28-3.5, 3.13, 4.19	Fee schedules for possession and use of radioactive materials	22 N.J.R. 3300(a)		
7:28-16	Dental radiographic installations	22 N.J.R. 894(a)	R.1990 d.538	22 N.J.R. 3367(a)
7:28-16.2	Dental radiographic installations: qualified individual	22 N.J.R. 3303(a)		
7:28-19.12	Radiologic technologists: licensure and renewal fees	22 N.J.R. 1975(b)	R.1990 d.511	22 N.J.R. 3227(a)
7:28-27	Certification of radon testers and mitigators	21 N.J.R. 3369(a)	R.1990 d.559	22 N.J.R. 3516(a)
7:36-8	Green Acres Program: public hearing requirement on proposed transfers or use of Department-held land and water	22 N.J.R. 593(b)		
7:36-8	Green Acres Program: public hearing and extension of comment period regarding public hearing requirement on proposed transfers or use of Department-held land and water	22 N.J.R. 1352(a)		
7:38	Wild and Scenic Rivers System	22 N.J.R. 1317(a)	R.1990 d.505	22 N.J.R. 3229(a)

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7:50-2.11, 4.66, 6.13	Pinelands Comprehensive Management Plan: preproposed amendments	22 N.J.R. 3432(a)		
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8:7	Licensure of persons for public health positions	22 N.J.R. 1977(a)	R.1990 d.502	22 N.J.R. 3545(a)
8:9	Handling of human remains	22 N.J.R. 3458(a)		
8:13-2	Depuration of hard shell and soft shell clams	22 N.J.R. 109(a)	R.1990 d.542	22 N.J.R. 3547(a)
8:18-1.2, 1.5, 1.6, 1.8, 1.18, App. I	Catastrophic Illness in Children Relief Fund program	22 N.J.R. 2669(b)		
8:21	Food and drugs	22 N.J.R. 2465(a)	R.1990 d.563	22 N.J.R. 3559(a)
8:21A	Good drug manufacturing practices	22 N.J.R. 3189(a)		
8:31A-1, 2, 5, 7, 9, 10	Standard Hospital Accounting and Rate Evaluation (SHARE) Manual	22 N.J.R. 3460(a)		
8:31B-3.3, 4.6, 4.41	Hospital reimbursement: uncompensated care audit	21 N.J.R. 3638(a)	Expired	
8:31B-3.17	Hospital reimbursement: on-site audits	21 N.J.R. 3639(a)	Expired	
8:31B-4.38, 4.61	Hospital reimbursement: Maternity, Outreach, and Management Services (MOMS)	22 N.J.R. 594(a)		
8:31B-4.40	Hospital reimbursement: appropriate collection procedures	21 N.J.R. 3873(a)		
8:31B-4.125	Hospital reimbursement: outside collection costs	21 N.J.R. 3639(b)	Expired	
8:31B-App. VI	Computation of reasonable direct patient care costs: administrative correction	_____	_____	22 N.J.R. 3229(b)
8:31C-1.15, 1.18	Residential alcoholism treatment facilities: reimbursement methodology	22 N.J.R. 3468(a)		
8:33F-1.1, 1.2, 1.6, 1.7	Renal disease services	22 N.J.R. 2494(a)	R.1990 d.566	22 N.J.R. 3578(a)
8:33Q-1	Organ transplantation services: certificate of need requirements	22 N.J.R. 2496(a)	R.1990 d.567	22 N.J.R. 3579(a)
8:39-8.1, 8.2, 8.4, 9.2, 11.2, 13.1, 18.4, 19.3, 19.7, 19.8, 23.2, 24.1, 27.1, 27.5, 28.1, 28.2, 29.4, 32.1, 35.2, 37.3, 38.1, 41.3	Licensure of long-term care facilities	22 N.J.R. 1889(a)	R.1990 d.513	22 N.J.R. 3230(a)
8:41-8.1	Mobile intensive care units: administration of medications	22 N.J.R. 3104(a)		
8:43	Licensure of residential health care facilities	22 N.J.R. 2499(a)	R.1990 d.568	22 N.J.R. 3581(a)
8:43A-12	Ambulatory care facilities: surgical and anesthesia services	22 N.J.R. 1496(a)	R.1990 d.543	22 N.J.R. 3392(b)
8:43G-5.6	Hospital licensure: reportable events	22 N.J.R. 3469(a)		
8:43G-6	Hospital licensure: anesthesia	22 N.J.R. 3470(a)		
8:44-3	Local health services: limited purpose laboratories	22 N.J.R. 1323(a)	R.1990 d.512	22 N.J.R. 3232(a)
8:59-1.3, 12	Worker and Community Right to Know: certification of consultants and consulting agencies	22 N.J.R. 1892(a)		
8:65	Controlled dangerous substances	22 N.J.R. 3190(a)		
8:65-10.5	Controlled substances: administrative correction to Schedule V	_____	_____	22 N.J.R. 3619(c)
8:71	Interchangeable drug products	21 N.J.R. 3710(a)	R.1990 d.190	22 N.J.R. 1136(a)
8:71	Interchangeable drug products	21 N.J.R. 3711(a)		
8:71	Interchangeable drug products (see 22 N.J.R. 1597(b), 2163(a))	22 N.J.R. 596(a)	R.1990 d.570	22 N.J.R. 3581(c)
8:71	Interchangeable drug products (see 22 N.J.R. 2162(b), 3149(a))	22 N.J.R. 1214(b)	R.1990 d.569	22 N.J.R. 3581(b)
8:71	Interchangeable drug products	22 N.J.R. 1511(a)		
8:71	Interchangeable drug products	22 N.J.R. 2501(a)	R.1990 d.571	22 N.J.R. 3582(a)
8:71	Interchangeable drug products	22 N.J.R. 3191(a)		
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9:1-1.2, 3.1	Characteristics of a university	22 N.J.R. 1655(b)		
9:2-13.9, 13.11	Auxiliary organizations: personnel; purchasing	22 N.J.R. 1656(a)		
9:2-14.2	Immunization requirements for students: exemptions	22 N.J.R. 1215(a)		
9:3-4	Minority and women-owned businesses: participation in State construction contracts	22 N.J.R. 1656(b)		
9:4-3.12	Noncredit courses at county community colleges	22 N.J.R. 2254(b)		
9:4-4	County community colleges: alumni trustee representatives	22 N.J.R. 1657(a)		
9:5	Tuition policies for public institutions	22 N.J.R. 3437(a)		
9:6-1.2, 3.2, 3.11, 3.12, 4.5	State Colleges: policies and standards	22 N.J.R. 1658(a)	R.1990 d.546	22 N.J.R. 3370(a)
9:6-7.4	State Colleges: elements of institutional plan	22 N.J.R. 2255(a)	R.1990 d.545	22 N.J.R. 3371(a)
9:8	Disbursement of funds for technical and engineering facilities and equipment	22 N.J.R. 2256(a)	R.1990 d.547	22 N.J.R. 3371(b)

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9:11-1.5	Educational Opportunity Fund: financial eligibility for undergraduate grants	22 N.J.R. 1659(a)	R.1990 d.556	22 N.J.R. 3485(a)
9:11-1.23	Educational Opportunity Fund: part-time students	22 N.J.R. 1660(a)	R.1990 d.557	22 N.J.R. 3485(b)
9:11-3	C. Clyde Ferguson Law Scholarship	22 N.J.R. 3439(a)		

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10:6	Administrative hearings	22 N.J.R. 3115(a)		
10:13-2.2	Legal Assistance for Medicare Patients: eligible services	22 N.J.R. 2216(a)		
10:37	Community Mental Health Services Act rules	22 N.J.R. 2915(a)	R.1990 d.591	22 N.J.R. 3620(a)
10:37-6.79	Community mental health programs: disclosure of client records	22 N.J.R. 2216(b)		
10:43-7.1	Determination of need for a guardian	22 N.J.R. 2671(a)		
10:46	Developmental disability services: public hearings regarding determination of eligibility	22 N.J.R. 764(a)		
10:47	Private licensed facilities for mentally retarded	22 N.J.R. 2915(b)	R.1990 d.593	22 N.J.R. 3620(b)
10:48	Developmental Disabilities: appeal procedure; viral hepatitis and legal poisoning control programs	22 N.J.R. 3192(a)		
10:49-6.6	Recoveries involving county welfare agencies/boards of social services	22 N.J.R. 2672(a)		
10:50-1.1, 1.3, 1.4, 1.5, 1.6, 2.6, 3.2, App. I, II	Medicaid transportation services: provider reimbursement	22 N.J.R. 1513(a)	R.1990 d.592	22 N.J.R. 3620(c)
10:51	Pharmacy Manual	22 N.J.R. 2217(a)	R.1990 d.530	22 N.J.R. 3372(a)
10:57	Podiatry Services Manual	22 N.J.R. 3439(b)		
10:60	Home Care Services Manual	22 N.J.R. 3116(a)		
10:65	Medical Day Care Services Manual	22 N.J.R. 3327(b)		
10:65-2.1	Medical day care reimbursement	22 N.J.R. 2604(a)	R.1990 d.524	22 N.J.R. 3372(b)
10:69A-5.3, 6.1, 6.2, 6.10	Pharmaceutical Assistance to Aged and Disabled: eligibility and renewal	22 N.J.R. 2218(a)		
10:71	Medicaid Only Manual	22 N.J.R. 3357(a)		
10:71-4.5-4.9, 5.4, 5.6, 5.7	Medicaid Only Program: eligibility determinations for long-term care	22 N.J.R. 7(a)		
10:71-4.7	Medicaid eligibility: transfer of resources	22 N.J.R. 2604(a)	R.1990 d.524	22 N.J.R. 3372(b)
10:81-1.12, 2.2, 2.8, 2.9, 2.17, 2.18, 3.16, 3.18, 3.19, 3.31, 4.7, 4.10, 4.16, 4.23, 5.4, 5.6, 5.9, 6.11, 6.14, 7.1, 7.4, 7.20, 8.22, 8.24, 9.1, 10.7, 12.1, 12.3, 12.4, 12.6, 12.7, 12.8, 12.11, 14.1-14.8, 14.10-14.15, 14.17, 14.19-14.22, 14.24	Public Assistance Manual: JOBS program	22 N.J.R. 2405(b)		
10:81-11.2, 11.4, 11.5, 11.7, 11.9, 11.11-11.15, 11.21	Public Assistance Manual: child support and paternity	22 N.J.R. 1664(a)	R.1990 d.541	22 N.J.R. 3373(a)
10:82-1.6, 1.7, 1.8, 2.1, 2.3, 2.8, 2.9, 2.10, 2.19, 3.2, 3.14, 4.1, 4.4, 4.8, 4.14, 5.1, 5.2, 5.3, 5.6, 5.7, 5.8, 5.9	Assistance Standards Handbook: JOBS program	22 N.J.R. 2445(a)		
10:85-4.6	General Assistance: emergency assistance	22 N.J.R. 2078(a)		
10:85-4.6	Emergency assistance: public hearing and extension of comment period	22 N.J.R. 2674(a)		
10:87-1.14, 4.3, 5.9, 5.10, 5.11, 6.3, 7.14, 10.2, 10.10, App. A	Food Stamp Program	22 N.J.R. 2219(a)	R.1990 d.565	22 N.J.R. 3486(a)
10:89-2.2, 2.3	Home Energy Assistance: eligibility criteria	Emergency (expires 12-29-90)	R.1990 d.590	22 N.J.R. 3590(a)
10:109-1	Economic Assistance staff development program: Ruling Number 11	22 N.J.R. 2222(a)		
10:121A-1.3, 1.5, 2.2, 5.8	Manual of standards for adoption agencies	22 N.J.R. 2674(b)		
10:123A	Personal Attendant Services Program	22 N.J.R. 1527(a)		
10:123A	Personal Attendant Services Program: extension of comment period	22 N.J.R. 2082(a)		
10:128	Children's group homes	22 N.J.R. 2916(a)		

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10A:3-9.3	Transport of maximum custody inmates	22 N.J.R. 2223(a)	R.1990 d.536	22 N.J.R. 3379(a)
10A:17-3	Volunteers in Parole Program	22 N.J.R. 1981(a)	R.1990 d.488	22 N.J.R. 3149(b)
10A:18-2.6	Incoming correspondence: inspection and identification	22 N.J.R. 147(a)		
10A:18-2.7	Inspection of outgoing correspondence	21 N.J.R. 3913(a)	R.1990 d.564	22 N.J.R. 3488(a)
10A:18-7.7	Court ordered funeral visits: administrative correction			22 N.J.R. 3625(a)
10A:21-5	Reporting unusual incidents or events within facilities	22 N.J.R. 3304(a)		
10A:21-8	Reporting violations of criminal statutes	22 N.J.R. 3440(a)		
10A:32-4.2	Transfer of juvenile under State sentence	22 N.J.R. 1895(a)		
10A:32-4.2	Transfer of juvenile under State sentence: public hearing	22 N.J.R. 2224(a)		

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11:0	Compensation to real estate licensees for placing mortgage loans: preproposal	22 N.J.R. 314(a)		
11:0	Automobile insurance: preproposal regarding model anti-fraud plan	22 N.J.R. 1983(a)		
11:1-14.1	Insurance Producer Property and Casualty Advisory Committee	22 N.J.R. 15(b)		
11:1-29	Insurer's temporary certificate of authority	22 N.J.R. 2453(a)		
11:1-32	Exportable list of surplus lines: hearing and promulgation procedures	22 N.J.R. 314(b)		
11:2	Insurance group rules	22 N.J.R. 1673(a)		
11:2-17.7	Automobile coverage: payment of PIP claims	22 N.J.R. 1677(a)		
11:2-28	Credit for property/casualty reinsurance	21 N.J.R. 3625(a)	Expired	
11:2-29	Orderly withdrawal of insurance business	21 N.J.R. 3622(a)	Expired	
11:2-29	Orderly withdrawal of insurance business: extension of comment period	22 N.J.R. 15(c)		
11:2-30	Product liability risk retention groups and purchasing groups	21 N.J.R. 3618(a)	Expired	
11:2-31	Premiums for perpetual homeowners insurance	22 N.J.R. 601(a)		
11:2-32	Custodial deposits	22 N.J.R. 2640(a)		
11:3	Automobile insurance	22 N.J.R. 1678(a)		
11:3-3.37, 14.8	Benefit determination between automobile personal injury protection and health insurance	22 N.J.R. 2642(a)		
11:3-7.2, 7.4, 7.5, 14.2, 14.5, 15.1, 15.2, 15.3, 15.5, 15.6, 15.7, 15.9	Automobile Coverage Selection Form and Buyer's Guide	22 N.J.R. 1681(a)	R.1990 d.580	22 N.J.R. 3488(b)
11:3-8.2-8.7, App. A and B	Nonrenewal of automobile policies	22 N.J.R. 2224(b)		
11:3-10.5	Automobile damage repair confirmation and reporting	22 N.J.R. 3442(b)		
11:3-19	Private passenger automobile insurance: standard/non-standard rating plans	22 N.J.R. 2231(a)		
11:3-20.3, 20.6, 20.8, 20.11, 20.12, App.	Automobile insurers: filing Excess Profits Report	22 N.J.R. 2082(b)		
11:3-24.4	Automobile insurance coverage: policy constants	22 N.J.R. 3441(a)		
11:3-25.4	Automobile insurance coverage: residual market equalization charges	22 N.J.R. 3442(a)		
11:3-29	Automobile insurance: medical fee schedules for PIP coverage	22 N.J.R. 2086(a)		
11:3-32	Out-of-state vehicles: certification of mandatory liability coverage	22 N.J.R. 1040(a)		
11:3-33	Appeals from denial of automobile insurance	22 N.J.R. 2457(a)		
11:3-33	Appeals from denial of automobile insurance: comment period correction	22 N.J.R. 2647(a)		
11:3-34	Voluntary market automobile insurance coverage: eligible persons qualifications and eligibility points schedule	22 N.J.R. 2108(a)		
11:3-35	Private passenger automobile insurance: underwriting rules	22 N.J.R. 2233(a)		
11:3-36	Automobile physical damage coverage: inspection procedures prior to issuance	22 N.J.R. 2111(a)		
11:3-38	Automobile towing and storage fee schedule	22 N.J.R. 2455(a)		
11:3-38	Automobile towing and storage fee schedule: extension of comment period	22 N.J.R. 3195(a)		
11:4	Actuarial services	22 N.J.R. 1689(a)		
11:4-16.4, 16.5, 28.2, 28.5	Benefit determination between automobile personal injury protection and health insurance	22 N.J.R. 2642(a)		
11:4-16.6, 16.8, 23.6, 23.8, App.	Medicare supplement coverage	22 N.J.R. 771(a)		
11:4-35	Annual Medicare supplement coverage survey	22 N.J.R. 1226(a)		
11:13-6	Commercial insurance: rating plans for individual risk premium modification	21 N.J.R. 3430(a)	R.1990 d.594	22 N.J.R. 3625(b)

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11:16-3	Automobile damage repair confirmation and reporting	22 N.J.R. 3442(b)		
11:17A-1.2, 1.7	Appeals from denial of automobile insurance	22 N.J.R. 2457(a)		
11:17A-1.2, 1.7	Appeals from denial of automobile insurance: comment period correction	22 N.J.R. 2647(a)		
11:17A-1.3	Insurance producers and limited insurance representatives: licensure and registration	22 N.J.R. 3444(a)		

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12:15-1.3, 1.4, 1.5, 1.6, 1.7	Unemployment and temporary disability insurance: 1991 rates	22 N.J.R. 2885(a)	R.1990 d.597	22 N.J.R. 3627(a)
12:17	Unemployment benefit payments	22 N.J.R. 3445(a)		
12:18-2.25	Temporary disability benefits: private plan employer security exemption	22 N.J.R. 1229(a)		
12:45-1	Vocational Rehabilitation Services: procedures and standards	22 N.J.R. 1045(c)		
12:45-1	Vocational Rehabilitation Services: correction to proposal	22 N.J.R. 1230(a)		
12:46-12:49	Repeal (see 12:45-1)	22 N.J.R. 1045(c)		
12:55-1	Payroll deductions for mass transportation: administrative correction			22 N.J.R. 3499(a)
12:56	Wage and hour	22 N.J.R. 2235(a)	R.1990 d.520	22 N.J.R. 3379(b)
12:57	Wage orders for minors	22 N.J.R. 2240(a)	R.1990 d.521	22 N.J.R. 3382(a)
12:58	Child labor	22 N.J.R. 2241(a)	R.1990 d.522	22 N.J.R. 3383(a)
12:196-1.10	Dispensing of retail gasoline: signs	22 N.J.R. 3306(a)		
12:235-1.6	Workers' Compensation: 1991 maximum rates	22 N.J.R. 2886(a)	R.1990 d.596	22 N.J.R. 3628(a)

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13:1-4.6	Physical conditioning instruction at police academies	22 N.J.R. 1435(a)	R.1990 d.477	22 N.J.R. 3151(a)
13:1-7.2	Police Training Commission: drug screening of police trainees	22 N.J.R. 2256(b)		
13:1A-2.11	Legislative agents: annual fee	22 N.J.R. 1810(a)	R.1990 d.506	22 N.J.R. 3236(a)
13:14	Family Leave Act rules: public hearing	22 N.J.R. 2395(a)		
13:14-1	Family Leave Act rules	22 N.J.R. 2129(a)		
13:18-4.2-4.6, 4.9, 4.14-4.19	Motor Fuels Use Tax	22 N.J.R. 3104(b)		
13:19-1.1, 1.2, 1.3, 1.5, 1.8, 1.13, 12.2-12.9	Motor Vehicles: administrative hearings regarding proposed license suspension or surcharge collection actions	22 N.J.R. 3446(a)		
13:20	Motor Vehicles enforcement service	22 N.J.R. 3307(a)		
13:20-10	Automatic vehicle identification system for toll collection	22 N.J.R. 2133(a)	R.1990 d.491	22 N.J.R. 3151(b)
13:21	Motor Vehicles licensing service	22 N.J.R. 3311(a)		
13:21-1.3, 1.4, 1.5	Commercial driver licenses: disclosure and use of social security numbers	22 N.J.R. 2134(a)	R.1990 d.514	22 N.J.R. 3236(b)
13:21-15.3	Long-term leasing of motor vehicles: business licensure	21 N.J.R. 3853(a)		
13:24-1.1, 2.3, 2.8, 4.1, 5.5	Equipment for emergency and other specified vehicles	22 N.J.R. 902(a)		
13:27-5.8	Architectural services: certificate of authorization for general business corporations	22 N.J.R. 3314(a)		
13:29-1.13	Accountancy: sponsors of continuing professional education	22 N.J.R. 3314(b)		
13:30-8.4	Announcement of practice in special area of dentistry	22 N.J.R. 2257(a)		
13:30-8.4	Announcement of practice in special area of dentistry: extension of comment period	22 N.J.R. 3108(a)		
13:30-8.17	Physical modalities to unlicensed dental assistants	22 N.J.R. 2647(b)		
13:32-1.2, 1.7, 1.8, 1.10, 1.11, 1.12	Licensed master plumbers: standards and practices	22 N.J.R. 784(a)		
13:35-6.2	Pronouncement and certification of death	22 N.J.R. 154(b)		
13:35-6.13	Board of Medical Examiners: FLEX fees	22 N.J.R. 1988(a)	R.1990 d.525	22 N.J.R. 3384(a)
13:35-6.13	Board of Medical Examiners: change of address for receipt of comments regarding FLEX fees	22 N.J.R. 2135(a)		
13:35-6.15	Delegation of tasks to physician assistants	22 N.J.R. 2135(b)		
13:36-9.3	Mortuary practice: administrative correction			22 N.J.R. 3384(b)
13:36-10	Mortuary science: continuing education	21 N.J.R. 3655(a)		
13:38	Board of Optometrists rules	22 N.J.R. 1866(a)	R.1990 d.476	22 N.J.R. 3153(a)

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13:39-2.2, 2.8	Board of Pharmacy: application for NABPLEX examination	22 N.J.R. 2395(b)	R.1990 d.551	22 N.J.R. 3499(b)
13:39-5.6	Pharmacy recordkeeping: prescriptions for controlled substances	22 N.J.R. 1866(b)		
13:39-6.9	Sale of Schedule V over-the-counter controlled substances	22 N.J.R. 1329(a)	R.1990 d.478	22 N.J.R. 3153(b)
13:39A-5.1	Licensure as physical therapist: foreign trained applicants	22 N.J.R. 2259(a)		
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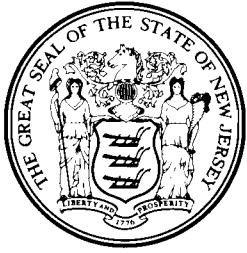
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