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REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS*, PAGE 620.

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(Includes rules filed through February 11, 1985)

* The New Jersey Register supplements the New Jersey Administrative Code. To complete your research of the latest State Agency rule changes, see the Register Index of Rule Proposals and Adoptions in this issue.

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RULE PROPOSALS

Interested persons may submit, in writing, information or arguments concerning any of the following proposals until **April 3, 1985**. 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. 1:30-3.5. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice.

COMMUNITY AFFAIRS

(a)

LOCAL FINANCE BOARD

Local Authorities Audit Reports

Proposed New Rule: N.J.A.C. 5:31-7.5

Authorized By: Local Finance Board, Barry P. Clark,
Executive Secretary

Authority: N.J.S.A. 40A:5A-1 et seq., specifically
40A:5A-10 and 15 (L.1983, c.313).

Proposal Number: PRN 1985-115.

Submit comments by April 3, 1985 to:

Barry P. Clark, Executive Secretary
Local Finance Board
363 West State Street
Trenton, NJ 08625

The agency proposal follows:

Summary

The proposed new rule governs the audit reports and financial reporting practices for special districts. The new rule specifies when the reports must be completed and what information must be included in the report. Additional procedural requirements are also specified.

N.J.S.A. 40A:5A-15 (P.L. 1983, c.313) authorizes the adoption of these rules by the Local Finance Board.

Social Impact

The proposed new rule will benefit local governments and the public by providing standard uniform financial statements and reporting practices, and will protect the fiscal integrity of the districts and the local units which created the districts.

Economic Impact

Compliance with this rule may result in a slight increase in administrative costs for certain districts since it represents a slight departure from present practices. Compliance with this rule should maintain the creditability of the public, the investment community and enhance the investment ratings of the districts.

Full text of the current rules on Local Authorities may be found at N.J.R. 1835(a), 17 N.J.R. 72(a).

Full text of the proposed new rule follows.

5:31-7.5 Audit reports and financial reporting practices for special districts

(a) All district audits shall be completed and the audit reports thereon shall be filed with the governing bodies within four months after the close of the district's fiscal year or within such shorter period specified in the statute authorizing the creation of the district. After expiration of the due date, the Division shall have the prerogative to perform the audit itself or to engage a qualified auditor to conduct the audit. The cost of any such work, after approval by the Director, shall be billed to and paid by the district.

(b) Each audit report shall include the auditor's report on the financial statements and the following information for the current and immediately preceding fiscal year:

NEW JERSEY REGISTER

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1. Financial Statements:
 - i. General Fund:
 - (1) Comparative balance sheet;
 - (2) Statement of revenue, expenditures and changes in fund balance—budget and actual;
 - (3) Statement of expenditures compared to budget;
 - (4) Statement of receipts, disbursements and changes in cash investments.
 - ii. Capital Fund:
 - (1) Comparative balance sheet;
 - (2) Combining balance sheet;
 - (3) Combining statement of revenue, expenditures and changes in fund balance;
 - (4) Combining statement of receipts, disbursements and changes in cash and investments;
 - (5) Combining statement of amount to be provided for retirement of debt;
 - (6) Combining statement of improvement authorizations;
 - (7) Combining statement of bond anticipation notes payable;
 - (8) Combining statement of serial bonds payable.
 - iii. General Fixed Asset Account Group:
 - (1) Comparative balance sheet.
2. Notes to financial statements;
3. Statistical information;
4. Roster of officials;
5. General comments and recommendations, including the auditor's report on internal control.
 - (c) Within five days after the audit report is filed with the district, the auditor shall file a copy with the Director and with the governing body of the local unit having created the district.
 - (d) The auditor shall file a copy of the completed internal control questionnaire with the Bureau of Authority Regulation in the New Jersey Division of Local Government Services within 15 days of filing the audit report.

(a)

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

Rules of the New Jersey Housing and Mortgage Finance Agency

Proposed Amendments: N.J.A.C. 5:80

Proposed New Rules: N.J.A.C. 5:80

Proposal Repeal: N.J.A.C. 19:1-1 through 19:1-5

Authorized by: Feather O'Connor, Secretary of the New Jersey Housing and Mortgage Finance Agency.
 Authority: N.J.S.A. 55:14K-5(g).
 Proposal Number: PRN 1985-122.

Submit comments by April 3, 1985 to:
 William F. Abele, Esq.
 Director of Policy Development
 New Jersey Housing and Mortgage Finance Agency
 3625 Quakerbridge Road, CN070
 Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Housing Finance Agency ("NJHFA") and the New Jersey Mortgage Finance Agency ("MFA") merged into a single Agency known as New Jersey Housing and Mortgage Finance Agency ("Agency") under the New Jersey Housing and Mortgage Finance Agency Law of 1983, constituting Chapter 530, Law of New Jersey, 1983 (the "Act") effective January 17, 1984. Prior to the merger, the MFA was primarily responsible for providing funds to finance the purchase or improvement of owner-occupied one-to-four family residences in the State and the HFA was primarily responsible for providing funds to finance the construction and rehabilitation of multi-family rental housing projects in the State. The Act provides for the vesting in the Agency of the powers previously possessed by the MFA and the HFA and the assumption by the Agency of the outstanding bonds and other obligations of each predecessor agency.

The Agency was created to provide a strong unified advocate for housing production, financing and improvement. The Agency has the power, among other things, to enter into advance commitments to purchase eligible mortgage loans from mortgage sellers; to establish and collect fees and charges; to issue its bonds or notes and to provide for and secure the payment thereof and to provide for the rights of the holders thereof; and to do any acts and things necessary or convenient to carry out the powers expressly granted in the Act.

In order to have one complete and comprehensive set of Regulations governing the NJHMFA, the Agency proposes to repeal N.J.A.C. 19:1-1 through 1-5 currently the section designated for the MFA and to incorporate applicable parts of those rules into N.J.A.C. 5:80 currently the section designated for the HFA. To accomplish this goal it will be necessary to redesignate N.J.A.C. 5:80 as the chapter for the "New Jersey Housing and Mortgage Finance Agency." The current subchapters 1 through 5 of N.J.A.C. 5:80 will be recodified, certain amendments to these regulations will be included, additional subchapters will be added and certain sections will be reserved for regulations to be promulgated in the future. The following is a detailed explanation of the proposed changes in N.J.A.C. 5:80:

N.J.A.C. 5:80-1—This subchapter shall include General Provisions comprised of the NJHMFA's authority to establish such regulations (the "Act"), the purpose and objective for these Regulations which is to accomplish the general purposes of the NJHMFA, the General Definition section which serves to define the various terms used throughout the regulations and an Applicability Section which sets forth those projects which will be governed by certain housing project regulations.

N.J.A.C. 5:80-2—This subchapter shall include regulations for Actions Regarding Housing Sponsors. These regulations were previously published for comment in the New Jersey Register at 16 N.J.R. 2178(a). Due to comments received, substantial revisions were made. These revisions include a change in the general events that would constitute a material violation and the circumstances under which the Agency may assume the powers and duties of the Housing Sponsor.

N.J.A.C. 5:80-3—This subchapter sets forth newly proposed Return on Equity Regulations. These new Regulations establish the rate of return sponsors may earn on their investment based on statutory criteria for projects financed after January 17, 1984. These regulations also define what constitutes the sponsors investment on which the return will be paid.

N.J.A.C. 5:80-4—This section sets forth newly proposed Construction Completion Guarantees Regulations. These new Regulations require security to be provided to the Agency for all housing projects and any construction contract in excess of \$100,000 or a lesser amount as determined by the Agency. The security must be in an amount not less than 90% of the cost except where projects are divisible into components which can function as independent economic units, the Agency may require security in an amount less than 90%.

N.J.A.C. 5:80-5—This subchapter will continue to be codified as the Transfer of Ownership Interests Regulations and will include a proposed amendment. The proposed amendment serves to: 1) amend the document submission requirement to include only certain documentation when a "modified review" is required. A "modified review" is generally permitted where less than 90% of the limited partnership is sold or transferred; and 2) clarify circumstances under which these regulations are applicable and to spell out more clearly circumstances in which they are not applicable.

N.J.A.C. 5:80-6—This subchapter will set forth the Sale of Projects Owned by Nonprofit Corporations to Limited Partnerships Regulations which was previously codified as N.J.A.C. 5:80-2 and will include a proposed amendment. The proposed amendment serves to define the term Commitment Letter which is the initial proposal or letter of intention submitted by the prospective purchaser of the transaction and the offer. The purchaser is required to submit certain security within 21 days of the sale of the project. The security will be forfeited if the purchaser does not fulfill its obligations under the Commitment Letter.

N.J.A.C. 5:80-7—This subchapter will be reserved for Regulations entitled "Tenant Selection Standards" which are being published for adoption in this New Jersey Register.

N.J.A.C. 5:80-8—This subchapter will set forth Occupancy Requirement Regulations which was previously codified as N.J.A.C. 5:80-3, Income Limits, and will include a proposed amendment. The proposed amendment serves to remove the previous cap; the new limit is set at 6 times the annual rental or carrying charges; it allows an exemption for insured loans and it permits the Agency to impose lesser income limits. The amendment also creates minimum levels of low income occupancy.

N.J.A.C. 5:80-9—This subchapter will set forth the Rent Increase Regulations which was previously codified as N.J.A.C. 5:80-1 entitled "Renters".

N.J.A.C. 5:80-10—This subchapter will set forth newly proposed Regulations Regarding Loans to Lenders. These Regulations establish the conditions and procedures for making mortgage loans.

N.J.A.C. 5:80-11—This subchapter will set forth newly proposed Regulations Regarding the Making or Purchasing of Eligible Loans. These Regulations govern the making, purchasing, or participating in the purchase of eligible loans.

N.J.A.C. 5:80-12—This subchapter will be reserved for proposed Prevailing Wages Regulations which will be promulgated in the future.

N.J.A.C. 5:80-13—This subchapter will set forth the Debarment Regulations which was previously codified as N.J.A.C. 5:80-4.

N.J.A.C. 5:80-14—This subchapter sets forth a waiver provision which allows a party to request a waiver or release from the express provisions of any of the Agency's Regulations. This waiver may only be granted by the Agency Board.

Social Impact

The NJHMFA's primary objective is to provide low and moderate income housing in the State of New Jersey. This goal has been attained primarily through the issuance of tax exempt bonds. Specifically, with the multi-family projects a majority of the projects have been assisted through the Section 236 multi-family interest rate reduction programs and section 8 lower income rental assistance programs. Several of the Agency's projects are market rate developments that receive public assistance in the forms of tax abatement and tax exempt financing. With regard to the single family program, the goals are to provide additional housing needed to remedy the shortage of adequate housing in the State, to rehabilitate a large number of substandard dwellings and to effectuate the participation by mortgage lenders and mortgage sellers in its programs.

The comprehensive set of regulations by the Agency are established to effectuate the general purposes of the Agency including: 1) to assure the availability of rental and owner occupied housing; 2) to stimulate the construction, rehabilitation and improvement of adequate and affordable housing in the State so as to increase the number of housing opportunities for New Jersey residents particularly those of low and moderate income; 3) to enhance the production capacity of the private sector toward meeting the housing needs of other residents of New Jersey; 4) to assist in the reutilization of the State's urban areas; and 5) to respond to changing housing demographic and economic circumstances for the development of innovative and flexible financing vehicles. The NJHMFA Regulations will have an impact on all residents of the State of New Jersey who qualify for a single family program, all tenants in Agency-financed projects, all Housing Sponsor's of Agency financed projects and all Contractors doing business on Agency financed projects.

Economic Impact

The NJHMFA's objective in its single family program is to expand the supply of funds in the State available for new residential mortgages and rehabilitation and home improvement loans via the sale of tax exempt bonds. Since the single family program's inception over \$1.5 billion in loans have been made available. In addition, through its sale of tax exempt bonds, the Agency is able to make mortgage loans for new construction of multi-family housing projects or the rehabilitation of existing units upon application by qualified housing sponsors. Since the multi-family program inception over \$1.2 billion in loans have been issued for such housing. The comprehensive set of NJHMFA Regulations will enable the Agency to continue to meet its goals to provide low and moderate income housing to the residents of the State of New Jersey.

Full text of the proposal follows.

EDITOR'S NOTE: Subchapters 1 through 4 are proposed new rules.

SUBCHAPTER 1. GENERAL PROVISIONS

5:80-1.1 Authority

These regulations are issued under and pursuant to the authority of the New Jersey Housing and Mortgage Finance Agency Law of 1983 constituting Chapter 530 of the Laws of 1983, N.J.S.A. 55:14K-5(g).

5:80-1.2 Purpose and objective

(a) These regulations are established to effectuate and shall be applied to accomplish the general purposes of the New Jersey Housing and Mortgage Finance Agency including:

1. Assuring the availability of rental and owner occupied housing;
2. Stimulating the construction, rehabilitation and improvement of adequate and affordable housing in the State so as to increase the number of housing opportunities for New Jersey residents particularly those of low and moderate income;
3. Enhancing the production capacity of the private sector toward meeting the housing needs of other residents of New Jersey;
4. Assisting in the revitalization of the State's urban areas; and
5. Responding to changing housing demographic and economic circumstances for the development of innovative and flexible financing vehicles.

5:80-1.3 General definitions

"Act" shall mean the New Jersey Housing and Mortgage Finance Agency Law, N.J.S.A. 55:14K-1 et seq.

"Collateral" shall mean with respect to any Loan those securities, mortgages or other instruments defined as eligible pursuant to the terms of the Assignment of Collateral and Trust Agreement relating to such Loan.

"Collateral Requirement" shall mean, as of any date of calculation and with respect to any Loan, the amount at which Collateral securing such Loan is required to be maintained pursuant to the terms of the Assignment of Collateral and Trust Agreement relating to such Loan.

"Home Improvement Loan" shall mean an eligible loan as defined in the Act made for the rehabilitation or improvement of a residence.

"Home Improvement Loan Program Commitment" shall mean the aggregate unpaid principal amount of Home Improvement Loans which a Mortgage Seller offers to deliver and sell to the Agency and the Agency agrees to purchase, such sale and purchase to be made under a Note Purchase Agreement.

"Housing Project" or "Project" shall mean any work or undertaking other than a continuing care retirement community, whether new construction or rehabilitation which is designed for the primary purpose of providing rental housing of more than 25 dwelling units.

"Housing Sponsor" shall mean any person, partnership, corporation or association to which the Agency has made or proposes to make a loan, either directly or indirectly through an institutional lender, for a Housing Project.

"Loan" or "Loans" shall mean any loan or loans made by the Agency to a Mortgage Lender or Mortgage Lenders pursuant to Section 6 of the Act.

"Mortgage Purchase Agreement" shall mean an agreement, entered into between a Mortgage Seller and the Agency, under which the Mortgage Seller agrees to deliver and sell to the Agency and the Agency agrees to purchase Mortgage Loans.

"Mortgage Servicing Agreement" shall mean an agreement entered into between a Mortgage Seller or other person acceptable to the Agency, under which the Mortgage Seller or other person agrees to service the Mortgage Loans purchased by the Agency from such Mortgage Seller under a Mortgage Purchase Agreement.

"Note Purchase Agreement" shall mean an agreement, entered into between a Mortgage Seller and the Agency, under

which the Mortgage Seller agrees to deliver and sell to the Agency and the Agency agrees to purchase Home Improvement Loans.

"Notice of Acceptance" shall mean the Notice of Acceptance by the Agency to the Seller of an Application.

"Primarily Residential in Character" as set forth in N.J.S.A. 55:14K-3(e) shall mean:

1. With regard to an individual unit, structure, or property, that at least 60 percent of the net sheltered area, not including areas for circulation, utilities and common space, is or will be upon completion of scheduled improvements used exclusively as a residence for one or more persons; or

2. With regard to a Project or area, that at least 60 percent of the properties in the area or 60 percent of the floor area in the Project, not including areas for circulation, utilities, and open space, consists of units, properties, or structures devoted primarily to residential use.

"Single Family Mortgage Loan" shall mean any mortgage loan for a structure which contains no more than four dwelling units and may include a single dwelling unit within a condominium or cooperative apartment where at least 90 percent of said structure or single dwelling unit is devoted to residential use, and at least one such dwelling unit should be occupied by the Owner or Owners thereof.

"Single Family Home Improvement Loan" shall mean an eligible loan for the rehabilitation or improvement of a unit or structure which contains no more than four dwelling units where at least 90 percent of said structure or single dwelling unit is devoted to residential use, and at least one such dwelling unit should be occupied by the Owner or Owners thereof. Those areas which are non-residential in use shall not exceed those specified by the Federal Housing Administration Property Standards for one or two living units as in effect from time to time.

"Term Sheet" shall mean the statement of terms, constituting part of the Notice of Acceptance of a Commitment, governing the sale and purchase of Mortgage Loans pursuant to a Commitment.

5:80-1.4 Regulations regarding Housing Projects

(a) All Agency financing in connection with Housing Projects, including eligible loans and loans to lenders made with regard to Housing Projects, shall be subject to the regulations in Subchapters 2 through 9. Housing Projects may also be subject to regulations found elsewhere within this Chapter. The Regulations of Subchapters 2 through 9 shall not apply to:

1. The construction or rehabilitation of:
 - i. Continuing care retirement communities;
 - ii. Nonresidential facilities or structures (other than those permitted within a housing project);
 - iii. Boarding houses;
 - iv. Residential developments having less than 25 dwelling units; or

2. The improvement, acquisition, operation, maintenance or repair of Housing Projects or any other structure or improvement financed by the Agency (other than that determined by the Agency to constitute substantial rehabilitation). Notwithstanding the foregoing the Agency may require applicable provisions of N.J.A.C. 5:80-4 to apply to any such improvement, maintenance or repair, if it deems such application necessary; or

3. Any Housing Project for which construction or substantial rehabilitation commenced more than one year prior to the actual date of the Agency's having provided financing for the project.

SUBCHAPTER 2. ACTIONS REGARDING HOUSING SPONSORS

5:80-2.1 Rights of housing sponsors

(a) Wherever possible, the Agency will permit, provide for and encourage the right of local housing sponsors to exercise their own initiative and competence in the administration of their assets and the conduct and operation of housing projects, and exercise their rights and responsibilities to the fullest extent permitted by law.

(b) The provisions of the Act pertaining to the regulation and assumption of powers and duties of housing sponsors shall be for the purposes of protecting the collateral for any loan or loans; implementing or enforcing any condition, requirement or criterion for loans or any agreement between the housing sponsor and the Agency; securing the rights and remedies of lenders and bondholders; and protecting the interests of tenants at the projects.

5:80-2.2 Consultation with housing sponsor

(a) Prior to the adoption, amendment, or repeal of any regulation governing the operation of Agency-financed housing projects, the Agency shall:

1. Give housing sponsors 30 days notice regarding any intended action to either adopt, amend, or repeal a rule or regulation governing the operation of Agency-financed housing projects;

2. The 30 days notice shall consist of a clear and concise explanation of the purpose and effect of the intended action;

3. Any housing sponsor wishing to submit data, views, or arguments concerning the intended action may do so in writing not more than 30 days from the date of the notice of intended action;

4. The Agency will consider all submitted data, views, or arguments from housing sponsors before acting;

5. The Agency shall respond in writing to each housing sponsor submitting data, views, or arguments concerning the intended action. To satisfy this requirement, the Agency may send the housing sponsors the presentation that will be submitted to the Agency Board;

6. No regulation governing the operation of a housing project shall be effective unless adopted in substantial compliance with this policy;

7. Upon substantial compliance with this policy, the proposed regulation shall be submitted to the Agency Board for approval. Once the Board approves the regulation or rule, it will be submitted to the Office of Administrative Law for publication in the New Jersey Register.

(b) The Agency also shall give direct notice concerning the adoption of any rules and regulations to any interested party who annually files a request for such information with the Executive Director.

(c) Whenever feasible, the Agency will circulate to housing sponsors notices of proposed changes in Federal Regulations that would affect the operation of HMFA financed developments on which the Agency intends to reply. The sponsor may submit comments or opinions on any proposed changes to the Executive Director of the NJHMFA for possible inclusion in the Agency comments. All comments will be forwarded to the office or the individual that the Federal Government designates in the notice.

5:80-2.3 Temporary appointment of Agency representative to perform functions on behalf of housing sponsors

(a) The Agency will exercise its remedies and powers under N.J.S.A. 55:14K-7b(6) only with regard to material violations

and after reasonable notice and reasonable opportunity to correct the violation is provided to the housing sponsor in accordance with the procedures set forth below.

(b) General areas in which material violations could result in Agency action include:

1. A material violation by the housing sponsor of the terms of any mortgage, mortgage note or regulatory agreement between the Agency and the housing sponsor;

2. A material violation by the housing sponsor of an agreement with the municipality under which it has been granted tax exemption;

3. A material violation by the housing sponsor of the Act or any rules and regulations of the Agency;

4. A determination by the Agency that any loan or advance from the Housing Development Fund pursuant to N.J.S.A. 55:14K-29 is in jeopardy of not being repaid.

(c) Specific material violations of the Act shall include, but are not limited to the following events, which shall generally be sufficient to give rise to the exercise of remedies under N.J.S.A. 55:14K-7b(6) in accordance with the procedure noted in (e) below. The time periods specified here relate solely to initiating action under N.J.S.A. 55:14K-7b(6) and are in no way intended to waive or supercede any time period specified in any other contract, policy or procedure and all obligations of the housing sponsor and any rights and remedies of the Agency with regard thereto remain unchanged.

1. Violation of subsidy contract as declared by HUD which is not corrected to HUD's satisfaction within the time frame as established by HUD;

2. Failure to submit final cost certification within seven months of substantial completion of construction;

3. Failure to submit a rent determination and annual operating budget at least 30 days prior to the end of the fiscal year;

4. Failure to submit the proposed name of a qualified management firm at least 30 days prior to the end of an existing contract or 120 days prior to initial occupancy of the project;

5. Failure to submit an accountant engagement agreement at least 30 days prior to the end of the fiscal year and/or failure to submit the certified annual audit within five months after the close of the fiscal year;

6. Three months arrears of debt service;

7. Failure to maintain at required levels any reserve account required by the Agency in conjunction with the operation of the Project;

8. Failure to correct a physical condition which jeopardizes the safety of tenants or the public or the integrity of any primary building system;

9. Failure to pay any utility bill after a receipt of written notice indicating that service would be terminated;

10. Failure to pay any lien or judgement, including municipal liens, which could jeopardize the financial viability of the development.

(d) It is the obligation of the Agency to give written notice to a sponsor that a condition exists which is of sufficient gravity to warrant exercise of remedies, under N.J.S.A. 55:14K-7b(6). The Agency will provide written notice of the specific material violation(s) to the sponsor, and may suggest courses of action to correct the violation(s).

(e) The housing sponsor shall take the following corrective actions:

1. Within 15 days of the receipt of the notice described in (d) above, the sponsor shall submit a statement to the Director of Management of the Agency setting forth its proposal for curing the violations indicated and a definite time schedule for the corrective actions.

2. If the sponsor is unable to develop a statement within 15 days, it shall submit a written request for an extension of time to prepare the plan to the Director of Management within the 15 day period.

3. The Director of Management may grant extensions of time for up to an additional 30 days for submission of the statement outlining the actions that the sponsor intends to take.

4. During the time allowed for submission of the statement, the Agency staff shall be available to meet with the sponsor in order to assist him in the development of a program of corrective actions. If no proposal is submitted by the sponsor then the Director of Management shall propose a corrective plan to the sponsor.

5. Upon receipt of the proposal from the sponsor, the Director of Management may either accept the plan or suggest alternatives or modifications to the plan in writing to the sponsor.

6. If the sponsor is unwilling to accept the modifications or plan suggested by the Director of Management, then the sponsor may request in writing within 10 days that the matter be referred to the Executive Director of the Agency or his or her designee, for decision on the plan.

7. Once the commitments by the sponsor are accepted by the Agency, or an agreement is reached between the Agency and the sponsor, or a decision is made by the Executive Director, the sponsor shall immediately implement the corrective actions within the time period specified in the plan.

(f) Any violations of the corrective plan shall be subject to the following:

1. The Executive Director shall bring the matter of such failures and a recommendation of remedy to the Members of the Agency Board at the next public meeting scheduled to allow sufficient time for seven days written notice to the sponsor that the failure to implement or abide by the recommended corrective actions is being brought to the attention of the Members of the Agency Board and that suspension of the sponsor may be requested.

2. The Members shall hear the information provided by the Executive Director along with any information presented by the housing sponsor at a public meeting prior to taking any action pursuant to N.J.S.A. 55:14K-7b(6). The Members may, however, wish to discuss the matter among themselves at a session closed to the public if permitted by N.J.S.A. 10:4-1 et seq.

3. The decision by the Members of the Agency shall be final subject only to review by a court of competent jurisdiction.

(g) Pursuant to the Act, persons appointed to administer the affairs of the project after suspension of the housing sponsor shall only serve for a period co-existent with the duration of the original violation giving rise to the need for the corrections or until the Agency is assured in a satisfactory manner that the violation or violations of a similar nature will not recur. Upon correction of the violation in a reasonable and satisfactory manner, the housing sponsor may submit a request to the Agency for restoration of control back to sponsors. The Agency will respond to such request within 30 days. During that period in which the Agency is considering the housing sponsor's request, the term of the persons appointed to administer the affairs of the project will continue.

(h) The regulations in this subchapter are intended to be in addition to other powers and remedies which the Agency may have at law or by agreement and shall not be deemed to abridge any other rights or remedies of the Agency or the sponsor.

(i) Upon a vote by the members of the Agency Board that there is an immediate need to take action and a finding that failure to take immediate action could jeopardize the health and safety of tenants at the housing project or cause substantial harm to the financial viability or physical structure of the project, the Agency may waive the regulations set forth above and immediately implement appropriate action.

SUBCHAPTER 3. RETURN ON EQUITY

5:80-3.1 Authority

This subchapter is promulgated pursuant to authority of N.J.S.A. 55:14K-7a(6).

5:80-3.2 Housing projects prior to January 17, 1984

For all eligible loans for Housing Projects made by the Agency prior to January 17, 1984, the rate of return on investment which can be paid or earned by the owner of the property and improvements or its principals or stockholders shall not exceed eight percent per year on a cumulative but not compounded basis. This restriction shall apply for the full term of the Agency's loan and supply to return on investment earned or received upon construction and rehabilitation of the housing or from the operations of the housing or upon the sale, assignment or lease of the housing subject only to the applicable provisions, if any, of the Agency's regulations concerning the sale of projects owned by nonprofit sponsors and transfer of ownership interests.

5:80-3.3 Housing projects on or after January 17, 1984

(a) For each eligible loan made by the Agency on or after January 17, 1984 for a Housing Project, the Agency shall determine, at the time of initial mortgage closing, the investment made by the housing sponsor. Investment shall include: (1) actual cash or cash equivalent as determined by the Agency; (2) professional fees pledged toward approved project cost; (3) any grants and/or loans procured by the sponsor to the extent they are applied to Agency approved project costs and to the extent they are not repayable from project funds. Any additional cash contributions made by the housing sponsor subsequent to initial closing will also be recognized as part of this investment if such contributions were utilized for project costs approved by the Agency. The sponsor shall be entitled to return on its investment except for funds procured through grants or loans at rates established in accordance with (b) below. It shall earn a return on any cash portion of its investment from the date it is actually contributed and on the non-cash portion of its investment from the date it is utilized towards approved project costs.

(b) For Housing Projects which receive a loan from the Agency on or after January 17, 1984, the Agency shall fix, at the time of the making of the loan, the rate of return which may be earned or received by the owner on its investment on a cumulative but not compounded annual basis from the development, operation, sale, assignment or lease of the Housing Project according to the following schedule:

1. The Base Rate to be used in calculating the return on equity pursuant to 2 through 6 below, shall be equal to the rate being paid on 30-year treasury bonds at the time of the mortgage closing. This Base Rate will be determined by the Agency in its sole discretion using any reasonable source of information;

2. For units occupied by individuals or families who at the time of occupancy have a household income which is less than 50 percent of the median income for the area in which the project is located, the owner may receive a return on invest-

ment not to exceed the then applicable base rate plus six percent;

3. For units occupied by families or individuals who at the time of occupancy had a total household income of less than 80 percent of the median income for the area, the rate of return on investment may not exceed the base rate plus four percent;

4. For all other units financed by the Agency, the annual rate of return which may be paid or received by the owner shall not exceed the base rate plus two percent;

5. For developments which have a mix of units serving populations with an assortment of income ranges, the Agency shall determine the limit on the rate of return which may be earned by the owner by pro-rating the rate of return based upon the number of units devoted to the various income levels;

6. If the Agency determines that as the result of restrictions on development costs, rents or other factors, that the actual amount of return on equity which can be paid in any year will be significantly below that allowed by the Agency pursuant to 2 through 5 above, the Agency may set a return on equity limit which may be paid or earned on an annual, cumulative but not compounded basis, not to exceed the base rate plus 10 percent.

5:80-3.4 Waiver

If the Agency grants any waiver pursuant to N.J.A.C. 5:80-14 which by its nature affects a rate of return established by this subchapter, then the Agency in granting such waiver will establish a revised rate of return for any affected Project.

SUBCHAPTER 4. CONSTRUCTION COMPLETION GUARANTEES

5:80-4.1 Authority

This subchapter is promulgated pursuant to authority of N.J.S.A. 55:14K-5(g).

5:80-4.2 Security for completion

Except as noted in N.J.A.C. 5:80-4.5, for any Housing Project or for any construction contract in excess of \$100,000, or a lesser amount as determined by the Agency, the Agency shall receive security from individuals or institutions having sufficient net worth as reasonably determined by the Agency to provide such security, in an amount not less than 90 percent of the actual construction cost, as determined by the Agency.

5:80-4.3 Security held by Agency

The security shall remain in effect for at least two years from the date of final acceptance by the Agency, but the Agency may allow the amount of the security to be reduced to ten percent of the actual construction cost upon final completion as determined by the Agency.

5:80-4.4 Form of security

The security may be in the form of performance or payment bonds from qualified companies, cash or letters of credit posted by the contractor, owner, or any other source approved by the Agency, insurance provided by the Federal government, any properly qualified insurance company or any state or local government, or any grant or guarantee agreement provided by an agency or department of the State, local or Federal government.

5:80-4.5 Security for independently viable components

If the Agency determines that the Housing Project or other development to be financed is reasonably divisible into incre-

mental components which, upon completion, can function viably as independent economic units, the Agency may, upon a specific finding that it is fully protected for each of the incremental independently viable components, and all other incidental costs, require security in an amount less than 90 percent of the total construction cost. The Agency can accept less than 90 percent provided that there is minimal financial risk as determined by the Agency after considering such factors as, but not limited to, any costs in connection with an early bond redemption arising out of failure to complete the cost of all construction or infrastructure improvements necessary to commence and sustain operation; and the ability of the component part to amortize the mortgage indebtedness.

EDITOR'S NOTE: Subchapters 5 and 6 contain proposed amendments (additions shown in boldface thus; deletions shown in brackets [thus]).

SUBCHAPTER 5. TRANSFER OF OWNERSHIP INTERESTS

5:80-5.1 Definitions

(No change.)

5:80-5.2 General policy

(No change.)

[5:80-5.3 Conversions and applicable regulations

There are separate regulations at N.J.A.C. 5:80-2 dealing with transfers involving conversions ("conversion regulations"). The conversion regulations shall be applicable to transfers involving conversions unless the Agency determines that such treatment would jeopardize the viability of the housing project, in which case the Agency, in its discretion, may apply these regulations to such conversion. In the event, however, of any conflict or inconsistency between the provisions of these regulations and N.J.A.C. 5:80-2 as it applies to such conversion, the provisions of N.J.A.C. 5:80-2 shall control.]

5:80-5.3 Applicability of transfer of ownership interests regulations

(a) There are several circumstances in which a limited dividend corporation or association may decide to sell part or all of its interest. Such circumstances include, but are not limited to, instances where the financial benefits to the Partnership may have been exhausted, a financially troubled project may need a mechanism to raise capital, the owner of a healthy project may be seeking liquidity or where one of the limited partners died or defaulted and a replacement is necessary. The regulations in this subchapter are applicable in their entirety to all proposed changes or transfers of partnership interests except the following:

1. Changes or transfers which are fully encompassed by the separate regulations involving nonprofit conversions (N.J.A.C. 5:80-6). The conversion regulations shall be applicable to transfers involving conversions unless the Agency determines that such treatment would jeopardize the viability of the housing project, in which case the Agency, in its discretion, may apply these regulations to such conversion. In the event, however, of any conflict or inconsistency between the provisions of these Regulations and N.J.A.C. 5:80-6 as it applies to such conversion, the provisions N.J.A.C. 5:80-6 shall control;

2. Changes or transfers which represent the first sale of limited partnership interests in order to provide syndication proceeds on nonprofit conversions provided such sale occurs within 9 months of the conversion closing;

3. Changes or transfers for projects which had profit motivated ownership status at initial mortgage closing and where such changes or transfers occur within three months of the issuance of the Certificate of Occupancy.

(b) Changes or transfers which fall within 2 and 3 above shall be governed by the general policy as set forth in N.J.A.C. 5:80-5.2 as well as the required documents submission set forth in N.J.A.C. 5:80-5.6 for a modified review.

5:80-5.4 Procedure
(No change.)

5:80-5.5 Scope of review
(No change.)

5:80-5.6 Required documents

(a) Required documents for a modified review must be satisfactory to the Agency and include at least the following:

1. (No change.)
2. [Previous Participation Certificates (Form 2530) for buyer;] **Complete description as to the nature of the transition;**
3. [Experience questionnaire for buyer;] **Copy of Partnership Certificate with proposed revisions;**
4. [Buyer's certified financial statements;] **Any other documents determined by the Agency to be necessary.**
5. Legal opinion from seller's and/or buyer's attorney;
6. Complete description as to the nature of the transaction.]

(b) The following additional documents [shall be subject] **may be required** for full review.

1. [Appraisal of property;] **Previous Participation Certificates (form 2530) for buyer;**
2. [Physical inspection report approved by the Agency;] **Experience questionnaire for buyer;**
3. [Financial report on project operations approved by the Agency] **Buyer's certified financial statements;**
4. **Legal opinion from seller's attorney and, if requested by the Agency, for buyer's attorney;**
5. **Appraisal of property;**
6. **Physical inspection report approved by the Agency;**
7. **Financial report on project operations approved by the Agency.**

5:80-5.7 through 5.11 (No change.)

[SUBCHAPTER 2. SALE OF PROJECTS OWNED BY NONPROFIT CORPORATIONS TO LIMITED PARTNERSHIPS]

SUBCHAPTER 6. SALE OF PROJECTS OWNED BY NONPROFIT CORPORATIONS TO LIMITED PARTNERSHIPS

[5:80-2.1] 5:80-6.1 Definitions

...
 "Commitment Letter" means the initial proposal or letter of intention submitted by the prospective purchaser which outlines the parameters of the transaction and the offer.
 ...

[5:80-2.2] 5:80-6.2 Procedures
(a)-(d) (No change.)

(e) Within 21 days of the Agency's approval of the proposed sale of the project, the prospective purchaser shall deliver to the Agency security, in the form of cash, bond or letter of credit, in an amount equal to five percent of the cash proceeds. This security will be held by the Agency until the purchaser has fulfilled its obligations under the [offer and

purchase agreement] **Commitment Letter**, subject to terms and conditions approved by the Agency. If the purchaser does not fulfill its obligations in accordance with the [purchase agreement] **Commitment Letter** as approved by the Agency within six months of the approval, then the security funds shall be deposited by the Agency into a Project Subsidy Reserve or Development Cost Escrow established in the name of the nonprofit. If the proposed purchaser demonstrates its willingness and ability to perform its obligations in accordance with the [purchase agreement] **Commitment Letter**, and the transaction is not completed within six months of the Agency's approval, the security shall be returned to the proposed purchaser except for an amount not to exceed \$15,000 to reimburse the nonprofit for its actual costs incurred in the attempted conversion.

(f) (No change.)

5:80-2.3 to 5:80-2.11 recodified as 5:80-6.3 through 6.11
(No change in text.)

[5:80-2.12 Waivers] **(Reserved)**

[Any party desiring a waiver or release from the express provisions of these regulations is invited to submit a written request to the Agency to the attention of the Director of Policy Development. Waivers may be granted only by resolution of the members of the Agency upon a demonstration that the primary purpose of these regulations, for example, the preservation and promotion of housing from senior citizens and families of low or moderate income, is being met.]

SUBCHAPTER 7. TENANT SELECTION STANDARDS

(See adoption notice in this issue of the Register.)

EDITOR'S NOTE: Subchapter 8 contains proposed amendments (additions shown in boldface **thus**; deletions shown in brackets [thus]).

[SUBCHAPTER 3. INCOME LIMITS] SUBCHAPTER 8. OCCUPANCY REQUIREMENTS REGARDING INCOME

[5:80-3.1] 5:80-8.1 Maximum gross aggregate family income
(a)-(b) (No change.)

(c) Notwithstanding (a) and (b) above, for Housing Projects which receive a loan from the Agency on or after January 17, 1984, admission to Housing Projects shall be limited to families whose gross aggregate family income at the time of admission does not exceed six times the annual rental or carrying charges approved by the Agency except for families with three or more dependents whose incomes may be up to seven times the annual rental or carrying charge. Annual rental or carrying charges may include the value or cost of heat, light, water, sewerage, parking facilities and cooking fuel which are provided to the family in connection with occupancy of a dwelling. In addition, carrying charges include rent normally associated with rental projects as well as other costs associated with cooperative apartments. There may also be included an amount equal to 6 percent of the original cash investment of the family in a mutual or cooperative housing project and the value or cost of repainting and replacing any fixtures or appliances.

(d) Notwithstanding (a), (b) and (c) above, when a Housing Project has received a loan from the Agency, on or after January 17, 1984, that is insured or guaranteed by the United States of America or any agency or instrumentality thereof, the Agency may adopt the admission standards for such Project then currently prescribed utilized or required by the guarantor or insurer.

(e) Notwithstanding (a), (b), (c) and (d) above, the Agency, in conjunction with any financing on or after January 17, 1984, may impose income limits at levels lower than those set forth above.

(f) In addition (a), (b), (c), (d) and (e) above, any appropriate regulations and requirements of the Department of Housing and Urban Development shall be applied to tenants receiving HUD subsidies.

5:80-8.2 Occupancy requirements

For Housing Projects financed by the Agency with the proceeds of bonds where the interest is exempt from Federal taxation, and where the Project must contain a certain number of units to be occupied by individuals of low and moderate income pursuant to Section 103(b)(4) of the Internal Revenue Code, at all times during the qualified project period, as defined in Section 103(b)(12)(b), at least 23 percent of the units shall be occupied by individuals of low and moderate income as defined in Section 103(b)(12)(c), except in the case of target area projects where at least 18 percent of the units shall be occupied by individuals of low and moderate income. In allocating the units in a project which shall be occupied by individuals of low and moderate income, the distribution of low and moderate income units among the different sized units shall reflect the same percentage distribution as the number of different sized units bears to the total number of units. A greater percentage of the low and moderate income units may, however, be allocated to the larger units. If there are changes in Federal law or in the internal revenue code or regulations with regard to the above-referenced matter, the Agency may adjust the above requirements accordingly.

5:80-8.3 Recertification of income

The Agency will adopt reasonable procedures regarding the certification or recertification of income including, but not limited to, requiring tenants to provide copies of Federal income tax returns and other documents. If the tenant fails to provide information required by the Agency or otherwise fails to comply with procedures established by the Agency to determine income eligibility, the tenant may be subject to eviction or the imposition of surcharges pursuant to N.J.S.A. 55:14K-8(b).

[SUBCHAPTER 1. RENTERS] SUBCHAPTER 9. RENT INCREASES

5:80-1.1 through 1.13 recodified as 5:80-9.1 through 9.13 (No change in text.)

EDITOR'S NOTE: Subchapters 10, 13 and 14 are proposed new rules.

SUBCHAPTER 10. LOANS TO LENDERS FOR SINGLE FAMILY MORTGAGE LOANS

5:80-10.1 Authority

In accordance with N.J.S.A. 55:14K-11(b), the Agency may make loans to institutional lenders in order to furnish funds to make eligible loans, provided such loans are authorized by Federal Taxation Laws.

5:80-10.2 Requests for loans

(a) The Agency shall provide a loan application to each mortgage lender located within any particular area of the State for which the Agency has determined that there is an inadequate supply of single family mortgage loans. Alternatively, the Agency may notify mortgage lenders of a proposed

loan program and provide a loan application only to those mortgage lenders requesting the same. Such application shall be sent to mortgage lenders at least 14 days in advance of the date all such applications must be submitted to the Agency. The loan application shall be in the form prescribed by the Agency and shall contain, among other things:

1. Provision for the mortgage lender to State the maximum amount of loan requested;

2. The date by which the loan application must be submitted so as to be considered for an allocation of loan funds and the date upon which loans will be awarded by the Agency;

3. Provision for the mortgage lender to furnish information regarding the mortgage lender's deposit and mortgage activity during a time period prescribed by the Agency;

4. The terms and conditions of the loan including, among others, the maximum interest rate, the term, the percentage of the principal to be paid each year or the manner of determining principal payments, and the prepayment terms;

5. The terms and conditions of the reinvestment of the loan proceeds, including:

- i. The type of single family mortgage loan;
- ii. Maximum sales price or loan amounts;
- iii. Minimum or maximum mortgage terms;
- iv. Maximum income levels for owners or occupants;
- v. Location;
- vi. Loan to ratio value; and
- vii. Number of units;

6. The schedule of any fees and charges of the Agency with respect to loans; and

7. An undertaking by the mortgage lender to take any loan granted by the Agency up to the amounts specified in the application and providing for liquidated damages or other remedies in the event that the mortgage lender does not take such loan.

5:80-10.3 Allocation of loans

In allocating funds available for loans, the Agency shall consider, among other things, the credit worthiness of the mortgage lender submitting loan applications, the adequacy of supply of single family mortgage loans in the areas in which the mortgage lender operates, and the mortgage and deposit activity reported in the loan application. Allocations of loan funds by the Agency shall be conclusive.

5:80-10.4 Award of loans

The amount of loan awarded to each mortgage lender shall be promptly confirmed by the Agency to such Mortgage Lender. Thereupon each such mortgage lender shall be obligated to take such loan in accordance with the terms thereof. The obligations of the Agency to make any loan or loans shall be, in each case, subject to the sale and issuance of bonds of the Agency within the period prescribed by the loan application in an amount sufficient to make the loans which shall be awarded.

5:80-10.5 Interest and other terms of loan

Loans shall bear interest at a rate which shall not exceed the maximum rate of interest specified in, or determined in accordance with the provisions of the loan application. Other terms of the loans shall comply with the loan application, the Act and the provisions of any contract with holders of outstanding bonds of the Agency. Each loan shall be evidenced by a note in the forms prescribed by the Agency.

5:80-10.6 Collateral for loans

(a) As security for the payment of the principal of an interest on each loan to a mortgage lender, collateral in an

amount at least equal to the collateral requirement shall be assigned in trust to the Agency and maintained by such mortgage lender, all in accordance with an assignment of collateral and trust agreement in the form prescribed by the Agency which shall be entered into by the mortgage lender with the Agency at such time as the Agency shall require.

(b) The collateral for each loan to a mortgage lender may be held by such mortgage lender in accordance with and subject to the terms of the Act and said assignment of collateral and trust agreement.

(c) Each mortgage lender shall service or cause to be serviced and preserve the collateral securing its loan or loans from the Agency at its own expense in accordance with said assignment of collateral and trust agreement.

(d) The collateral shall be valued periodically by the Agency or a person or institution designated by the Agency in accordance with the provision of the assignment of collateral and trust agreement relating to such collateral.

5:80-10.7 Application of loan proceeds; restriction as to new residential loans

(a) The terms of each loan shall require that the proceeds thereof paid to the mortgage lender be segregated from its other funds, and that such mortgage lender shall, within the time period specified in the loan agreement relating to such loan, make and disburse from such loan proceeds, single family mortgage loans to individuals only. The Agency may require that such new single family mortgage loans be restricted to certain areas of the State if the Agency determines that such areas are in particular need of loan funds.

(b) Each such single family loan shall comply with such terms and conditions as shall be prescribed by the Agency in connection with the loan application therefor.

(c) The aggregate principal amount of such single family mortgage loans made by a mortgage lender from such loan proceeds shall at least equal the amount of such loan proceeds. All such single family mortgage loans shall be made pursuant to written commitments issued subsequent to the date of the submission by the mortgage lender of its loan application. Such written commitments shall specify the maximum interest rate which will be borne by the single family mortgage loan and must state that such loan covered by the commitment is to be funded out of the proceeds of a loan from the Agency. Reports by mortgage lenders as to the application of loan proceeds shall be made at such time and in such manner as shall be provided by the terms of the loan.

(d) Such loans may be made by the mortgage lender either directly or through one or more agents. All loans made by a mortgage lender through an agent shall be made pursuant to a written agreement between such mortgage lender and such agent which agreement shall have been approved in writing by the Agency. The Agency may decline to approve any such agreement for any reason which it, in its sole discretion, deems sufficient. The Agency may require any such agreement to provide, among other things, the following:

1. Such agreement shall not take effect until the approval of the Agency is endorsed on an executed copy thereof;

2. All single family mortgage loans made thereunder shall be made in the name of the mortgage lender pursuant to written commitments issued in the name of the mortgage lender subsequent to the date of the Agency's approval of such agreement;

3. The Agency shall have the right to inspect the books and records of the agent appointed pursuant to such agreement at any and all reasonable times;

4. No compensation or fees of any kind shall be paid to or charged by the agent in connection with any single family mortgage loan made pursuant thereto except as therein specifically set forth;

5. All commitments issued by an agent shall be subject to the same requirements as hereinabove set forth for mortgage lenders.

5:80-10.8 Restrictions on return realized by mortgage lenders

The Agency may in the case of loans to be made from any issue of bonds of the Agency establish maximum rates of return which may be realized by any mortgage lender or any agent of any mortgage lender from the single family mortgage loan made from the proceeds of loans and may regulate, limit, restrict, or prohibit the charge or collection of any commitment fee, premium, bonus, points or other fees in connection with the making of any single family mortgage loan.

5:80-10.9 Fees and charges of the Agency; loan account

(a) An initial fee may be established by the Agency in connection with loans to be made from the proceeds of any issue of Agency bonds, and collected by the Agency as and for a discount below par with respect to each such loan. The initial fee shall be for the purpose of reimbursing the Agency for all or part of its reasonably expected administrative costs of issuing such Agency bonds and making the loans.

(b) The Agency may establish such other premiums, penalties, fees and charges, as it in its sole discretion shall determine to be necessary in connection with the prepayment of, or any default on, or any default under any agreements relating to, any loan or loans.

5:80-10.10 Purchase of Agency bonds

No mortgage lender (including any related person thereof, as defined in Section 103(b)(6)(C) of the Internal Revenue Code) shall, pursuant to any arrangement, formal or informal, purchase the bonds of the Agency in an amount related to the amount of the Agency loans to be made to such mortgage lender (or related person, as aforesaid) by the Agency.

SUBCHAPTER 11. (RESERVED)

SUBCHAPTER 12. (RESERVED)

SUBCHAPTER 13. MAKING OR PURCHASING ELIGIBLE LOANS FOR SINGLE FAMILY MORTGAGES

5:80-13.1 Authority

In accordance with N.J.S.A. 55:14K-12c, the Agency may make, purchase or participate in the purchase of eligible loans in order to encourage the development, operation, construction, improvement and rehabilitation of affordable housing.

5:80-13.2 Commitment applications

(a) The Agency shall make available to all mortgage sellers who request a form of commitment application for each proposed program to purchase single family loans at least 14 days in advance of the date all such applications must be submitted to the Agency. The commitment application shall be in the form prescribed by the Agency and shall contain, among other things:

1. Provision for the mortgage seller to state the maximum principal amount of single family mortgage loans which the mortgage seller offers to the Agency;

2. The date by which the commitment application must be submitted to the Agency in order to be considered for an allocation of funds and the date by which commitments will be accepted by the Agency;

3. Forms of the proposed mortgage purchase agreement and mortgage servicing agreement;

4. Provision for the mortgage seller to furnish information regarding its mortgage loan origination and servicing activities during a time period to be prescribed by the Agency;

5. Provision for liquidated damages to be paid or other penalties to be incurred by the mortgage seller in the event that it fails to execute or perform under the mortgage purchase agreement for the commitment accepted by the Agency; and

6. Provision for payment by the mortgage seller of a commitment fee in an amount prescribed by the Agency as consideration for the Agency's acceptance of the commitment application and agreement to purchase mortgage loans from the mortgage seller.

5:80-13.3 Allocation of commitments

In allocating funds available to meet the commitments requested by mortgage seller, the Agency shall consider, among other things, the amounts of the commitments requested by the various mortgage sellers, the adequacy of supply of single family mortgage loans in the areas in which the mortgage sellers propose to originate mortgage loans, the financial strength and stability of the mortgage seller, the mortgage loan originating and servicing activity reported in the commitment application and the ability of the mortgage sellers to originate and/or service single family mortgage loans under the terms and conditions of the mortgage purchase agreement and the mortgage servicing agreement.

5:80-13.4 Execution of mortgage purchase agreement, mortgage servicing agreement; Term Sheet; Notice of Acceptance

The Agency and each mortgage seller will enter into a Mortgage Purchase Agreement and Mortgage Servicing Agreement stating the conditions under which sellers will originate and the Agency will purchase mortgage loans financed under this Section. The Agency will provide a Term Sheet for each mortgage program which shall set forth the terms of all loans, mortgage delivery period and other requirements; all loans originated under a commitment allocation must conform to the requirements of the Term Sheet. The amount of the allocation provided to each mortgage seller for each program shall be set forth in a Notice of Acceptance.

5:80-13.5 Eligible neighborhoods

The Agency may designate special areas of the State in which the purchase of mortgage loans by the Agency will best effectuate the general purposes of the Act and the objectives of expansion of supply of funds in the State available for single family mortgage loans, provision of additional housing needs to remedy the shortage of adequate housing in the State and elimination of substandard dwellings. If the Agency makes such a designation, special allocations and conditions may be imposed or waived for single family mortgage loans in these areas. The Agency may set limitations on the principal amounts of a mortgage loan or upon the incomes of homebuyers in any area to effectuate the purposes of the Act.

5:80-13.6 Regulation of points charged by mortgage sellers

The Agency may regulate, limit, restrict or prohibit the charge or collection of any commitment fee, premium, bonus, points or other fees in connection with the origination of

mortgage loans by mortgage seller to be purchased by the Agency.

5:80-13.7 Refinancing of pre-existing mortgage loans

(a) The Agency shall not acquire any mortgage loans made for the purpose of refinancing pre-existing mortgage loans. However, a mortgage loan made by a mortgage seller to finance the substantial rehabilitation of property upon which there is a pre-existing mortgage loan may include the refinancing of the pre-existing mortgage loan and still qualify as a mortgage loan under the following conditions:

1. At least 50 percent of the proceeds of the mortgage loan made by the mortgage seller shall be used to pay for labor and materials used to rehabilitate the property;

2. The mortgage loan shall be made only to a person determined in advance by the Agency to be a person of low or moderate income;

3. The economic facts and circumstances of the mortgagor and the property are such that the rehabilitation could not have been financed by other means;

4. The mortgage seller delivers to the Agency a certificate executed by the mortgage seller certifying that it reasonably believes, based upon prior investigation, that the conditions above have been met and that the refinancing of the pre-existing mortgage loan is incidental and necessary to the purpose of accomplishing the rehabilitation of the property and stating the facts and circumstances upon which the determination in 3. above was made; and

5. The executive director of the Agency determines and certifies that the facts and circumstances in the mortgage seller's certificate support the conclusion that the refinancing of the pre-existing mortgage loan is incidental and necessary to the purpose of accomplishing the rehabilitation of the property.

5:80-13.8 Purchase of Agency bonds

No mortgage seller (including any related person thereof, as defined in Section (103)(b)(6)(C) of the Internal Revenue Code) shall, pursuant to any arrangement, formal or informal, purchase the bonds of the Agency in an amount related to the amount of the mortgage loans to be purchased from such mortgage seller (or related person, as aforesaid) by the Agency.

5:80-13.9 Return on equity for eligible loans

For each eligible loan made for owner-occupied structures of four dwelling units or less, there is no general restriction on the rate of return which the owner may receive on its investment whether from rental of the other units in the structure or on sale of the property. However, the Agency may establish limitations on the rate of return on investment for owner-occupied, one to four family units, either at the time of the making of the original loan or upon the sale, of all or a portion of the property and improvement, upon a finding that such restrictions are necessary to assure the continued use of the property for individuals of low or moderate income.

SUBCHAPTER 14. MAKING OR PURCHASING ELIGIBLE LOANS FOR SINGLE FAMILY HOME IMPROVEMENT

5:80-14.1 Commitment applications

(a) The Agency shall make available to all mortgage sellers who so request a form of single family commitment application for each proposed program to purchase single family home improvement loans at least 14 days in advance of the date all such applications must be submitted to the Agency.

The single family commitment application shall be in the form prescribed by the Agency and shall contain, among other things:

- 1. Provision for the mortgage seller to state the maximum principal amount of home improvement loans which the mortgage seller offers to the Agency;
- 2. The date by which the commitment application must be submitted to the Agency in order to be considered for an allocation of funds and the date by which program commitments will be accepted by the Agency;
- 3. A form of the proposed note purchase agreement to be executed by the mortgage seller; and
- 4. Provision for the mortgage seller to furnish information regarding its residential loan origination activities during a time period to be prescribed by the Agency.

5:80-14.2 Allocation of commitments

(a) In allocating funds available to meet the commitments requested by mortgage sellers, the Agency shall consider, among other things:

- 1. The amounts of the program commitments requested by the various mortgage sellers;
- 2. The adequacy of supply of affordable single family home improvement loans in the areas in which the mortgage seller proposes to originate single family home improvement loans;
- 3. The financial strength and stability of the mortgage seller;
- 4. The residential loan originating activity reported in the commitment application and the ability of the mortgage seller to originate single family home improvement loans under the terms and conditions of the note purchase agreement.

5:80-14.3 Execution of note purchase agreement

Upon notice of acceptance by the Agency to a mortgage seller of all or a portion of the home improvement loan program commitment requested by it, the Agency shall specify the date by which the Agency shall execute the note purchase agreement executed by the mortgage seller.

5:80-14.4 Unsecured home improvement loans

Home improvement loans which are not secured by a mortgage on the property being improved or rehabilitated shall be limited to loans specified in the Term Sheet for each Home Improvement Loan Program and for which the payment of the principal and interest thereon is fully insured under the Federal Housing Administration Title I Property Improvement Loan Program.

5:80-14.5 Eligibility requirements

The Agency may designate income and other limitations with respect to persons eligible to receive single family home improvement loans and with respect to the use of proceeds of single family home improvement loans by such persons, which limitations may vary according to geographical area, in order that the purchase of single family home improvement loans by the Agency shall best effectuate the general purposes of the Act and the objectives of expansion and the supply of funds in the State available for single family home improvement loans, provisions of additional housing needed to rem-

edy the shortage of adequate housing in the State and elimination of substandard and energy inefficient dwellings. The Agency may set limitations on the principal amounts of a single family home improvement loan to effectuate the aforesaid purposes of the Act.

5:80-14.6 Regulations of points charged by mortgage sellers

The Agency may regulate, limit or prohibit the charge or collection of any commitment fee, premium, bonus, points or other fees in connection with the origination of single family home improvement loans by Mortgage Seller to be purchased by the Agency.

5:80-14.7 Refinancing of pre-existing debt

The Agency shall not acquire any single family home improvement loans made for the purpose of refinancing pre-existing debt.

5:80-14.8 Purchase of Agency bonds

No mortgage seller (including any related person thereof, as defined in Section 103(b)(6)(C) of the Internal Revenue Code) shall, pursuant to any arrangement, formal or informal, purchase the bonds of the Agency in an amount related to the amount of the home improvement loans to be purchased from such mortgage seller (or related person, as aforesaid) by the Agency.

SUBCHAPTER 15. (RESERVED)

SUBCHAPTER 16. (RESERVED)

SUBCHAPTER 17. PREVAILING WAGES (RESERVED)

[SUBCHAPTER 4.] SUBCHAPTER 18. DEBARMENT AND SUSPENSION FROM NJHFA CONTRACTING

5:80-4.1 through 5:80-4.11 recodified as 5:80-18.1 through 5:80-18.11

(No change in text.)

EDITOR'S NOTE: Subchapter 19 is a proposed new rule.

SUBCHAPTER 19. WAIVERS

5:80-19.1 Waivers

Any party desiring a waiver or release from the express provisions of any of the regulations in this chapter may submit a written request to the Agency to the attention of the Executive Director. Waivers may be granted only by the Agency Board where such waiver would not contravene the provisions of N.J.S.A. 55:14K-1 et seq. and upon a finding that, in granting the waiver, the Board will be promoting the statutory purposes of the Agency.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 19:1-1 through 19:1-5.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Endangered and Nongame Wildlife

Proposed Amendments: N.J.A.C. 7:25-4.2, 4.14 and 4.17

Authority: N.J.S.A. 13:1B-3 and 23:2A-1 et seq.
DEP Docket No. 006-85-01.
Proposal Number: PRN 1985-126.

Submit comments by April 3, 1985 to:
JoAnn Frier-Murza, Program Manager
Endangered and Nongame Species Program
Division of Fish, Game and Wildlife
Department of Environmental Protection
CN 400
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendments provide for the suspension of the Permit for Possession of Nongame or Endangered Species upon first violation, and revocation of the permit upon subsequent violation(s), of the conditions contained in the permit and/or the regulations appearing in N.J.A.C. 7:25-4. In addition, the applicability of N.J.A.C. 7:25-4.17 to indigenous endangered species is clarified, by a title change to include endangered species as well as nongame species.

Social Impact

It is anticipated that the affected permit holders, who are sponsored by recognized scientific institutions, zoological societies, or similar accredited organizations will have greater incentive to comply, and therefore will be more likely to comply, with these regulations because provisions for suspension and revocation will be more stringent. The uncertainty as to the applicability of N.J.A.C. 7:25-4.17 to endangered species is removed.

Economic Impact

Full compliance with permit conditions and these regulations would result in increased costs only to those permit holders who would otherwise violate the conditions and regulations, but who will have added incentive to comply due to the more stringent provisions for suspension and revocation in the proposal. No added economic costs to the department are anticipated.

Environmental Impact

It is anticipated that increased compliance with the permit conditions and subchapter 4 regulations, as well as clarification of the scope of N.J.A.C. 7:25-4.17, will further the department's goals of improved management and protection of the affected wildlife species.

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

7:25-4.2 Permit required

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

(c) **The department may suspend the permit described in (a) above for up to six months upon the violation of any permit condition or any regulations appearing at N.J.A.C. 7:25-4. The department may revoke the permit described in (a) above upon finding in any five-year period two or more violations of any permit condition or any regulations appearing at N.J.A.C. 7:25-4. No permit shall be issued to the violator within two years from the date of the second violation, or within three years from the date of the third or subsequent violation.**

1. **The violator may request a suspension or revocation hearing, as the case may be, in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules of Practice, N.J.A.C. 1:1-1 et seq.**

2. **The request for suspension or revocation hearing must be received in writing by the department within 20 days from the notice of intent to suspend or revoke the permit.**

7:25-4.14 Requirements for possession of endangered wildlife species

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

(f) **The department may suspend the permit described in (a) above for up to two years upon the violation of any permit condition or any regulations appearing at N.J.A.C. 7:25-4. The department may revoke the permit described in (a) above upon finding in any five-year period two or more violations of any permit condition(s) or any regulations appearing at N.J.A.C. 7:25-4. No permit shall be issued to the violator within two years from the date of the second violation, or within three years from the date of the third or subsequent violation.**

1. **The violator may request a suspension or revocation hearing, as the case may be, in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules of Practice, N.J.A.C. 1:1-1 et seq.**

2. **The request for suspension or revocation hearing must be received in writing by the department within 20 days from the notice of intent to suspend or revoke the permit.**

7:25-4.17 Defining status of indigenous nongame and endangered wildlife species of New Jersey

(a) The following table defines the status of indigenous nongame **and endangered** wildlife species of New Jersey:

...

**DIVISION OF WASTE MANAGEMENT
BOARD OF PUBLIC UTILITIES**

Proposals numbered PRN 1985-123 and 124 are jointly authorized by

Robert E. Hughey, Commissioner,
Department of Environmental
Protection, and Board of Public
Utilities, Barbara A. Curran,
President.

Submit comments by April 3, 1985 to:

Dave Bosted
Office of Regulatory Services
Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

(a)

**Interdistrict and Intradistrict Solid Waste
Flow**

**Joint Proposed Amendment: N.J.A.C.
7:26-6.5**

Authority: N.J.S.A. 13:1B-3, 13:1E-6, 13:1E-23, and
48:13A-1 et seq.
DEP Docket No.: 010-85-02.
Proposal Number: PRN 1985-123.

A **public hearing** concerning this proposal will be held at
7:30 P.M. on March 21, 1985 at:

Clinton Township Municipal Building
West Street
Annandale, New Jersey 08801

The agency proposal follows:

Summary

The Department of Environmental Protection (DEP) and the Board of Public Utilities (BPU) are proposing to amend the waste flow rules, N.J.A.C. 7:26-6.5, to direct waste types 10, 13, 23, 25, and 27 generated within Hunterdon County municipalities to the Hunterdon County transfer station, facility number 1006B, located in Clinton Township, Hunterdon County, prior to disposal at facilities currently specified by the DEP and the BPU. This rule change is being proposed to ensure that collector/haulers will utilize the transfer station which shall be owned by Hunterdon County, but operated by a private concern.

Social Impact

A positive social impact will result from the direction of Hunterdon's waste to the transfer station in Clinton Township. The public will benefit from having all waste transported to one site, which is planned to safely receive and process it, and by equalization of disparities in disposal costs.

Economic Impact

The proposed tipping fee (cost for disposal per cubic yard/ton of solid waste) at the transfer station reflects an estimated \$8-9 increase in disposal costs per ton which is largely offset by reduced hauler costs. These savings in hauler costs reflect shorter distance, less labor, and reduced maintenance costs. These may vary among haulers depending upon their route location and size of their trucks. A slight raise in hauler tariff (the charge to the customer), may be justified the first year of

operation but contractual agreements should stabilize costs over the life of the five year contract. Therefore, the economic impact of the proposed redirection may vary depending upon the municipality. There will be a long term commitment of land use at the site of the transfer station.

Environmental Impact

The direction of waste to the transfer station will result in a positive environmental impact. At present, most of Hunterdon County's solid waste is transported significant distances in smaller collection vehicles to disposal sites in Pennsylvania. By utilizing a transfer station, fewer trucks will be making the trip to the disposal sites, thereby impacting less upon the environment. Less air pollution and petroleum consumption should result from the redirection.

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

7:26-6.5 District waste flow planning requirements and disposal facility designations.

(No change.)

(a)-(j) (No change.)

(k) Waste flows within, into and out of the Hunterdon County District:

1.-2. (No change.)

3. All waste types 10, 13, 23, 25, and 27 generated from within Hunterdon County municipalities shall be transported to the Hunterdon County transfer station, facility number 1006B, located in Clinton Township, Hunterdon County, prior to disposal at facilities specified above.

(l)-(v) (No change.)

(b)

**Interdistrict and Intradistrict Solid Waste
Flow**

**Joint Proposed Amendment: N.J.A.C.
7:26-6.5**

Authority: N.J.S.A. 13:1B-3, 13:1E-6, 13:1E-23 and
48:13A-1 et seq.
DEP Docket No.: 09-85-02.
Proposal Number: PRN 1985-124.

A **public hearing** concerning this proposal will be held at
7:30 P.M. on March 19, 1985 at:

2nd Floor Meeting Room
Atlantic County Library
2 South Farragut Avenue
(Main & Farragut)
Mays Landing, New Jersey 08330

The agency proposal follows:

Summary

The Department of Environmental Protection (DEP) and the Board of Public Utilities (BPU) are proposing to amend the waste flow rules, N.J.A.C. 7:26-6.5, to direct up to 12 tons per day of commercial, institutional (type 10) and industrial (type 27) solid waste generated from the Atlantic County Community College and the Atlantic County Vocational Technical School (both located in Hamilton Township) to the Atlantic County Resource Recovery Facility in Hamilton Township. The Resource Recovery Facility will incinerate this

waste to provide heating and cooling for the Atlantic County Correctional Facility.

Social Impact

The public will benefit from construction of the Resource Recovery Facility in that solid waste now landfilled at Pinelands Park (formerly Lee's Gravel Pit) will provide a low-cost source for heating and cooling the County Correctional facility and reduce the dependency upon fossil fuels. Also, by successfully operating a small-scale (12 tons per day) facility, such as this one, public interest and support for a regional Resource Recovery Facility will be enhanced.

Economic Impact

The solid waste to be diverted to the County facility is presently disposed at the Pinelands Park Landfill. An adverse impact will result from the redirection to the owner/operator of that facility since a decrease in loading, although a small decrease, will occur. However, a positive economic impact will result to the collector/haulers and to generators of the waste since travel distance to the Resource Recovery.

Facility is less than to Pinelands Park and tipping fees (cost for disposal per cubic yard/ton of solid waste) at the facility are anticipated to be lower than those at the landfill.

A savings to Atlantic County will be realized through utilization of solid waste as a fuel instead of more costly fossil fuels.

Environmental Impact

A positive environmental impact should result from the redirection of wastes away from Pinelands Park Landfill in that reducing the quantity of waste disposed at the facility, the risks of adverse effects of land disposal upon groundwater quality are reduced.

The proposal will encourage the DEP's long-range goal of having each county recycle as much of its waste as possible, and will reduce the volume of landfill wastes.

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

7:26-6.5 District waste flow planning requirements and disposal facility designations

Due to the lack of adequate disposal capacity within certain solid waste districts, and pursuant to a finding by the BPU that the public interest will be best served by designating specific disposal facilities as the ultimate destination of specific waste streams, it is necessary to direct waste flows, as described in this section.

(a) Waste flows within, into and out of the Atlantic County District:

1.-7. (No change.)

8. All waste types 10, 13, 23, and 25 generated from within the Atlantic County municipality of Hamilton shall be disposed of at the Hamilton Township Sanitary Landfill-Somers Point Road, facility number 0112B, located in Hamilton Township, Atlantic County, New Jersey.

i. (No change.)

ii. (No change.)

iii. **Up to 12 tons per day of waste types 10 and 27 generated at the Atlantic County Community College and the Atlantic County Vocational Technical School, and from other commercial, industrial, and governmental generators as may later be determined by agreement between Atlantic County and relevant generators and haulers, shall be disposed of at the Atlantic County Resource Recovery Facility, facility number of 0112C, located in Hamilton Township, Atlantic County, New Jersey.**

9.-13. (No change.)

(b)-(v) (No change.)

(a)

DIVISION OF WASTE MANAGEMENT

Solid and Hazardous Waste Licensing of Transporters and Facilities: Filing of Disclosure Statements; Personal History Disclosure Forms

Proposed Amendment: N.J.A.C. 7:26-16.4

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

Authority: N.J.S.A. 13:1D-9, 13:1E-5 and 13:1E-6, as supplemented by N.J.S.A. 13:1E-126 et seq.

DEP Docket No: 007-85-01.

Proposal Number: PRN 1985-125.

Submit comments by April 3, 1985 to:

Barbara M. Greer, Assistant Director
Office of Regulatory Services
Department of Environmental Protection
CN 402
Trenton, NJ 08625

The agency proposal follows:

Summary

The Department of Environmental Protection (DEP) is proposing a minor change in its rule governing the content of disclosure statements required to be filed under P.L. 1983, c. 392, N.J.S.A. 13:1E-126 et seq. This law governs the licensing of businesses engaged in the collection, transportation, treatment, storage and disposal of solid and hazardous waste. The Department is proposing a change to reduce the numbers of persons required to file Personal History Disclosure Statements as an automatic part of the disclosure statement process.

Disclosure statements are filed as part of the process by which DEP evaluates the fitness of an applicant to hold a solid or hazardous waste license, in terms of criteria set out in the law. Disclosure statements must also be filed by existing holders of DEP solid and hazardous waste licenses, no later than June 10, 1986. Disclosure statements are designed to bring out information about companies' ownership, management structure, and violations history.

Under regulations adopted effective July 2, 1984 (see 16 N.J.R. 1766), the Department established disclosure statement forms in three parts: a basic "Business Concern Disclosure Form" and two companion forms, one called a "Second-level Business Concern Disclosure Form", and another called a "Personal History Disclosure Form". The basic form is designed to produce information about the company that is applying for or holds the DEP license. The "Second-level" form is designed to produce information about other companies that hold stock or debt interests in the applicant or licensee company.

The "Personal History Disclosure Form" is designed to produce personal information about individuals listed on the "Business Concern Disclosure Form". While the Department

has attempted to make this form as simple to complete as possible, it is something of a burden to fill out, and by some people it may be perceived as an unwarranted intrusion into personal privacy.

In its present form, N.J.A.C. 7:26-16.4(a)10 requires a Personal History Disclosure Form to be filed describing "every person required to be listed in the disclosure statement", except for debt liability holders and non-supervisory employees.

Experience with some of the early disclosure statements filed since P.L. 1983, c. 392 went into effect on June 11, 1984 has brought to the Department's attention some problems with making the Personal History Disclosure Form automatic on almost "every" person required to be listed in the disclosure statement. One such problem arises with respect to minor stockholders, such as might be found in a privately held company with an employee stock option plan.

The Department has already received an application from one such company, in which several individuals had to be listed because they each owned less than 1 percent of the company's stock.

The Personal History Disclosure Form is not a requirement of P.L. 1983, c. 392. It is, rather, an additional requirement imposed by the Department pursuant to a grant of authority under N.J.S.A. 13:1E-127(e)(9) to collect in the disclosure statement "any other information the Attorney General or the department may require that related to the competency, reliability or good character of the applicant." In the Department's view, it is not necessary to automatically collect personal history information from stockholders whose ownership shares are too small to create a realistic expectation that they control the company. The Department therefore proposes an amendment that would eliminate the automatic requirement to file Personal History Disclosure Forms for individuals owning 5 percent or less of the stock of an applicant or licensee.

It should be noted that the Department will continue to collect the names, addresses and social security numbers of such stockholders; this is a statutory requirement. Furthermore, should suspicions arise, the Department and the Attorney General still have the option to require a Personal History on any employee of a solid or hazardous waste licensee, utilizing their investigative powers under N.J.S.A. 13:1E-128(c), 13:1E-129 or 130.

Social Impact

For explanation of the social, economic and environmental impacts of the basic disclosure statement and investigation scheme established under P.L. 1983, c. 392, see the impact statements filed with the Department's proposal for the original implementing regulations, published at 16 N.J.R. 986, May 7, 1984.

The proposed amendment will increase the Department's and the Attorney General's office flexibility in the administration of the disclosure statement program. The Department and the Attorney General will no longer have to automatically collect and evaluate personal history information from stockholders who own five percent or less of the stock of an applicant or licensee. However, the Department and the Attorney General would retain the option to require a Personal History of any employee of a solid or hazardous waste licensee, utilizing their investigative powers under N.J.S.A. 13:1E-128(c); and 13:1E-129 or 13:1E-130. It will reduce the collection of unnecessary information, and relieve some persons who own five percent or less of the stock of an applicant

or licensee from the burden of having to file the Personal History Disclosure Form.

Economic Impact

The numbers of persons affected cannot be determined without taking a survey. However, the reduction in the numbers of persons required to file the Personal History forms will save money for both applicants and licensees, and the State. In terms of preparation costs, approximately \$2.00 in photocopying costs and one to three hours in preparation time is saved for every form that does not have to be completed. The State saves processing expenses and about one-quarter inch of filing cabinet space per form not collected.

Environmental Impact

No environmental impact is expected because the proposal concerns an administrative correction.

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

7:26-16.4 Content of disclosure statement

(a) The disclosure statement shall be filed on forms supplied by the Department, and shall include the following information:

1.-9. (No change.)

10. As to every person required to be listed in the disclosure statement [(other than a holder of debt liability or non-supervisory employee required to be listed under N.J.S.A. 7:26-16.4(c)9.),] **as an officer, partner, or key employee of, or holder of more than 5 percent of the equity in the applicant or licensee, a completed Personal History Disclosure Form** on forms supplied by the Department, including information about family, education and employment history;

11. (No change.)

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

HEALTH

The following proposals are authorized by J. Richard Goldstein, M.D., Commissioner, Department of Health, with the approval of the Health Care Administration Board.

(a)

DIVISION OF HEALTH FACILITIES EVALUATION

Standards for Licensure of Hospital Facilities Physical Plant Standards for Newborn Care Services

Proposed New Rule: N.J.A.C. 8:43B-8.33 through 8.44

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

Proposal Number: PRN 1985-118.

Submit comments by April 3, 1985 to:

Leonard D. Dileo, Director
Health Facilities Construction Services
Department of Health
John Fitch Plaza
CN 360
Trenton, NJ 08625

The agency proposal follows:

Summary

N.J.A.C. 8:43B-8 Maternal and Newborn Services of the current Manual of Standards for Hospital Facilities has been in existence for a number of years. The current regulations are outdated and no longer reflect the current state of the art in the provision of Newborn Care Services. New advanced technology and new health care systems have evolved in recent years which have greatly affected newborn care services. The current regulations are written in general, subjective terms which have created problems interpreting and enforcing the regulations.

The proposed new rules are based on general revision which divides newborn services into seven separate functional areas and provides care at a reasonable cost. The proposed new rules are designed to simplify and clarify regulations and provide maximum flexibility in the administration of the services while protecting the health and safety of patients.

The proposed new rules are reflective of the current state of the art in obstetric and newborn care in that they allow, at the discretion of the facility and the facility's staff, the humanization and normalization of the birth process in accordance with the facility's policies and procedures. The humanization and normalization process includes, for example, preparation of families and hospital staff for the birthing experience, and newborn interaction with mother and father after birth. The proposed new rules for newborn services have been written in more specific language to make the regulations more explicit, precise, and cohesive, which in turn will enhance their workability and enforceability.

The proposed new rules are also consistent with the planning requirements of N.J.A.C. 8:33C Appendix B, Levels of Care Criteria for the Regionalization of Maternal and Neonatal Services in New Jersey.

The proposed new rules deal with the seven functional areas for Newborn Care—These areas are as follows, Resuscitation area; Admission/observation area; Normal Newborn Nursery (Level I); Continuing Care/Growing Nursery or area; Suspect/Isolation Nursery; Intermediate Care Nursery (Level II); Intensive Care Nursery (Level III).

A summary of the major changes contained in the proposed new rule for physical plant standards for Newborn Care services N.J.A.C. 8:43B-8.33 follows.

The proposed new rule specifically details when these standards shall be used for the construction of new buildings, and addition, alteration, or renovation of existing buildings. In existing buildings the extent of conformity to these standards is based on the percentage of gross square footage of the given area being altered.

The proposed new rule delineates the newborn care services into seven functional areas. The general requirements of these areas are specifically detailed such as square footage per bassinets, electric outlets, illumination, oxygen, air and suction outlets, charting facilities, temperature and humidity index, offices, infant formula facilities, workroom, multipurpose rooms, scrub areas and lavatory facilities.

The current physical plant standards only provide standards for Normal Newborn Nurseries and Special Care Nursery.

Social Impact

Chapters 136 and 138, P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto, enjoin the Department of Health to protect and promote the health of the citizens of this State. The Act also

mandates the Department to develop "standards and procedures relating to the licensing of health care facilities and the institution of additional health care services" to ensure the efficient and effective delivery of "health care services."

The adoption of these new rules establishes minimum rules and regulations to ensure the provision of quality care to patients requiring newborn services in hospitals.

The proposed new rules will have a significant social impact upon the provision of Newborn Care Services since the proposed new rule has been updated to reflect the current state of the art in newborn care and emphasizes concerns regarding maternal and infant mortality. The proposed new rule will allow facilities to provide care intended to ensure safe outcome of a healthy pregnancy.

Since the first minutes after birth are so important, the proposed standards demand prompt, organized, and skilled responses for the care of the newborn.

Attention has been given to the provision of sufficient space and equipment to provide the necessary care needed by the newborn. The lack of this equipment and services may result in death or permanent disability of the infant.

The proposed new rules have not only the traditional objective of reducing infant mortality but, at the same time, allows facilities, depending on their policies and procedures, to provide an opportunity for the humanization and normalization of the birth process.

The proposed new rule is more progressive, more responsive to the needs of individual facilities and patients, and more clearly written than the previous rules. The proposed new rule reflects the state of modern newborn services. Insofar as the proposed new rule is less prescriptive than the current rules with respect to the content of the required policies and procedures, the proposed new rule will allow the various hospitals the opportunity and flexibility to devise innovative and effective methods of providing newborn services to patients. The precise language of the proposed new rule will facilitate uniform interpretation of the survey process. These characteristics of the new proposed rule will render the goals of a higher level of patient care and a higher level of patient safety more achievable.

Questions from providers of care, architects and engineers regarding the standards and interpretation of standards should be more easily answered due to flexibility of these standards and will give more initiative to health care professionals to provide quality care to patients.

The New Jersey State Department of Health has the responsibility of promoting the financial solvency of hospitals, containing rising costs of health care services and assuring that health care facilities meet all codes and standards in order to receive Federal reimbursement under Medicare/Medicaid (42 U.S.C.A. § 1345aa).

Economic Impact

The Department does not expect the proposed new rules to have any substantial financial impact upon hospitals providing newborn care services, since these standards are for new (post May 8, 1981) construction of units, additions, alterations and renovations to existing buildings. The standards will not be imposed on existing (pre 1981) facilities to bring their units up to the codes referred to in the proposed rules.

Many of the facilities providing these services are currently conforming areas which provide a high level of patient safety and a higher level of patient care. Since the function of the personnel remain the same as they have performed to date, no additional costs should be incurred for their services.

It is anticipated that the fire safety revisions will not require additional expenditures by existing facilities. Existing facilities that complied with pre-1981 edition of the Life Safety Code (National Fire Protection Association Life Safety Code 101), would be considered as meeting the proposed regulations thus relieving those facilities of the need for additional expenditures without any adverse effect on patient safety. New facilities would be subject to the 1981 Edition of the Life Safety Code which will minimize cost by offering more alternatives for meeting the specific requirements. Existing facilities which do not currently conform have the option of providing alternative equivalent means of compliance with these codes and standards therefore saving a great deal of construction dollars by utilizing existing plants.

In addition proposed new rules are in compliance with the construction regulations concerning health care facilities of the Department of Community Affairs which administers the New Jersey State Uniform Construction Code.

Full text of the proposed new rule follows.

8:43B-8.33 Physical plant standards

(a) Standards for construction from May 8, 1981 shall be as follows:

1. Standards for construction of new buildings, additions, alterations and renovations to existing buildings from May 8, 1981 to present shall be in accordance with the New Jersey State Uniform Construction Code and Standards imposed by the United States Department of Health and Human Services (HHS), and the State Department of Health, and the Department of Community Affairs, specifically, the HHS "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" (HHS Publication No. (HRA) 79-14500). In order to avoid conflict, sections 502 (except as it pertains to area limitations), 1702.7, 1716.0, article 7 except sections 712.0, 716.0 and 717.0, and article 8 except sections 818.6 through 818.7.6 of the building subcode of the New Jersey State Uniform Construction Code N.J.A.C. 5:23-1 et seq. shall not govern with respect to health care facilities. The HHS, HRA 79-14500 shall serve as the Uniform Code of the State in all matters regulated by the sections herein specified.

2. The licensee prior to making any alterations or improvements to an existing facility, shall submit plans and specifications to the Health Care Facility Construction and Monitoring Unit of the New Jersey Department of Health for approval before commencing such work.

3. The following standards shall be used for the construction of new buildings, additions, alterations and renovations of existing buildings:

i. When alterations exceed 50 percent of the gross square footage of a given area, then that entire area shall be made to comply with these standards;

ii. When alterations are less than 50 percent but greater than 25 percent of the gross square footage of a given area, then only the altered area need conform to these standards; and

iii. When alterations are less than 25 percent of the gross square footage of a given area, the authority having jurisdiction (New Jersey State Department of Health) shall determine to what degree the portions so altered shall be made to conform to the requirement of these standards.

(b) Standards for construction predating May 8, 1981 shall be as follows:

1. Standards for existing buildings or major alterations constructed from July 1, 1979 through May 7, 1981 shall be in accordance with the New Jersey State Uniform Construction

Code and Standards imposed by the United States Department of Health and Human Services (HHS), and the State Department of Health, and the Department of Community Affairs, specifically, the HHS "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" (HHS Publication No. (HRA) 79-14500). In order to avoid conflict, sections 502 (except as it pertains to area limitations), 1702.7, 1716.0, Article 7 except sections 712.0, 716.0 and 717.0, and Article 8 except sections 818.6 through 818.7.6 of the building subcode of the New Jersey Uniform Construction Code N.J.A.C. 5:23-1 et seq. shall not govern with respect to health care facilities. The HHS, HRA 79-14500 shall serve as the Uniform Code of the State in all matters regulated by the sections herein specified.

2. Standards for existing buildings or major alterations constructed from August 1, 1977 through July 1, 1979 shall be in accordance with the New Jersey State Uniform Construction Code and the standards imposed by the United States Department of Health and Human Services (HHS), the Department of Health and the Department of Community Affairs, specifically the HHS "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" (HHS) Publication No. (HRA) 74-4000. In order to avoid conflict, sections 302 (except as it pertains to area limitations), 1202.7, and 1216.0, Article 5 except sections 512.0, 519.0, 520.0, and Article 6 of the New Jersey State Uniform Construction Code N.J.A.C. 5:23-1 et seq. shall not govern with respect to health care facilities. The HHS (HRA) 74-4000 shall serve as the Uniform Code of the State in all matters regulated by the sections herein specified.

3. Standards for existing buildings or major alterations constructed after September, 1974, to August 1, 1977, shall conform to the United States Public Health Service Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities, "DHEW Publication No. (HRA) 74-4000 and the New Jersey Supplementary Standards to this regulation, dated June 26, 1968.

4. Standards for existing buildings or major alterations constructed before September 1, 1974, shall conform to the United States Public Health Service Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities (930-A-7) and the New Jersey Supplementary Standards to this regulation, dated June 26, 1968.

8:43B-8.34 Functional areas

(a) Functional areas for newborn care are as follows:

1. Resuscitation Area or Room;
2. Admission/Observation Area;
3. Normal Newborn Nursery (Level I);
4. Continuing Care/Growing Nursery or Area;
5. Suspect/Isolation Nursery;
6. Intermediate Care Nursery (Level II); and
7. Intensive Care Nursery (Level III).

8:43B-8.35 General requirements for all functional areas

(a) General requirements for all functional areas for newborn care are as follows:

1. The area shall be lighted so that illumination shall provide a minimum of 100 foot-candles with a maximum lighting level of 150 foot-candles at the body surface of the infant.

2. Viewing windows shall be extensive throughout the Newborn Suite. Exterior windows shall be energy efficient and insulated.

3. Newborn care areas shall have oxygen and compressed air piped from central source at 50-60 pounds per square inch (psi). Reductions value and mixers shall produce 21 percent-

100 percent concentration of oxygen at atmospheric pressure for head hoods and 50-60 psi for mechanical ventilators.

4. Air and suction systems shall have chime alarms to signal loss of suction or low oxygen and air supply.

5. The construction of the nursery shall include acoustic absorption units or other means to keep sound intensity below 75 decibels (db).

6. A temperature of 75 degrees and a relative humidity of 50 percent shall be maintained.

7. Walls shall be off white or pale beige color to minimize distortion of staff's color perception in patient care area.

8. An Emergency call system shall be provided in each nursery.

9. A free standing hand-washing sink shall be provided with foot or knee controls and a bowl large and deep enough to prevent splashing and that promotes proper drainage. Each lavatory shall have liquid soap dispenser and disposable towel dispenser.

10. Electrical outlets shall be supplied by at least two branch circuits of 15 AMPs each.

11. In the entire Newborn Suite there shall be a total of 12 air changes per hour with five of these changes being outside air, and filtration of 25 percent, then 90 percent before entering nursery. Positive pressure shall be maintained.

8:43B-8.36 Supporting service areas

(a) The nursing supervisor's office, head nurse's office and social work office and nurses' lounge shall be in or adjacent to the suite.

(b) The following requirements will apply to infant formula facilities:

1. If formula is prepared on the hospital site, the following shall be provided:

- i. Clean-up facilities for washing and sterilizing supplies;
- ii. A separate room for preparing infant formulas. No direct access from formula room to a nursery or to a nursery workroom shall be permitted; and
- iii. A separate refrigerator/freezer shall be provided in this area for storage of breast milk and formula.

2. If a commercially prepared infant formula is used, then a separate storage area shall be provided. This storage may be provided in the Nursery Workroom. A separate refrigerator/freezer shall be provided in this area for storage of breast milk.

(c) Soiled utility room shall contain the following:

1. A clinical sink;
2. A work counter;
3. A hand-washing sink with foot and knee controls;
4. Liquid soap dispensers;
5. Paper towel dispenser; and
6. Space for storage of soiled equipment, soiled linen and trash receptacles.

(d) The clean work area or room shall have:

1. Counter with cabinets;
2. A refrigerator;
3. A sink with knee or foot controls; and
4. Soap and paper towel dispensers.

(e) Janitor's closet shall be provided in the suite with floor receptor or service sink and storage space for housekeeping equipment and supplies.

(f) There shall be a clerical area near the entrance to the nurseries, to provide an area for recording as well as to supervise traffic and eliminate unwarranted entry into the patient care area. This area shall have tele-communication with all nursery areas and the Delivery suite.

(g) Multi-purpose rooms shall contain the following:

1. In Level I Facilities there shall be one multi-purpose room for consultation and conferences;

2. In Level II Facilities there shall be two multi-purpose rooms which are a consultation/conference room and parent teaching/breast feeding room; and

3. In Level III Facilities there shall be four rooms which are a parent-teaching room/demonstration room, a consultation/conference room, parent room for breast feeding and a parent sleeping room with adjoining toilet and shower.

(h) The Normal Newborn Nursery, Continuing Care and Admission Nursery shall be served by a connecting workroom. It shall contain work space with counter, refrigerator, sink with foot or knee controls and storage space. One workroom may serve several Normal Newborn Nurseries provided that required services are convenient to each.

(i) There shall be a physicians' dressing room and nurses' dressing room at the entrance to the nursery suite.

(j) A scrub/gowning area shall be provided for staff and housekeeping personnel at the entrance of each nursery but separated from the work area. This area shall contain a free standing hand washing sink with foot and knee control and a bowl large enough to prevent splashing and to allow proper drainage. There shall be racks, hooks or lockers for storage of street clothes and personal items, cabinets for clean gowns, receptacle for used gowns and a large wall clock with sweep second hand for timing hand washing.

1. In Intermediate (Level II) and Intensive (Level III) Care Nurseries since work areas and facilities are provided within the nursery, the scrub/gowning facilities shall be located near the entrance of the nursery in an alcove and shall be separated from the patient care area.

8:43B-8.37 Resuscitation area

(a) The resuscitation area shall be part of the Delivery/Cesarean Section Room or a separate Resuscitation Room adjacent to and opening into the Delivery/Cesarean Section Room.

(b) The Resuscitation area shall contain 40 square feet of clear floor area when included as part of the Delivery/Cesarean Section Room.

(c) If the program requires a separate Resuscitation Room, it shall contain a minimum of 120 square feet of clear floor area.

(d) The area shall have one oxygen outlet, one compressed air outlet, and one suction outlet.

(e) A minimum of six single or three duplex electrical outlets shall be provided. If a separate Resuscitation Room is provided, an electrical outlet to accommodate a portable X-ray machine shall be provided, in addition to those required above.

(f) If a separate Resuscitation Room is provided it shall contain a free standing hand-washing sink.

(g) General requirements for the Resuscitation Area are as follows:

1. Overhead source of radiant heat;
2. Large wall clock with a clearly visible second hand;
3. Flat working surface for charting; and
4. Table or flat surface for trays.

8:43B-8.38 Admission/observation area

(a) The admission/observation area shall be near or adjacent to the delivery/cesarean section room and convenient to postpartum Nursing Unit. One patient station for every 300 annual births shall be provided. There shall be a minimum of two stations in this area. In Level I Facilities, the Admission/

Observation area may also function as a Resuscitation Area. In Level II and III the Admission/Observation area may be located in the Newborn Nursery or Continuing Care Area, if a separate room is not provided.

(b) There shall be a minimum of 40 square feet of space for each infant station with a minimum of three feet between bassinets.

(c) Two oxygen, two compressed air and two suction outlets shall be provided for each infant station.

(d) Six single or three duplex electrical outlets shall be provided for each infant station.

(e) A free standing hand-washing sink shall be provided.

(f) General requirements of the Admission/observation area are as follows:

1. Overhead source of radiant heat.
2. Large wall clock with clearly visible second hand.
3. Flat working surface for charting.
4. Table or flat surface for trays.

8:43B-8.39 Normal newborn nursery

(a) Location—Normal newborn nurseries shall be located close to the Postpartum Unit and shall be arranged to preclude unrelated traffic.

(b) The number of bassinets shall exceed the number of licensed obstetric beds by not less than 20 percent in order to accommodate multiple births and extended hospitalization beyond mother's discharge date as well as beyond 28 days.

(c) There shall be a minimum of 24 square feet for each bassinet with three feet between bassinets.

(d) A maximum of 12 bassinets shall be permitted in one Normal Nursery.

(e) Oxygen, air and suction outlets—Two oxygen, two compressed air and two suction outlets shall be provided for each infant station.

(f) Electrical outlets—Two single or one pair of wall-mounted electrical outlets shall be provided for each two infant stations.

(g) Hand-washing facilities—A free standing hand-washing sink shall be provided. There shall be one sink for every six infant stations.

(h) A soiled utility Room shall be provided.

(i) A clean work area or room shall be provided.

(j) A parent room shall also be provided to be used for breast feeding after mother's discharge and sibling visitations.

(k) An examination and treatment room or work area shall be provided within the suite. This area shall contain a workcounter, storage and a free standing sink equipped for handwashing with foot or knee control.

(l) Storage facilities for the Newborn Nursery are as follows:

1. There shall be bedside cabinet storage of eight cubic feet per each infant station.

2. There shall be three cubic feet per infant for secondary storage of items such as linens and formula within the area.

3. There shall be six square feet per infant for large items of equipment in a clean storage area.

8:43B-8.40 Continuing care/growing area

(a) The continuing care/growing nursery is for low birth weight infants who are not sick, but require frequent feedings, or infants who no longer require intermediate care but still require more nursing hours and closer observation than normal infants. This area should be close to Intensive and Intermediate care nursery or may be a part of Intermediate Care Nursery.

(b) There shall be 40 square feet for each infant station with four feet between bassinets.

(c) There shall be one oxygen, one compressed air, and one suction outlet for each infant station.

(d) There shall be four electrical outlets for each infant station.

(e) If continuing care nursery is a separate nursery then a separate work area with a scrub sink shall be provided.

8:43B-8.41 Isolation/suspect nursery

(a) Each Isolation Nursery shall be a structurally separate room within the Newborn Nursery Unit.

(b) The Isolation Nursery shall provide 40 square feet of space per infant exclusive of lavatory. There shall be a minimum of two such rooms, which may share a common ante-room.

(c) A free standing hand-washing sink shall be provided at the entrance inside the Isolation nursery ante room with foot or knee control.

(d) One oxygen, one compressed air, and one suction outlet shall be provided for each infant station.

(e) Four electrical outlets shall be provided for each infant station.

8:43B-8.42 Intermediate Care Nursery (Level II)

(a) The Intermediate Care Nursery should be close to the Delivery/Cesarean Section Room and the Intensive Care Nursery and it shall be located away from general hospital traffic.

(b) Each infant patient station shall have 50 square feet of floor space excluding ancillary space for storage. There shall be four feet between incubators or bassinets with an aisle at least five feet wide.

(c) Each infant care station shall have two oxygen outlets, two compressed air outlets, and two suction outlets.

(d) Eight electrical outlets shall be provided for each infant station.

(e) A free standing hand-washing sink shall be provided at the entrance of the Intermediate Care Nursery. One sink shall be provided for each three infant care stations within the nursery.

(f) A soiled utility room shall be provided.

(g) A clean utility room or area shall be provided.

(h) Storage facilities for the Intermediate Care Nursery (Level II) are as follows:

1. There shall be eight cubic feet of storage for each infant care station for supplies needed for immediate use on shelves and cabinets within nursery;

2. There shall be at least 20 square feet of floor space for each infant care station adjacent to or within the Intermediate Care Nursery outside of the nursery area; and

3. There shall be 16 cubic feet of shelf or cabinet space for each infant care station adjacent to or within the Intermediate Care Nursery but outside of the nursery area.

8:43B-8.43 Intensive Care Nursery (Level III)

(a) The Intensive Care Nursery shall be near the Delivery Room and shall be accessible from an ambulance entrance. This area shall be removed from routine hospital traffic.

(b) The Intensive Care Nursery shall provide 120 square feet per bassinet or incubator with a minimum of six feet between bassinets and a minimum of an eight foot wide aisle.

(c) There shall be three oxygen outlets, three compressed air outlets, and four suction outlets for each infant care station.

(d) There shall be 16 electrical outlets for each infant care station. Special outlet shall be provided to supply power for portable X-ray machine to serve neonatal area.

(e) Storage facilities for the Intensive Care Nursery (Level III) are as follows:

1. There shall be 16 cubic feet of storage counter and cabinets for supplies needed for immediate use within the infant's room for each infant care station.

2. There shall be for each infant care station at least 30 square feet of floor space adjacent to or within the Intensive Care Nursery but outside of nursery area.

3. There shall be 24 cubic feet for each infant station of shelf or cabinet space adjacent to or within the Intensive Care Nursery but outside of the nursery area.

(f) Soiled utility room—A soiled utility room shall be provided.

(g) Clean utility room or area—A clean utility room or area shall be provided.

(h) Hand-washing facilities—A free-standing hand-washing sink shall be provided at the entrance to the Intensive Care Nursery. One sink with foot or knee control shall be provided for each four infant care stations within the nursery.

(i) On-Call rooms—There shall be on-call room(s) on this floor for staff with an adjoining toilet and shower.

8:43B-8.44 Shared services level II and level III

(a) If Intermediate Care Nursery (Level II) and Intensive Care Nursery (Level III) are located in the same suite then the following services can be shared:

1. Janitor's closet;
2. Soiled utility;
3. Clean utility;
4. Demonstration/conference room;
5. Storage room;
6. Formula storage room;
7. Male/Female staff lockers, lounge and toilets;
8. Parent waiting room;
9. Consultation room; and
10. Public toilet and telephone.

NARCOTIC AND DRUG ABUSE CONTROL

For proposals numbered PRN 1985-117 and 119, submit comments by April 3, 1985 to:

Lucius A. Bowser, R.P., M.P.H.
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Drug Control Program
CN 362
Trenton, NJ 08625
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(a)

Controlled Dangerous Substances Records and Reports of Registrants

Proposed Readoption as a New Rule:
N.J.A.C. 8:65-5

Authority: N.J.S.A. 24:21-9.

Proposal Number: PRN 1985-119.

The agency proposal follows:

Summary

The Department of Health proposes to readopt N.J.A.C. 8:65-5, relating to the requirements for recordkeeping for controlled dangerous substances and the reports that controlled dangerous substances registrants must keep.

Pursuant to Executive Order No. 66(1978) these rules expired on February 11, 1985. They are now proposed for re-adoption as a new rule. Additions and deletions in the proposal reflect amendments to the text of the rule which currently appears in the New Jersey Administrative Code at N.J.A.C. 8:65-5.

These regulations have been established for 14 years since the inception of the Controlled Substances Act (21 U.S.C. 801) in 1971 and have been found to be a valuable tool to determine compliance with the rules and regulations of the Act. The recordkeeping and reporting requirements of this rule are used by manufacturers, distributors, researchers, analytical laboratories and dispensers, which include physicians, dentists, podiatrists, veterinarians, pharmacies, and humane societies. These recordkeeping requirements assist the Drug Enforcement Administration (DEA), the New Jersey Department of Health, and the New Jersey Department of Law and Public Safety to conduct inspections and accountability audits in order to determine if controlled drugs are properly ordered, possessed, dispensed, and accounted for by registrants in order to better protect the public from the diversion of controlled drugs.

The following changes are proposed: 1) the name of the Bureau of Narcotic and Dangerous Drugs in the Department of Justice has been changed to the Drug Enforcement Administration; 2) the titles of the required forms reflect this change; 3) transactions must be reported to the New Jersey Department of Health as well as to the DEA; 4) the title of Regional Director has been changed to Special Agent in Charge; and 5) "regional office" has been changed to "district office".

Social Impact

The readoption of N.J.A.C. 8:65-5 will have a significant impact on the protection of the public at large in that it acts as a deterrent in controlled drug diversion, yet at the same time allows for a safe distribution system of providing controlled drugs for the public. In the past, the rule has protected the public from the diversion of controlled drugs by strictly regulating the process by which registrants obtain and dispense these substances. In the past five-year period, this rule has been employed in order to take administrative action to correct deficiencies, violations, and diversions of controlled dangerous substances. These beneficial uses of the rule are expected to continue in the future. Readoption of these rules is necessary for continued effective regulation of controlled dangerous substances.

Economic Impact

The cost of compliance incurred by registrants will vary. Manufacturers, importers, exporters and distributors must send quarterly reports and inventories to the D.E.A., and must inventory their stock. All registrants must take inventory every two years, and must immediately add all new substances to their inventories.

The State will incur expenses by conducting audits which include the review of registrants' inventory and records. These recordkeeping and report requirements would not infringe

upon the provision of controlled dangerous substances to the public or deter any patient from receiving sound medical care.

Full text of the proposed reoption appears in the New Jersey Administrative Code at N.J.A.C. 8:65-5.

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

SUBCHAPTER 5. RECORD AND REPORTS OF REGISTRANTS

8:65-5.3 Persons required to keep records and full reports

(a) (No change.)

(b) A registered individual practitioner is not required to keep records with respect to narcotic controlled substances listed in schedule II through V which he prescribes [or administers] in the lawful course of his professional practice; he shall keep records, however, with respect to such substances that he **administers and** dispenses [other than by prescribing or administering].

(c) A registered individual practitioner is [not] required to keep records with respect to nonnarcotic controlled substances listed in schedules II through V which he dispenses **or administers** [in any manner unless he regularly charges his patients, either separately or together with charges for other professional services, for such substances so dispensed (e.g. when he substitutes his services for those of a pharmacist)].

(d) (No change.)

(e) A registered person using any controlled substance in preclinical research or in teaching at a registered establishment which maintains records with respect to such substances is not required to keep records if he notifies the Bureau **and the Department of Health** of the name, address, and registration number of the establishment maintaining such records.

8:65-5.4 Maintenance of record and inventories

(a) Every inventory and other record required to be kept under this subchapter shall be kept by the registrant and be available, for at least two years from the date of such inventory of records, for inspecting and copying by authorized employees of the Administration **and the Department of Health**, except that financial and shipping records (such as invoices and packing slips but not executed order forms subject to N.J.A.C. 8:65-6.13) may be kept at a central location, rather than at the registered location, if the registrant has notified the Administration **and the Department of Health** of his intentions to keep central records. Written notification must be submitted by registered or certified mail, return receipt requested to the [Regional Director of the Administration] **Special Agent in Charge** in the region in which the registrant is located **and the State Department of Health**. Unless the registrant is informed by the [Regional Director] **Special Agent in Charge or the State Department of Health** that permission to keep central records is denied, the registrant may maintain central records commencing 14 days after receipt of his notification by the [Regional Director] **Special Agent in Charge and the Department of Health**. [All central recordkeeping permits previously issued by the Administration **and the Department of Health** will expire on September 30, 1980.] Registrants who desire to continue maintaining central record keeping will make notification to the local [Regional Director] **Special Agent in Charge and the Department of Health** as provided in this section. All notifications shall include the following:

1.-2. (No change.)

3. The registrant agrees to deliver all or any part of such records to the registered location within two business days upon receipt of a [written] request from the Administration **or the Department of Health** for such records, and if the Administration **or the Department of Health** chooses to do so in lieu of requiring delivery of such records to the registered location, to allow authorized employees of the Administration **or the Department of Health** to inspect such records at central location upon request by such employees without a warrant of any kind; and

4. In the event that a registrant fails to comply with these conditions, the [Regional Director] **Special Agent in Charge or the Department of Health** may cancel such central record keeping authorization, and all other central record keeping authorizations held by the registrant without a hearing or other procedures. In the event of a cancellation of central record keeping authorization under this subparagraph the registrant shall within the time specified by the [Regional Director] **Special Agent in Charge, of the Department of Health**, comply with the requirements of this section that all records be kept at the registered location.

5. Registrants need not notify the [Regional Director] **Special Agent in Charge or the Department of Health** or obtain central record keeping in order to maintain records on an in-house computer system.

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

8:65-5.5 General requirements for inventories

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

(d) A registrant may take an inventory on a date that is within four days of his biennial inventory date pursuant to section 7 of this subchapter if he notifies in advance the Special Agent in Charge of the Bureau in his region **and the Department of Health** of the date on which he will take the inventory. A registrant may take an inventory either as of the opening of business or as of the close of business on the inventory date. The registrant shall indicate on the inventory records whether the inventory is taken as of the opening or as of the close of business and the date the inventory was taken.

(e) (No change.)

8:65-5.7 Biennial inventory date

Every two years following the date on which the initial inventory is taken by a registrant pursuant to section 6 of this subchapter, the registrant shall take a new inventory of all stocks of controlled substances on hand. The biennial inventory may be taken on the day of the year on which the initial inventory was taken or on the registrant's regular general physical inventory date, if any, which is nearest to and does not vary by more than six months from the biennial date that would otherwise apply. If the registrant elects to take the biennial inventory on his regular general physical inventory date or another fixed date, he shall notify the Bureau **and the Department of Health** of this election and of the date on which the biennial inventory will be taken.

8:65-5.8 Inventory date for newly-controlled substances

On the effective date of a rule by the [Director] **Administrator** pursuant to 308.48, 308.49 or 308.50 of the Act **or the Department of Health pursuant to N.J.S.A. 24:21-3** adding a substance to any schedule of controlled substances, which substance was, immediately prior to that date, not listed on any such schedule, every registrant required to keep records who possesses that substance shall take an inventory of all stocks of the substance on hand. Thereafter such substances shall be included in each inventory made by the registrant pursuant to section 7 of this subchapter.

8:65-5.9 Inventories of manufacturer

(a) Each person registered or authorized (by 301.22(b) of the Act or [N.J.A.C. 8:65-8.5 or 8.8]) **N.J.A.C. 8:65-1.3(a)** to manufacture controlled substances shall include the following information to his inventory:

1.-4. (No change.)

8:65-5.10 Inventories of distributors

Each person registered or authorized (by 301.22(b) of the Act) or N.J.A.C. [8:65-8.4 through 8.7]) **8:65-1.3(a)** to distribute controlled substances shall include in his inventory the same information of manufacturers pursuant to N.J.A.C. 8:65-5.9(a)3 and 4.

8:65-5.11 Inventories of dispensers and researchers

(a) Each person registered or authorized (by 301.22(b) of the Act) or **N.J.A.C. 8:65-1.3(d)** to dispense or conduct research with controlled substances and required to keep records pursuant to N.J.A.C. 8:65-5.3 shall include in his inventory the same information required of manufacturers pursuant to N.J.A.C. 8:65-5.9(a)3 and 4. In determining the number of units of each finished form of a controlled substance in a commercial container which has been opened, the dispenser shall do as follows:

1.-2. (No change.)

(b) (No change.)

8:65-5.13 Inventories for chemical analysts

(a) Each person registered or authorized (by 301.22(b) of the Act) and **N.J.A.C. 8:65-1.3** to conduct chemical analysis with controlled substances shall include in his inventory the same information required of manufacturers pursuant to N.J.A.C. 8:65-5.9(a) 1, 3 and 4, as to substances which have been manufactured, imported or received by such person.

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

8:65-5.15 Records of manufacturers

(a) Each person registered or authorized (by 301.22(b) of 307.15 of the Act) and **N.J.A.C. 8:65-1.3(a)** to manufacture controlled substances shall maintain records with the following information:

1.-4. (No change.)

8:65-5.16 Records for distributors

(a) Each person registered or authorized (by 301.22(b) or 307.11-307.14 of the Act) and **N.J.A.C. 8:65-1.3(a)** to distribute controlled substances shall maintain records with the following information for each controlled substance:

1.-7. (No change.)

8:65-5.17 Records for dispensers and researchers

(a) Each person registered or authorized (by 301.22(b) of the Act) and **N.J.A.C. 8:65-1.3(c)** to dispense or conduct research with controlled substances and required to keep records pursuant to Section 3 of this subchapter shall maintain records with the following information for each controlled substance:

1.-5. (No change.)

(b) (No change.)

8:65-5.21 Reports from manufacturers and importers

(a) Each registered manufacturer and registered importer shall submit a quarterly report [(BDN)] (**D.E.A. Form 234**) accounting for all stocks of narcotic controlled substances listed in schedules I, II, and III on hand at the beginning and end of the quarter, and for all receipts [(BDN)] (**D.E.A. Form 234a**), dispositions [(BDN)] (**D.E.A. Form 234b**), manufacturing [(BDN)] (**D.E.A. Form 234c**) and packaging [(BDN)] (**D.E.A. Form 234d**), of such substances. The returns shall be

obtained from and submitted to the Distribution Audit Branch, [Bureau of Narcotics and Dangerous Drugs,] Department of Justice, **Drug Enforcement Administration**, Washington, D.C. 20537, on or before the 15th day of the month succeeding the period for which it is submitted.

(b) All narcotic controlled substances listed in schedules I, II, and III received by a manufacturer or importer, shall be recorded on Form 234a **D.E.A.** in order and at the time of receipt. Where record on Form 234(a) **D.E.A.** cannot, for any good and sufficient reason, be made immediately, the manufacturer or importer shall have available for inspection such invoices, delivery or duplicate sales slips, or other papers or records as may be required to evidence any unrecorded purchase or receipt.

(c) All dispositions of narcotic controlled substances listed in schedules I, II, and III by a manufacturer or importer, including exporters, distributions, and losses, shall be reported on [BDN] **D.E.A. Form 234b**. 1. A separate sheet, properly headed in the space provided, shall be used for each different type of transaction. On each sheet, separate entries shall be used to report dispositions of each substance and of each different type and size of container or unit involved. All losses reported shall be fully explained. 2. The details of all exports and all domestic distribution or narcotic controlled substances shall be reported in full on [BDN] **D.E.A. 234b**, except that the details of distribution of narcotic controlled substances listed in schedule III sold to dispensers shall be included in summarized entries on [BDN] **D.E.A. Form 234b**. 3. For all such distributions not reported on detail, the manufacturer shall have available for inspection original sales orders, delivery slips, or other papers or records sufficient to fully evidence and explain the dispositions.

(d) All narcotic controlled substances listed in schedules I, II, and III used in the production of other drugs or preparations, with the exception of transactions involving original manufacture from raw opium or coca leaves, shall be entered on [BDN] **D.E.A. Form 234c** in the order and at the time they are placed into the process of manufacturer. All narcotic controlled substances listed in schedules I, II, and III and preparations produced therefrom shall be entered on the same form, at the time of production, which entry shall be clearly identified with the entry of substances used in their production. 1. Where record of "Used for Production" or "Production" cannot be made immediately, the manufacturer shall have available such batch tags, production orders, or other papers as may be required to evidence any unrecorded quantity used or produced. 2. Any loss in manufacture, and any recoverable wastes salvaged from the manufacture shall be reported. All wastes shall be returned to raw stock and included in the report of raw materials on hand at the end of the month. 3. Any narcotic controlled substances listed in schedules I, II, and III actively in process of manufacture at the end of the month shall be so reported. Where substances are placed in process during one quarter and a portion of the production is removed from process as finished goods during the same quarter, the portion thus removed from process shall be reported "Produced" and the remainder reported as "In process" at the close of the period. 4. Narcotic controlled substances listed in Schedules I, II, and III placed in process for the manufacture of narcotic controlled substances listed in Schedule V shall be reported on a separate [BND] **D.E.A. Form 234c**, on which the kind and quantity of narcotic used and the name of the substance to be produced therefrom shall be stated.

(e) All narcotic controlled substances listed in schedules I, II, and III, either bulk finished goods or goods already pack-

aged, which are used during the quarter for packaging or repackaging into commercial containers shall be reported as credit entries in [BND] D.E.A. Form 234d, and in each instance clearly identified with the entry of substance used in such packaging. A separate entry shall be made for each different size of commercial container produced, but all entries representing a single packaging lot shall be grouped together. 1. The number of commercial containers of a given size produced, the size of the commercial container (indicating the number of pills, tablets, ounces, and so forth) the narcotic controlled substance contained in each unit in the commercial container, the total narcotic controlled substance content of each container, and the aggregate narcotic controlled substance content of all commercial containers, represented by the entry shall be indicated. 2. The recoverable wastes salvaged from the packaging operation and the losses in packaging shall be shown as credit entries on the form. All recoverable wastes reported during the quarter shall be returned to raw stock and further accounted for as raw materials. 3. Any goods actively in process of packaging at the close of the quarter shall be so reported. Where substances are placed in process for packaging during one quarter and a portion thereof are removed as commercial containers, produced during the same quarter, the portion thus removed shall be reported as commercial containers produced and the remainder reported as in process at the end of the quarter.

(f) Each manufacturer and importer shall submit as a part of his fourth quarterly report [(BDN) (D.E.A. Form 234) an inventory [(BDN) (D.E.A. Form 234e) of narcotic controlled substances listed in schedules I, II, and III which are in his possession on December 31 of each year. The substances shall be classified as follows:

1. Raw materials;
2. Goods in process;
3. Finished bulk stock;
4. Finished goods in marketable commercial containers;
5. Miscellaneous stock.

8:65-5.22 Reports of distributors and exporters

(a) Every registered distributor except any officer or agency of the Veterans Administration or who or which is exempted from registration pursuant to 301.25 of the Act and N.J.A.C. 8:65-1.3 and registered exporter shall submit a monthly report on [BND] D.E.A. Form 235 and its supplements 235a and 235b accounting for all transactions involving narcotic controlled substances listed in schedules I and II, including all receipts [(BDN) (D.E.A. Form 235a) and dispositions [(BND) (D.E.A. Form 235b). The report shall be submitted to the Distributions Audit Branch, [Bureau of Narcotics and Dangerous Drugs,] Department of Justice, **Drug Enforcement Administration**, Washington, D.C. 20537, on or before the 15th day of the month succeeding that for which the return is submitted.

(b) All narcotic controlled substances listed in schedules I and II received by a distributor or exporter shall be recorded on [BND] D.E.A. Form 235a in order and at the time of receipt. Where a record of [BND] D.E.A. Form 235a such form cannot, for any good and sufficient reason, be made immediately, the distributor or exporter shall have available for inspection such invoices, delivery or duplicate sales slips, or other papers or records as may be required to evidence any unrecorded purchase or receipt.

(c) All dispositions of narcotic controlled substances listed in schedules I and II, including distributions, exports, and losses shall be reported on [BND] D.E.A. Form 235b]. A separate sheet, properly headed in the space provided, shall be

used for each different type of transaction. On each sheet, separate entries shall be made of dispositions of each substance and of each different type and size of container or unit involved. All losses reported shall be fully explained.

(d) Each distributor and exporter shall submit, as part of his December 31 month report on [BND] D.E.A. Form 235 and its supplements, any inventory on [BND] D.E.A. Form 235c of the narcotic controlled substances listed in schedules I and II which are in his possession on December 31 of each year. A separate entry shall be made for each narcotic substance as follows:

1. The name, quantity, and narcotic content of the drug or preparation;
2. The size of each commercial container; and
3. The number of commercial containers.

(e) The distributor and exporter shall report on [BND] D.E.A. Form 235 a complete summary of transactions for the month.

8:65-5.23 Reports from manufacturers importing opium

(a) Every manufacturer importing crude opium shall submit, in addition to the report on [BND] D.E.A. Form 234 and its supplements, [BND] D.E.A. Form 247 and its supplements 247a and 247b, accounting for the importation and the production in bulk of finished marketable products, standardized in accordance with the U.S. Pharmacopeia, National Formulary U.S. Pharmacopeia/National Formulary, or other recognized medical standards. Subsequent manufacture from such products, including bottling or packaging operations shall be accounted for in the quarterly returns on [BND] D.E.A. Form 234 and its supplements, forms, [BDN] D.E.A. Form 247 and its supplements shall be submitted to the Distributions Audit Branch, [Bureau of Narcotics and Dangerous Drugs,] Department of Justice, **Drug Enforcement Administration**, Washington, D.C. 20537 on or before the 15th day of the month immediately following the period for which it is submitted.

(b) The report of manufacture from crude opium shall consist of summaries [(BND) (DEA Forms 247 and 247a) with supporting detail sheets [(BND) (DEA Form 247b) accounting for original manufacture from crude opium, production from morphine for further manufacture and production from manufacturing opium, and also accounting for stocks of crude opium, manufacturing opium, morphine for further manufacture and other crude alkaloids.

(c) The detail sheets [(BND) (DEA Form 247b) supporting the summary of original manufacture from crude opium shall show separately the crude opium used for the manufacture of opium tinctures and extracts, crude opium used for the extraction of alkaloids, crude opium used for the manufacturing of controlled substances listed in schedule V, and crude opium used for the production of manufacturing opium; and shall show separately the crude opium used for the manufacturing of opium tinctures and extracts, crude opium used for the extraction of alkaloids, crude opium used for the manufacture of controlled substances listed in schedule V, and crude opium used for the production of manufacturing opium; and shall show separately the medicinal opium, alkaloids and salts, opium tinctures and extracts, controlled substances listed in schedule V, and manufacturing opium produced.

(d) Importation of opium shall be reported in summarized entries in the debit summary of the quarterly report [(BND) (DEA Form 234) and shall be immediately reported by similar summarized entries in the credit summary of the quarterly report [(BND) (DEA Form 234) as transferred to importing manufacturing report. Such importations shall further be reported in summary [(BND) (DEA Form 247) and supporting

detail sheets [(BND) (DEA Form 247b)]. Products manufactured therefrom shall be reported as produced in accordance with subsections (b) and (c) of this Section and, with the exception of manufacturing opium, morphine for further manufacture, and other crude or unfinished alkaloids, shall be transferred to the quarterly report [(BND) (DEA Form 234) form required when reported produced.

(e)-(j) (No change.)

8:65-5.24 Reports of manufacturer importing medicinal coca leaves

(a) Every manufacturer importing raw coca leaves for the manufacture of medicinal products shall submit, in addition to the report on [(BND) (DEA Form 234) and its supplements, **additional forms and their supplements required for accounting for the importation and for all manufacturing operations performed between importation and the manufacture of bulk or finished products standardized in accordance with the U.S. Pharmacopeia[,], national Formulary, or other recognized standards. Subsequent manufacture from such products, including bottling or packaging operations, shall be accounted for in quarterly reports on [(BND) (DEA Form 234) and its supplements. Reports on (DEA Form 168) and its supplements shall be submitted quarterly to the Distribution Audit Branch, [Bureau of Narcotics and Dangerous Drugs,] Department of Justice, Drug Enforcement Administration, Washington, D.C. 20537, on or before the 15th day of the month immediately following the period for which it is submitted.**

(b) The report of manufacture from medical coca leaves shall consist of summaries [(BND) (DEA Forms 168 and 168a) with supporting detail sheets [(BND) (DEA Form 168b) accounting for original manufacture from such leaves, conversions or production from manufacturing coca extracts, and also accounting for stocks of raw coca leaves, manufacturing coca extracts, and other crude coca alkaloids.

(c) The detail sheets [(BND) (DEA Form 168b) supporting the summary of original manufacturer from medical coca leaves, shall show separately the coca leaves used for the manufacture of manufacturing coca tinctures and extracts, and coca leaves used for the extraction of alkaloids, and shall show separately the coca alkaloids and salts, coca tinctures and extracts, and manufacturing coca extracts produced.

(d) Importation of medicinal coca leaves shall be reported in summarized entries in the debit summary of the quarterly report [(BND) (DEA Form 234) and shall be immediately reported by similar summarized entries in the credit summary of the quarterly report [(BND) (DEA Form 234) as transferred to importing manufacturer's report. Such importation shall be further reported in summary [(BND) (DEA Form 168) and supporting detail sheets [(BND) (DEA Form 168b). Products manufactured therefrom shall be reported as produced in accordance with subsection (h) of this Section and, with the exception of manufacturing coca extracts, residues or bases for further manufacture, and other crude or unfinished alkaloids, shall be transferred to the quarterly report [(BND) (DEA Form 234) when reported produced.

(f)-(j) (No change.)

8:65-5.25 Reports from manufacturers importing special coca leaves

(a) Every manufacturer using special coca leaves imported into the United States shall submit a quarterly report [(BND) (DEA Form 249) accounting for all transactions involving such leaves or substances derived therefrom which contain cocaine or ecgonine, or any salts, derivatives, or preparations from which cocaine or ecgonine may be synthesized or made.

This report shall be submitted to the Distribution Audit Branch, [Bureau of Narcotics and Dangerous Drugs,] Department of Justice, **Drug Enforcement Administration**, Washington, D.C. 20537, on or before the 15th day of the month following the period for which the report is made. Such report shall include a report of all importations of special coca leaves [(BND) (DEA Form 249a), a report of all materials entered into the processes of manufacturer [(BND Form 249b)], a report of the various substances produced therefrom [(BND) (DEA Form 249c, 249d and 249e), a report of all such substances destroyed [(BND) (DEA Form 249f), and a summary of operations [(BND) (DEA Form 249g).

(b)-(f) (No change.)

(a)

Controlled Dangerous Substances Requirement for Use of Order Forms

Proposed New Rule: N.J.A.C. 8:65-6

Authority: N.J.S.A. 24:21-9.

Proposal Number: PRN 1985-117.

The agency proposal follows:

Summary

The Department of Health proposes to establish the official manner in which controlled dangerous substances in Schedule I and II of the Controlled Substances Act (21 U.S.C. 801) and the Controlled Dangerous Substances Act (N.J.S.A. 24:21-1 et seq.) are obtained. Pursuant to Executive Order No. 66 (1978), these rules expired on February 15, 1985. They are therefore proposed as a new rule. Additions and deletions in the text of the proposal reflect amendments to the text of the rule, which currently appears in the New Jersey Administrative Code at N.J.A.C. 8:65-5.

The proposed new rule sets forth the Federally mandated requirements for compliance regarding procedures for obtaining and using the special order forms for Schedule I and II drugs. N.J.S.A. 24:21-14 requires that every registrant who handles Schedule I and II drugs must obtain and use the Federally required order forms. The proposed new rule governs the completion, filing, and disposition of the order forms in conformity with the Federal requirements.

Social Impact

The proposed new rule aids in the prevention, as well as the tracking of, diversion of Schedule I and II drugs, as it sets forth the manner in which registrants' must comply with the Federal requirements concerning obtaining and using the appropriate order forms. The use of these forms would not impact on any patient as the forms are used only between manufacturer and/or distributor and the practitioner.

Economic Impact

The costs to registrants of obtaining the order forms are minimal. There may be expenses for filing the forms, as they must be kept separately from the registrants' other records. There will be expenses incurred by the State, as the forms must be reviewed as part of the State-conducted accountability audit. There would not be any cost increases or other economic impact on any practitioner or patient.

Full text of the proposal follows (additions shown in bold-face thus; deletions shown in brackets [thus]).

8:65-6.1 Scope

This subchapter sets forth the Federally mandated requirements governing the issuance, use, and preservation of order forms pursuant to the Controlled Substances Act (21 U.S.C. 828, section 308).

[Procedures governing the issuance, use and preservation of order forms pursuant to section 308 of the Act (21 U.S.C. 828) are set forth generally by that section and specifically by the sections of this part.]

8:65-6.2 Definitions

The following words and terms, when used in this [Chapter] subchapter, shall have the following meanings, unless the contents clearly indicate otherwise:

"Act" means the Controlled Substances Act (84 Stat. 1242; 21 U.S.C. 801) [and/or] and the Controlled Substance Import and Export Act (84 Stat. 1285; 21 U.S.C. 951).

"D.E.A." means the Drug Enforcement Administration.

"Purchaser" means any registered person entitled to obtain and execute order forms pursuant to Sections 4 and 6 of this Subchapter.

"Supplier" means any registered person entitled to fill order forms pursuant to [Section 8 of this Subchapter.] N.J.A.C. 8:65-6.8.

Any term not defined in this section shall have the definition set forth in section 102 of the Act (21 U.S.C. 802) and 301.02 and 302.02 of the Act, or N.J.S.A. 24:21-1 et seq.

8:65-6.3 Distribution requiring order forms

(a) An order form (DEA Form 222c) is required for each distribution of a controlled substance listed in schedule I or II, except for the following:

1. The exportation of such substances from the United States in conformity with the Act;

2. The delivery of such substances to or by a common or contract carrier for carriage in the lawful and usual course of its business, or to or by a warehouseman for storage in the lawful and usual course of its business (but excluding such carriage or storage by the owner of the substance in connection with the distribution of a third person);

3. The procurement of a sample of such substances by an exempt law enforcement official pursuant to 316.04(d) of the Act, provided that the receipt required by that section is used and is preserved in the manner prescribed in this part for order forms;

4. The procurement of such substances by a civil defense or disaster relief organization, pursuant to 301.27 of the Act, provided that the civil defense emergency order form required by that section is used and is preserved with other records of the registrant; and

5. The purchase of such substances by the master of a vessel pursuant to 310.28(a) (3) of the Act; provided, that the special order form provided by the U.S. Public Health Service required by that section is used and preserved in the manner prescribed in this order form.

8:65-6.4 Persons entitled to obtain and execute order forms

(a) Order forms may be obtained only by persons who are registered under section 303 of the Act (21 U.S.C. 823) to handle controlled substances listed in schedules I and II, and by persons who are registered under section 1008 of the Act (21 U.S.C. 958) to export such substances. Persons not registered to handle controlled substances listed in, schedules I or

II and persons registered only to import controlled substances listed in any schedule are not entitled to obtain order forms.

(b) An order form may be executed only on behalf of the registrant named thereon and only if his registration as to the substances being purchased has not expired or been revoked or suspended.

8:65-6.5 Procedure for obtaining order forms

(a) Order forms are issued in groups of twenty-one forms, each form containing an original, duplicate, and triplicate copy (respectively, Copy 1, Copy 2 and Copy 3). A limit of twenty-one forms will be furnished on any requisition, unless additional quantities are specifically requested and a reasonable need for such additional quantity is shown.

(b) Any person applying for a registration which would entitle him to obtain order forms may requisition such forms by so indicating on the application form; order forms will be supplied upon the registration of the applicant. Any person holding a registration entitling him to obtain order forms may requisition such forms for the first time on DEA Form 222d, which may be obtained from the Registration Branch of the Administration. All requisitions shall be submitted to the Registration Branch, Drug Enforcement Administration, Department of Justice, Post Office Box 28083, Central Station, Washington, D.C. 20005.

(c) Each requisition shall show the name, address, and registration number of the registrant and the quantity of forms desired. Each requisition shall be signed and dated by the same person who signed the most recent application for registration or for reregistration, or by any person authorized to obtain and execute order forms by a power of attorney pursuant to Section 7 of this Subsection.

(d) Order forms will be serially numbered and issued with the name, address and registration number of the registrant, the authorized activity and schedules of the registrant. This information cannot be altered or changed by the registrant; any errors must be corrected by the Registration Branch of the Administration by returning the forms with notification of the error.

8:65-6.6 Procedure for executing order forms

(a) Order forms shall be prepared and executed by the purchaser simultaneously in triplicate by means of interleaved carbon sheets which are part of the DEA Form 222c. Order forms shall be prepared by use of a typewriter, pen, or indelible pencil.

(b) Only one item shall be entered on each numbered line. There are ten lines on each order form. If one order form is not sufficient to include all items in an order, additional forms shall be used. The total number of items ordered shall be noted on that form in the space provided.

(c) An item shall consist of one or more commercial or bulk containers of the same finished or bulk form and quantity of the same substance; a separate item shall be made for each commercial or bulk container of different finished or bulk form, quantity or substance. For each item the form shall show the name of the article ordered, the finished or bulk form of the article (e.g., ten milligram tablet, ten-milligram concentration per fluid ounce or milliliter, or United States Pharmacopeia [U.S.P.]), the number of units or volume in each commercial or bulk container (e.g., 100-tablet bottle of three-milliliter vial) or the quantity or volume of each bulk container (e.g., 10 kilograms), the number of commercial or bulk containers ordered, and the name and quantity per unit of the controlled substance or substances con-

tained in the article if not in pure form. The catalogue number of the article may be included at the discretion of the purchaser.

(d) The name and address of the supplier from whom the controlled substances are being ordered shall be entered on the form. Only one supplier may be listed on any one form.

(e) Each order form shall be signed and dated by a person authorized to sign a requisition for order forms on behalf of the purchaser pursuant to Section 5(c) of this Subchapter. The name of the purchaser, if different from the individual signing the order form, shall also be inserted in the signature space. Unexecuted order forms may be kept and may be executed at a location other than the registered location printed on the form, provided that all executed forms are delivered promptly to the registered location.

8:65-6.7 Power of attorney

(a) Any purchaser may authorize one or more individuals, whether or not located at the registered location of the purchaser, to obtain and execute order forms on his behalf by filing a power of attorney with records of the registrant.

(b) The power of attorney shall be signed by the same person who signed the most recent application for registration or reregistration and shall contain the signature of the individual being authorized to obtain and execute order forms, which individual shall affirm his signature.

(c) Any power of attorney may be revoked at any time by filing a notice of revocation, signed by the person who signed the power of attorney.

(d) It shall be necessary to submit a new power of attorney upon the registration of a purchaser only if the application for reregistration was signed by a person different from the person who signed the existing power of attorney.

8:65-6.8 Persons entitled to fill order forms

(a) An order form may be filled only by a person registered as a manufacturer or distributor of controlled substances listed in schedules I or II under section 303 of the Act (21 U.S.C. 823) or as an importer of such substances under section 1008 of the Act (21 U.S.C. 958), except for the following:

1. A person registered to dispense such substances under section 303 of the Act, or to export such substances under section 1008 of the Act, if he is discontinuing business or if his registration is expiring without reregistration may dispose of any controlled substances listed in schedule I or II in his possession pursuant to order forms in accordance with N.J.A.C. 8:65-8.7;

2. A person who has obtained any controlled substance in schedule I or II by order form may return such substance, or portion thereof, to the person from whom he obtained the substance or the manufacturer of the substance pursuant to the order form of the latter person; and

3. A person registered to dispense such substances may distribute such substances to another dispenser pursuant to, and only in the circumstances described in, N.J.A.C. 8:65-8.4;

4. A person registered as a compounder of narcotic substances for use at off-site locations in conjunction with a narcotic treatment program at the compounding location, who is authorized to handle Schedule II narcotics, is authorized to fill order forms for distribution of narcotic drugs to off-site narcotic treatment programs only.

8:65-6.9 Procedure for filling order forms

(a) The purchaser shall submit copy 1 and copy 2 of the order form to the supplier, and retain copy 3 in his own files.

(b) The supplier shall fill the order, if possible and if he desires to do so, and record on copies 1 and 2 the number of commercial or bulk containers furnished on each item and the date on which such containers are shipped to the purchaser. If an order cannot be filled in its entirety, it may be filled in part and the balance supplied by additional shipments within 60 days following the date of the order form. No order form shall be valid more than 60 days after its execution by the purchaser, except as specified in [Subsection (f) of this Section.] (f), above.

(c) The controlled substances shall only be shipped to the purchaser and at the location printed by the [Administration] D.E.A. on the order form, except as specified in (f) above. [Subsection (f) of this Section.]

(d) The supplier shall retain copy 1 of the order form for his own files and forward copy 2 to the Regional Director of the [Administration] D.E.A. in the region in which the supplier is located. Copy 2 shall be forwarded at the close of the month during which the order is filled; if an order is filled by partial shipments, copy 2 shall be forwarded at the close of the month during which the final shipment is made or during which the 60-day validity period expires.

(e) The purchaser shall record on copy 3 of the order form the number of commercial or bulk containers furnished on each item and the dates on which such containers are received by the purchaser.

(f) Order forms submitted by registered procurement officers of the Defense Personnel Support Center of Defense Supply Agency for delivery to armed services established within the United States may be shipped to locations other than the location printed on the order form, and in partial shipments at different times not to exceed six months from the date of the order, as designated by the procurement officer when submitting the order.

8:65-6.10 Procedure for endorsing order forms

(a) An order form made out to any supplier who cannot fill all or a part of the order within the time limitation set forth in N.J.A.C. 8:65-6.9 may be endorsed to another supplier for filling. The endorsement shall be made only by the supplier to whom the order form was first made, shall state (in the spaces provided on the reverse sides of copies 1 and 2 of the order form) the name and address of the second supplier, and shall be signed by a person authorized to obtain and execute order forms on behalf of the first supplier. The first supplier may not fill any part of an order on an endorsed form. The second supplier shall fill the order, if possible and if he desires to do so, in accordance with N.J.A.C. 8:65-6.9(b), (c) and (d), including shipping all substances directly to the purchaser.

(b) Distribution made on endorsed order forms shall be reported by the second supplier in the same manner as all other distributions except that where the name of the supplier is requested on the reporting form, the second supplier shall record the name, address and registration number of the first supplier.

8:65-6.11 Unaccepted and defective order forms

(a) No order form shall be filled if it:

1. Is not complete, legible, or properly prepared, executed or endorsed; or
2. Shows any alteration, erasure, or change of any description.

(b) If an order form cannot be filled for any reason under this Section, the supplier shall return copies 1 and 2 to the purchaser with a statement as to the reason (e.g., illegible or

altered). A supplier may for any reason refuse to accept any order and if a supplier refuses to accept the order, a statement that the order is not accepted shall be sufficient for purposes of this paragraph.

(c) When received by the purchaser, copies 1 and 2 of the order form and the statement shall be attached to copy 3 and retained in the files of the purchaser in accordance with [Section 13 of this Subchapter.] **N.J.A.C. 8:65-6.13.** A defective order form may not be corrected; it must be replaced by a new order form in order for the order to be filled.

8:65-6.12 Lost and stolen order forms

(a) If a purchaser ascertains that an unfilled order form has been lost, he shall execute another in triplicate and a statement containing the serial number and date of the lost form, and stating that the goods covered by the first order form were not received through loss of that order form. Copy 3 of the second form and a copy of the statement shall be retained with copy 3 of the order form first executed. A copy of the statement shall be attached to copies 1 and 2 of the second order form sent to the supplier. If the first order form is subsequently received by the supplier to whom it was directed, the supplier shall mark upon the face thereof "Not accepted" and return copies 1 and 2 to the purchaser, who shall attach it to copy 3 and the statement.

(b) Whenever any used or unused forms are stolen from or lost (otherwise than in the course of transmission) by any purchaser or supplier, he shall immediately upon discovery of such theft or loss, report the same to the Registration Branch, Drug Enforcement Administration, Department of Justice, Post Office Box 28083, Central Station, Washington, D.C. 20005, and the Drug Control Program, New Jersey Department of Health, CN 362, Trenton, NJ 08625 stating the serial number of each form stolen or lost. If the theft or loss includes any original order forms received from purchasers and the supplier is unable to state the serial numbers of such order forms, he shall report the date or approximate date of receipt thereof and the names and addresses of the purchasers.

(c) If an entire group of order forms is lost or stolen, and the purchaser is unable to state the serial numbers of the order forms contained therein, he shall report, in lieu of the numbers of the forms contained in such group, the date or approximate date of issuance thereof. If any unused order form reported stolen or lost is subsequently recovered or found, the registration branch of the bureau and the Department of Health shall immediately be notified.

8:65-6.13 Preservation of order forms

(a) The purchaser shall retain copy 3 of each order form which has been filled. He shall also retain in his files all copies of each unaccepted or defective order form and each statement attached thereto.

(b) The supplier shall retain copy 1 of each order form which he has filled.

(c) Order forms must be maintained separately from all other records of the registrant. Order forms are required to be kept available for inspection for a period of two years. If a purchaser has several registered locations, he must retain copy 3 of the executed order forms and any attached statements or other related documents (not including unexecuted order forms which may be kept elsewhere pursuant to [Section 6(e)] **N.J.A.C. 8:65-6(e)** of this Subchapter) at the registered location printed on the order form.

8:65-6.14 Return of unused order forms

If the registration of any purchaser terminates (because the purchaser dies, ceases legal existence, discontinues business or professional practice, or changes his name or address as shown on his registration) or is suspended or revoked pursuant to 301.45 or 301.46 of the Act as to all controlled substances listed in schedules I and II for which he is registered, he shall return all unused order forms for such substance to the nearest office of the Administration.

8:65-6.15 Cancellation and voiding of order forms

(a) A purchaser may cancel part or all of an order on an order form by notifying the supplier in writing of such cancellation. The supplier shall indicate the cancellation on copies 1 and 2 of the order form by drawing a line through the cancelled items and printing "canceled" in the space provided for number of items shipped.

(b) A supplier may void part or all of an order on an order form by notifying the purchaser in writing of such voiding. The supplier shall indicate the voiding in the manner prescribed for cancellation in Subsection (a) of this Section.

(c) No cancellation or voiding permitted by this section shall affect in any way contract rights of either the purchaser or the supplier.

8:65-6.16 Special procedure for filling certain order forms

(a) The purchaser of etorphine hydrochloride or diprenorphine shall submit copy 1 and 2 of the order form to the supplier and retain copy 3 in his own files.

(b) The supplier, if he determines that the purchaser is a veterinarian engaged in zoo and exotic animal practice, wildlife management programs and/or research and authorized by the [Administration] **D.E.A.** to handle these substances shall fill the order in accordance with the procedures set forth in Section 1305.09 except that (1) Order forms for etorphine hydrochloride and diprenorphine shall only contain these substances in reasonable quantities and (2) the substances shall only be shipped to the purchaser at the location printed by the [Administration] **D.E.A.** upon such order forms under secure conditions using substantial packaging material with no markings on the outside which would indicate the content.

HUMAN SERVICES

The following proposals are authorized by George J. Albanese, Commissioner, Department of Human Services.

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

For proposals numbered PRN 1985-128, 129, and 130, submit comments by April 3, 1985 to:

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

(a)

Administration Manual General Provisions

**Proposed Readoption: N.J.A.C. 10:49-1.6,
1.8, 1.11, 1.13 through 1.15, 1.18, 1.19,
1.21, 1.23, 1.26 through 1.33**

**Proposed Readoption with Concurrent
Amendments: N.J.A.C. 10:49-1.1 through
1.5, 1.7, 1.9, 1.10, 1.12, 1.16, 1.17, 1.20,
1.22, 1.24, 1.25**

Authority: N.J.S.A. 30:4D-3, 6, 7, 17, 17.1.

Proposal Number: PRN 1985-130.

Pursuant to Executive Order No. 66(1978), N.J.A.C. 10:49-1 expires on April 30, 1985. The re-adoption of the existing rule becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of re-adoption. The concurrent amendments to the existing rule become effective upon publication in the Register of a notice of adoption.

The agency proposal follows:

Summary

N.J.A.C. 10:49-1, entitled the Administration Manual, describes general provisions that are applicable to all Medicaid patients and to all providers that participate in the New Jersey Medicaid Program. The topics covered in this subchapter include procedures for identifying an eligible Medicaid patient, services that may be obtained by these eligible individuals, identification of the types of providers that are eligible to participate in the Medicaid program, procedures for enrollment, and causes for removal. Other topics covered include timely submission of claims, civil rights, free choice of Medicaid providers, confidentiality of records, patient certification and rules governing audits.

The rule was promulgated to set forth the basic requirements of the Medicaid program in one central location, rather than repeat the entire text at the start of each manual relating to a specific service. However, when a provider requests a

manual pertaining to a specific service from the Division, the Administration Manual is always included.

An administrative review has been conducted, and a determination made that the rule should be continued because it is adequate, reasonable, efficient, understandable and responsive for the purpose for which it was created. The rule enables the general public, as well as Medicaid patients and providers, to be aware of the basic program requirements, many of which are required by federal or state law or regulation.

The rule has been amended frequently and often in response to federal or state legislative or regulatory changes. It would not be possible to list all the amendments but the following examples are provided for illustration.

N.J.A.C. 10:49-1.17, entitled "Program Participation," was added to comply with Executive Order No. 34 dated March 29, 1976 and set forth the grounds for removal of providers from the Medicaid program. N.J.A.C. 10:49-1.27, entitled "Audits," was added to provide definitions required by N.J.S.A. 30:4D-17(f). N.J.A.C. 10:49-1.14, entitled "Use of service bureau and/or management agency," and 10:49-1.3, entitled "Eligible Providers," were both amended to reflect changes in federal regulations.

The rule is being amended on re-adoption. The table of contents and foreword have been corrected, and the directory of Medicaid District Offices has been deleted from Section 1.24 and placed in a new Appendix A. Section 1.1 lists the correct designation for the appropriate refugee program, and also indicates for the AFDC (Aid to Families with Dependent Children) program the mother must contact the appropriate county welfare agency to obtain a person number for the newborn child.

N.J.A.C. 10:49-1.2, entitled "How to identify a covered person," has been entirely deleted and replaced with the new text that appears below. The amended text describes four separate documents which are issued by various agencies to identify patients who are financially eligible for Medicaid. Form FD-152 is issued by county welfare agencies to AFDC recipients, and to persons eligible for refugee programs. There may be messages printed on the FD-152 which would indicate any limitations that may be placed on a Medicaid patient. These limitations include, but are not limited to, enrollment in a specific program, such as an HMO (Health Maintenance Organization), MP Plan (Medicaid Personal Physician Plan), and the Medicaid Special Status Program. For persons declared eligible by the Social Security Administration under the SSI (Supplemental Security Income) Program, the standard card (FD-73/178) is issued monthly. This card is also issued quarterly to Medicaid eligible children under the supervision of DYFS (Division of Youth and Family Services). Form 16-36 may also be issued by DYFS, but is only used on a temporary basis. Form FD-34 identifies an individual who resides in a state or county institution. The exhibits I through IV provide an illustration of the forms and cards mentioned previously.

N.J.A.C. 10:49-1.3, entitled "Eligible providers," now lists the types of providers in alphabetical order. Exhibit V contains an example of the Medicaid provider application, and Exhibit VI is the basic Medicaid provider agreement, which is required by federal regulations (42 CFR 431.107).

N.J.A.C. 10:49-1.4, entitled "Authorized services for covered persons," is being amended to indicate that all inpatient hospital stays must be approved through the appropriate utilization review mechanism. The requirement for prior authorization (after an initial visit) for mental health services in boarding homes or long term care facilities reflects existing agency policy (see R.1981 d.374 at 13 N.J.R. 706(d)).

The limitations on treatment of flat feet and subluxation conditions (structural misalignment of the joints of the feet which do not require surgery) are being amended to conform with the Podiatry Services Manual (9 N.J.R. 435(a)).

N.J.A.C. 10:49-1.5, entitled "General exclusions," indicates that providers will not be reimbursed for services rendered to a recipient who has a printed message on the Identification Card (FD 73/178) restricting them to another provider of the same service.

N.J.A.C. 10:49-1.12, entitled "Timely submission of claims and claim inquiries," was amended to indicate that claims for payment from both non-institutional and institutional providers (except for long term care facilities and state and county psychiatric hospitals) must be received by the appropriate fiscal agent, either the Prudential Insurance Company or New Jersey Blue Cross, not later than 12 months from the earliest date of service indicated on the claim form. This time requirement conforms with the federal regulations (42 CFR 447.45(d)(1)) which specify that Medicaid providers must submit all claims for payment no later than 12 months from the date of service.

N.J.A.C. 10:49-1.22, entitled "Confidentiality of records," deleted the current text and replaced it with the amended text printed below. The amended language was based on the federal regulations concerning safeguarding information on applicants and recipients (42 CFR 431, Subpart F). The basic premise of the federal regulations is that the use or disclosure of information concerning applicants and recipients is limited to purposes directly connected with the administration of the Medicaid program.

N.J.A.C. 10:49-1.25, concerning Medicaid reimbursement for abortions, is being deleted, because it is already described in the Manual for Hospital Services (N.J.A.C. 10:52-1.16), Manual for Special Hospital Services (N.J.A.C. 10:53-1.14), Manual for Physician's Services (N.J.A.C. 10:54-1.23), and Independent Clinic Manual (N.J.A.C. 10:66-1.6(n)1).

Social Impact

The rule potentially impacts on all Medicaid patients and all Medicaid providers because it is a basic description of general program requirements such as financial eligibility, covered services, provider enrollment and participation.

The rule also impacts on the Division's fiscal agents, who are responsible for processing claims submitted by providers.

The rule should be continued because the public, especially those persons who provide or require Medicaid services, need to be informed of changes in federal or state law or regulations which impact on the Medicaid program as a whole.

The rule needs to be readopted to insure continued receipt of federal funding for the Medicaid program, because many of the sections in this subchapter are based on federal requirements.

Economic Impact

Except for those costs associated with the general administration of the Medicaid program, there is no direct economic impact associated with this proposal.

With respect to Medicaid providers, there is no change in the method of reimbursement, whether fee-for-service, or cost related. However, Medicaid providers should be aware of the documents used to indicate patient eligibility, and should check the patient's current status each time treatment is rendered. Medicaid providers should submit claims within the required time frames. Claims that are not filed timely will be denied payment.

Generally there is no cost to the Medicaid patient for services covered by the Medicaid program. However, patients in long term care facilities are required to contribute towards the cost of their care from their available income.

Those persons who qualify for home and community-based services under the Community Care Waiver Program for the Elderly and Disabled (CCPED) may be required to contribute towards the cost of their care in accordance with an established formula.

The rule needs to be readopted to insure continued federal funding for the administrative mechanisms of the Medicaid program.

Full text of the proposed re Adoption appears in the New Jersey Administrative Code at N.J.A.C. 10:49-1.

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

SUBCHAPTER 1. GENERAL PROVISIONS

10:49-1.1 Who is eligible for Medicaid

(a) Medical and health services will be available to the following general groups. [which] **The groups** are not all inclusive:

- 1.-2. (No change.)
3. Persons who are eligible to receive financial assistance as determined by the county welfare agency. Such persons are:
 - i. Families with dependent children including children 18 through 21;
 - ii. [Families of the working poor] **Cuban/Haitian Entrant Program refugees;**
 - iii. [Cuban and Indo-Chinese refugees;] **Refugee Resettlement Program refugees.**
4. (No change.)
5. Persons 65 years of age and above who do not meet eligibility standards of the categorically-related assistance programs, but whose medical needs qualify **them** under the New Jersey State Medical Assistance to the Aged **Continuance Program (MAA) (New recipients are no longer accepted in this program);**
- 6.-7. (No change.)
8. Persons who would be eligible for financial assistance under one of the above programs[,] except for a requirement that is specifically prohibited by Federal law or regulations, such as execution of a reimbursement agreement.

(b) Although **both** the mother **and** [of a] newborn infant may be [an] eligible recipients on the date of delivery, the newborn infant is not immediately **assigned a person number**. [determined eligible. However,] In order to expedite payment to practitioners and hospitals for in-hospital services rendered to newborns during the mother's confinement, allowance has been made to reimburse providers using the mother's Health Services Program (**Medicaid**) Case Number and patient Person Number. When the mother is discharged from the hospital, services to the newborn [can] **may** no longer be claimed by the practitioner **and/or** hospital under the mother's Person Number. , and an application on behalf of the newborn infant must be made by the recipient to the county welfare agency, which will assign a Person Number.] **The mother must contact the county welfare agency to obtain a person number for the newborn.** It is the duty of the practitioner or the hospital to contact the county welfare agency to obtain the newborn's Person Number for billing purposes.

(c) If a patient has not applied for benefits, is unable to pay for services rendered and appears to meet the requirements for eligibility for the New Jersey Medicaid Program, the provider should encourage the patient or his/her representative to apply for benefits through the county welfare agency or Social Security Administration, which will [accept and] process the application and notify the patient of the resulting determination.

1. (No change.)

(d) Persons applying for Medicaid benefits will be asked if they have unpaid medical bills incurred within the three month[-]period immediately prior to the month of application for Medicaid. Persons indicating that they do have such bills [will] **may** complete an "Application for Retroactive Medicaid Eligibility" (FD-74) and [will] forward [with] the application[,] **with** all outstanding unpaid bills to the Medicaid Retroactive Eligibility Unit [in Trenton]. An application[s] for retroactive eligibility [(FD-74)] may be obtained by the applicant [and/]or his/her authorized agent from the county welfare agency, the Medicaid district office or the Retroactive Eligibility Unit, Medicaid Central Office, Trenton.

1. If the New Jersey Medicaid Program determines that the person was eligible for Medicaid at the time the service/[item] was rendered **or item supplied**, providers will be notified directly that the unpaid bills for any service/item covered by the New Jersey Medicaid Program [will] **may** be reimbursable in accordance with standard Medicaid reimbursement procedures. The provider will then complete [a regular] **the appropriate** Medicaid claim form and submit it to the Retroactive Eligibility Unit for consideration and authorization of payment.

(e) It is in the best interest of the provider to review monthly the eligibility of patients receiving continuing services. There is no reimbursement for services performed after termination of eligibility [other than by exceptional circumstances].

10:49-1.2 How to identify a covered person

Delete the current text in its entirety and add the following:

All eligible persons as described below have an HSP (Medicaid) Case Number, which includes a two-digit individual Person Number. This identification number appears on the validation of eligibility form which must be presented to providers of services as a proof of eligibility.

(a) An HSP (Medicaid) Case Number, as currently assigned, consists of twelve digits.

1. The first two digits designate the county of residence of the individual at the time of eligibility.

i. For an individual in a long-term care facility, the first two digits of the HSP (Medicaid) Case Number reflect the county of residence when the application was made but not necessarily the location where the patient is institutionalized nor the agency/county responsible for supervision of services. The Medicaid district office in the county designated by the first two digits may supply more information in these instances.

ii. County Welfare Agencies:

01-Atlantic	08-Gloucester	15-Ocean
02-Bergen	09-Hudson	16-Passaic
03-Burlington	10-Hunterdon	17-Salem
04-Camden	11-Mercer	18-Somerset
05-Cape May	12-Middlesex	19-Sussex
06-Cumberland	13-Monmouth	20-Union
07-Essex	14-Morris	21-Warren

2. For an individual in a State or county institution, the first two digits of the HSP (Medicaid) Case Number reflect the institution where the individual resides.

i. State and county institutions:

- 31-Greystone Park Psychiatric Hospital
- 32-Trenton Psychiatric Hospital
- 33-Marlboro Psychiatric Hospital
- 34-Ancora Psychiatric Hospital/Ancora Developmental Center
- 35-North Princeton Developmental Center
- 36-Arthur Brisbane Child Development Center
- 37-Bergen Pines County Hospital
- 38-Essex County Psychiatric Geriatric Center
- 39-Camden County Psychiatric Hospital
- 41-Vineland Developmental Center
- 42-North Jersey Developmental Center
- 43-Greenbrook Regional Center
- 44-Woodbine Developmental Center
- 45-New Lisbon Developmental Center
- 46-E.R. Johnstone Training and Research Center
- 47-Woodbridge Developmental Center
- 48-Hunterdon Developmental Center

90-Community/Special Residential Services (Family Care)

3. The third and fourth digits of the 12-digit HSP (Medicaid) Case Number designate the category under which a person is determined eligible for the New Jersey Medicaid Program.

- 10-Aid to the Aged
- 20-Aid to the Disabled
- 30-Aid to Families with Dependent Children
- 50-Aid to the Blind
- 60-Children in Foster Care
- 70-Medical Assistance for Aged—A New Jersey State Program

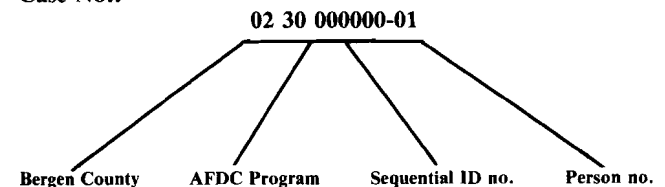
80-Refugee Program

4. The next six digits (5 through 10 of the 12-digit HSP (Medicaid) Case Number) designate the sequential identification number of the recipient(s).

5. The last two digits designate the specific person number assigned to each individual.

- 01-09 Adult (any age)
- 10-19 Essential Person (any age)
- 20-49 Children under 21

6. Example of an HSP (Medicaid) Case Number: An Aid to Families with Dependent Children (AFDC) recipient from Bergen County could have the following HSP (Medicaid) Case No.:



(b) Forms used for validation of eligibility: A New Jersey Medicaid provider may verify the client's Medicaid eligibility by means of the Department of Human Services "Medicaid I D" (FD-152), "Medicaid Eligibility Identification Card" (FD-73/178), "DYFS 16-36" or "Validation of Eligibility" (FD-34).

1. Department of Human Services "Medicaid I D" (FD-152) (See Exhibit I at the end of this section): This validation form is issued by the appropriate county welfare agency to

recipients of Aid to Families with Dependent Children, and to eligible persons under the Refugee and Medicaid Only programs. The form indicates that the individual(s) is/are currently eligible for coverage for the month shown on the form. The validation form must be retained by the eligible person to whom it is issued.

i. This form is the sole indicator of Medicaid eligibility for person(s) listed on the form.

ii. Be sure to enter the name, HSP (Medicaid) Case Number, including the Person Number, exactly as it appears on the FD-152 form when requesting authorization for services or submitting a claim form.

iii. One of the following five messages may be printed on the top line of the FD-152 form issued by the county welfare agencies. Only one message will appear on the form. If more than one applies, the message printed is chosen in the order of priority listed below. Providers are requested to take the specific action listed as given below for whichever one of the five messages appears on the FD-152 form:

(A) Message One: "NOT VALID FOR MEDICAID"—Do not honor invalidated Medicaid ID Stubs. This recipient is enrolled in the Medicaid Special Status Program. The recipient and others on his/her grant must produce a valid FD 73/178, "Medicaid Eligibility Identification Card" (see Subparagraph 2, v. below).

(B) Message Two: "RESTRICTED USE HMO-CALL NUMBER LISTED"—This recipient (and any member of his/her family on the AFDC grant) is enrolled in OMNICARE/the hmo. Call the telephone number listed to determine whether the service or the item you are being asked to provide is provided by the HMO. If you provide a service available through OMNICARE/the hmo, you risk being denied reimbursement by the Medicaid Program except in medical emergencies. (See Newsletter #P-390/BC-279, dated June 1, 1984 at the end of this Chapter.)

(C) Message Three: "HMO COVERAGE"—There will be an asterisk (*) before the name of the recipient(s) enrolled in an HMO other than OMNICARE/the hmo. Determine which HMO the recipient(s) is covered by and contact the HMO to determine what services are covered. If you provide a service available through the HMO, you risk being denied reimbursement by the Medicaid Program except in medical emergencies.

(D) Message Four: "OTHER COVERAGE"—There will be an asterisk (*) before the name of the recipient(s) covered by another health insurer. Determine the insurer and the policy number. (See N.J.A.C. 10:49-1.7 for information about third party insurance.)

(E) Message Five: "VALID ONLY WITH MP PLAN CARD." (See Newsletter #P-362/BC-260, dated July 15, 1983.)

2. "Medicaid Eligibility Identification Card" (FD-73/178) (see Exhibit II at the end of this section): This card is issued monthly or quarterly depending on the basis of the recipient's eligibility. The FD-73/178 is issued monthly to individuals (aged, blind and disabled) determined by the Social Security Administration to be eligible for Supplemental Security Income (SSI) and monthly to individuals in the Special Status Program (see Subparagraph v. below). It is issued quarterly for Medicaid-eligible children under the supervision of the Division of Youth and Family Services.

i. The "Medicaid Eligibility Identification Card" (FD-73/178) usually identifies eligibility for only one person. However, the Special Status Program restrictions apply to all eligi-

ble persons listed on a Medicaid Special Status Card, which identifies all eligible persons in the family.

ii. The FD-73/178 is valid only when signed by the eligible person or his/her representative payee/legal guardian.

iii. The FD-73-178 includes an address, date of birth, social security account number and the availability of any third party health insurance. If the Medicaid client has health insurance, the name of the other insurer will be printed together with a corresponding policy number. Additionally, the type of Medicaid coverage (Part A, Part B or Part A and B) and the HIC (Medicare) Number will be included for all Medicare/Medicaid eligibles.

iv. The FD-73-178 will also indicate the cardholder's enrollment in any special programs (HMO, Medicaid Personal Physician Plan, Community Care for the Aged and Disabled, and Special Status Program). (For information about these special programs see newsletters at the end of this Subchapter: For HMO—Newsletter #P-390/BC-279, dated June 1, 1984; for Medicaid Personal Physician Plan—Newsletter #P-362/BC-260, dated July 15, 1983; for Community Care for the Aged and Disabled—Newsletter #P-371/BC-266 dated December 5, 1983.)

v. The "Special Status Program" restricts the Medicaid client to a single provider of pharmaceutical services. It is issued to clients determined by New Jersey Medicaid to have misused, abused or overused their Medicaid benefits. The name and address of the pharmacy to which the client is restricted will be printed on the top of the "Medicaid Eligibility Identification Card". A recipient is permitted to change the designated provider every three months or sooner upon demonstration of good cause and may request a hearing if such a change is denied or unduly delayed or if the recipient otherwise objects to being included in the "Special Status Program". In an effort to discourage misuse or card lending in certain instances, a message will be printed on the card alerting the provider to ask the Medicaid client for additional identification.

3. "DYFS—16-36" (See Exhibit III at the end of this section): This validation form is issued monthly by the Division of Youth and Family Services to eligible children. This form indicates eligibility for covered health services during the month shown on the form itself.

i. The validation form must be retained by the person to whom it is issued.

ii. The form is the sole indicator of eligibility for this group of children.

iii. The HSP (Medicaid) Case Number must be entered exactly as it appears on the validation form on all requests for authorization of services and when submitting claim forms.

4. "Validation of Eligibility" (FD-34) (See Exhibit IV at the end of this section): This validation form identifies an individual who resides in a State or county institution.

i. The validation form is prepared and completed by the authorized Medicaid representative at the State/county institution. It is valid for a period of up to 31 days from the date of issue to an eligible Medicaid patient/resident in a State/county psychiatric hospital or an institution for the developmentally disabled, and is used to obtain Medicaid covered services outside of the institutional setting. The form must be returned with the patient.

ii. Form FD-34 requires the signature, title and telephone number of the authorized representative at the institution.

iii. The resident or patient of a State/county institution receiving covered health services in the community is identi-

fied by the 12-digit HSP (Medicaid) Case Number in which the first two digits identify the institution.

iv. The Medicaid program has designated specific Medicaid district offices (see Appendix A for list of MDO's) to handle the prior authorization requests for service for patients/residents from each institution and the family care residents who are under the jurisdiction of the Division of Mental Retardation. If the patient/resident's HSP (Medicaid) Case Number begins with any of the following numbers, contact the Medicaid district office (MDO) indicated.

- (1) 31 Morris MDO
- (2) 32 Mercer MDO
- (3) 33 Monmouth MDO
- (4) 34 Camden MDO
- (5) 36 Monmouth MDO
- (6) 41 Cumberland MDO
- (7) 42 Passaic MDO
- (8) 44 Atlantic MDO
- (9) 45 Burlington MDO
- (10) 47 Middlesex MDO
- (11) 48 Hunterdon MDO
- (12) 90 Ocean MDO

EXHIBITS 1 THROUGH [V] IV: VALIDATION FORMS

The following exhibits reproduce the content only of each validation form; for actual samples, write to the Division of Medical Assistance and Health Services, CN-712, Trenton, New Jersey 08625.

Delete the current text of Exhibits I through V in its entirety and add Exhibits I through IV listed below:

EXHIBIT I
DEPARTMENT OF HUMAN SERVICES
MEDICAID-ID

Valid Only for the Month Of
 Medicaid HSP #
 Eligible Persons Person #

NOTICE TO PROVIDER: Request personal identification if you do not know the patient.

Please report the case name, case number and person number **ACCURATELY** on all claim forms and other communications relating to the claim.

NOTICE: Federal law makes it a crime and sets punishment for persons who have been found guilty of making any false statement or representation of a material fact to receive any benefit or payment under the medical assistance program. This Department is required to make you aware of this law and to warn you against making any false statement in an application or in a fact used in determining the right to a benefit, or converting a benefit to the use of any person other than one for whom it was intended.

NON-TRANSFERABLE UNDER PENALTY OF LAW.

CARRY THIS CARD AT ALL TIMES: Parent it to the pharmacy, hospital, physician or other providers for medical services rendered in behalf of eligible persons.

.....
Recipient's signature required

EXHIBIT II

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE &
HEALTH SERVICES
MEDICAID ELIGIBILITY IDENTIFICATION CARD

Additional Health Insurance*
 HSP (Medicaid) Case No. Person No.

VALID: From:
 To:

Soc. Sec. Acct. No. Date of Birth

Name
 Street Address
 City, State Zip Code

Use this card when you need medical services

.....
Recipient's Signature

FD-73/178
(Rev. 10/83)

IMPORTANT NOTICE: You must sign the front of this card on the line above the Recipient's Signature. If you are unable to sign the card, the individual representing you must sign your name, initial the card and explain his/her relationship to you.

Immediately notify the Medicaid District Office or the Division of Youth and Family Services case manager or the County Welfare Agency (as appropriate):

1. if you have Medicare Coverage or other health insurance not listed or incorrectly listed; or
2. if any changes are necessary to the front of this card; or
3. if you have any questions regarding the use of this card; or
4. if this card is lost or stolen. (Unless the report of the loss or theft can be documented at the appropriate agency, you may be liable to repay Medicaid for any benefits obtained through its unauthorized use.)

FEDERAL and STATE LAW make it a crime and set the punishment for persons who have been found guilty of making any false statement or representation of a material fact to receive any benefit or payment under the Medicaid Program. The Department of Human Services is required to make you aware of this law and to warn you against making any false statement in an application or in a fact used in determining the right to a benefit, or converting a benefit to the use of any person other than one for whom it was intended.

THIS CARD IS NON-TRANSFERABLE UNDER PENALTY OF LAW

NOTICE TO PROVIDERS:

The printed name which appears directly above the line for Recipient's Signature on this card is the **MEDICAID** eligible person. This name identifies that person **ONLY** (except **AFDC** can include spouse/child(ren) listed with **PERSON NUMBERS**) as being eligible for **MEDICAID** benefits within

the time period shown. If the name of a "REPRESENTATIVE PAYEE" appears on this card, that individual is not eligible for Medicaid benefits.

*Ask the cardholder if there is Medicare coverage or other health insurance not listed. Please indicate this information in the appropriate area on the claim form. You are to bill MEDICAID only AFTER receiving denial or partial payment from the other insurance company.

EXHIBIT III

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

VALIDATION OF ELIGIBILITY

.....
Last Name/First Name/M.I./Health Servs. Prog. Case No./Person No.

NOTICE TO PROVIDERS

This form identifies the person listed above as eligible for authorized services under the New Jersey Health Services Program (Medicaid).

This form also serves as a validation of eligibility for up to 31 days from date of issue. All policies and procedures specified in the appropriate New Jersey Health Services Program Provider manual are to be followed by providers when rendering services to this person.

The signature, title and telephone number of an authorized representative of the State Institution listed below must be included to validate this form.

THIS FORM IS THE PROPERTY OF THE STATE OF NEW JERSEY AND MUST BE RETURNED WITH THE PATIENT.

.....
Signature and Title of State Institutional Representative Date of Issue

.....
Name of Institution Telephone No.

FD-34 (Rev. 5/83)

EXHIBIT IV

Child's No. Name Case No.

VALID ONLY FOR MONTH OF

PLACEMENT REFERENCE

STATE OF NEW JERSEY
DIVISION OF YOUTH AND FAMILY SERVICES

VALIDATION
FOR HEALTH SERVICES PROGRAM

DYFS 16-36
(Rov. 3/73)

NOTICE TO CLIENT: This validation form indicates eligibility for authorized health services provided under the New Jersey Health Services Program.

This validation must be presented to the provider of medical services along with the plastic identification card.

NOTICE TO PROVIDER OF MEDICAL SERVICES: The case number and name on this form must be compared to that shown on the plastic identification card issued to the bearer.

The claim for payment of health services is to be submitted to the appropriate contractor for the State of New Jersey on the required vendor claim form.

Please report the case name, case number and person number ACCURATELY on all claim forms and other communications relating to the claim.

10:49-1.3 Eligible providers

(a) An eligible provider of services is any individual, partnership, association, corporation, institution or any other public or private entity designated below, meeting applicable requirements and standards for participation in the New Jersey Medicaid Program; and, where applicable, holding a current valid license. Providers are required to complete a provider application form (FD-20), to sign a provider participation agreement (FD-62) (see Exhibits V and VI at the end of this section) or a specialized agreement, depending on the nature of the provider [(see exhibit VI at the end of this section)]. All provider applicants and reapplicants defined as disclosing entities (all Medicaid providers other than an individual partitioner and/or a group of practitioners) are required to complete a HCFA form 1513, Ownership and Control Interest Disclosure Statement. Providers prior to 1973 were not required to utilize provider agreement forms[,] ; however, they must comply with all applicable State and Federal Medical laws, policies, rules and regulations.

1. As a condition of continued participation in the New Jersey Medicaid program, a provider may, from time to time, be required to:

- i. (No change.)
ii. Complete a disclosure of ownership and control interest information statement on forms prescribed by the New Jersey Medicaid [Agency] Program. This requirement is applicable only to providers who are disclosing entities.

2. A provider who is surveyed annually, by the State survey agency (New Jersey State Department of Health), is required, upon request, to furnish ownership and control interest information. The New Jersey Medicaid [Agency] Program will not approve any provider agreement and will terminate any existing agreement or contract if the provider fails to disclose information required by this subsection.

3. Enrollment documentation requested by the New Jersey Medicaid [Agency] Program must be furnished within 35 days of the date of the written request.

(b) Providers eligible to participate in the New Jersey Medicaid Program are:

- [1. Medical and surgical supply dealers;
2. Certified independent clinical laboratories;
3. Dentists and/or dental groups;
4. Hearing aid dealers;
5. Home health agencies;
6. General hospitals;
7. Special hospitals;
8. Long-term care facilities (limited to skilled nursing facilities, intermediate care facilities and intermediate care facilities for the mentally retarded);
9. Opticians;
10. Optometrists;
11. Approved clinics (independent outpatient health facilities);
12. Certified orthotists;
13. Certified prosthetists;
14. Pharmacies;

- 15. Physicians and/or physician groups;
- 16. Podiatrist and/or podiatric groups;
- 17. Psychologist and/or psychology groups;
- 18. Chiropractors and/or chiropractic groups;
- 19. Transportation providers (limited to ambulance and invalid coach);
- 20. Certified nurse-midwives;
- 21. Voluntary nonprofit homemaker/home health aide agencies;
- 22. State and County agencies which have agreed to provide personal care assistant services.]

- 1. Chiropractors and/or chiropractic groups;
- 2. Clinics (independent outpatient health care facilities);
- 3. Clinical Laboratories (independent, certified);
- 4. Dentists and/or dental groups;
- 5. Hearing aid dealers;
- 6. Home health agencies (certified licensed);
- 7. Homemaker Agencies (proprietary and voluntary nonprofit);
- 8. Hospitals (general);
- 9. Hospitals (special);
- 10. Long-term care facilities (limited to skilled nursing facilities, intermediate care facilities, and intermediate care facilities for the mentally retarded);
- 11. Medical and surgical supply dealers;
- 12. Medical Day Care Centers;
- 13. Nurse-midwives (certified);
- 14. Opticians;
- 15. Optometrists;
- 16. Orthotists (certified);
- 17. Pharmacies;
- 18. Physicians and/or physician groups;
- 19. Podiatrists and podiatric groups;
- 20. Prosthetists (certified);
- 21. Psychologists and/or psychology groups;
- 22. Transportation Providers (limited to ambulance and invalid coach);
- 23. State and county agencies which have agreed to provide personal care assistant services.

[(c) The Commissioner of Human Services hereby adopts Federal standards 45 CFR 249.13, Standards for Intermediate Care Facility Services in Institutions for the Mentally Retarded or Persons with Related Conditions, as amended, to include as a provider of services eligible for Title XIX (Medicaid) reimbursement Intermediate Care Facilities for the Mentally Retarded (ICF-MR). Publicly and privately operated facilities in New Jersey seeking Medicaid provider status under ICF-MR classification may apply to the New Jersey Health Services Program under the Federal standards.]

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

EXHIBIT V

STATE OF NEW JERSEY
 DEPARTMENT OF HUMAN SERVICES
 DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
 CN-712
 TRENTON, NEW JERSEY 08625

MEDICAID PROVIDER APPLICATION

1.	2.
Legal and/or Trade Name of Organization	Type of business or Facility
3.	
Address	Street City County State Zip Code
4.	5.
SSA and/or Employer ID No.	Telephone No.
	6.
	Length of time at Above Address
7.	8.
Billing Address, If Different	Name of Administrator, Chief Executive Officer, Director or Other Official

9. List the specific service(s) for which you are requesting approval for reimbursement under the Medicaid Program.
 10. Do you operate from more than one location? [] Yes [] No

If yes, list all other subsidiary or affiliated organization below: (Name and address)

- 1.
- 2.
- 3.

Please attach additional sheet if necessary

11. Please indicate your preference to receive central or local reimbursement: [] Reimbursement to each Satellite Location [] Reimbursement to Central Location

Billing through a central location is allowable and left to the provider's discretion. However, if the provider chooses to bill centrally, pre-addressed claims MUST be utilized since they reflect the proper address and provider number for that location.

12. Do you require a Certificate of need under the health Facilities Planning Act from the New Jersey Department of Health? [] Yes [] No If yes, have you applied for the Certificate?

Attach copy of Certification of Need. If no, explain why you don't require a Certificate.

13. If your business or facility requires a license(s), list type of license(s), license number(s), effective date of license(s), and attach a non-returnable copy.

14. CERTIFICATION, ACCREDITATION OR APPROVAL—Specify type and attach copy. For Example JCAH (Hospitals); New Jersey Department of Health (Clinics); Office of Community Services (Mental Health Clinics); State Board of Dentistry (Dental Clinics); State Board of Pharmacy (Providers offering Pharmaceutical Services); American Board for Certification in Orthotics and Prosthetics (Prosthetist and/or Orthotist) See also question 15.

15. Approved by Medicare? [] Yes [] No If yes, attach copy of your approval, if applicable. If no, have you applied for Medicare approval? [] Yes [] No attach documentation

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16. Are you currently or have you ever been an approved provider of services under the New Jersey Medicaid (Title XIX) Program? If yes, list type of service(s) provided and current status. If you were approved at one time and no longer participate, explain the reason(s).

17. Indicate legal status of your organization: Profit Corporation [], Non-Profit Corporation [], Partnership [],

Sole Proprietor [], Government [], Other []. If other please specify:

18. Do you or does your organization have any legal or professional relationships with any other health care organization(s) or facility(ies)? [] Yes [] No If yes, list all such relationships below:

19. Does any member of your organization have a ten percent or greater financial interest in any other organization or practice of an individual providing services under the New Jersey Medicaid Program? If yes, list name of individual and/or organization.

20. Do you charge for goods and/or services? TO ALL [], TO NONE [], TO CERTAIN GROUPS ONLY []. If you charge to all or only certain groups, please explain your arrangements and attach copy of your fee schedule.

21. List days and hours of operation.

22. List the Names, SSA Number, License Number and Degree(s) for all Professional Staff in the Organization. Include Physicians, Dentists, Psychologists, Registered Physical Therapists, Optometrists, etc. If more space is needed attach additional sheets.

23. FOR THE PURPOSE OF ESTABLISHING ELIGIBILITY TO RECEIVE DIRECT PAYMENT FOR SERVICES TO RECIPIENTS UNDER THE NEW JERSEY MEDICAID (TITLE XIX) PROGRAM: I CERTIFY THAT THE INFORMATION FURNISHED ON THIS APPLICATION IS TRUE, ACCURATE, AND COMPLETE.

24. Signature of Provider Title Date

EXHIBIT VI

STATE OF NEW JERSEY DEPARTMENT OF HUMAN SERVICES DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

NEW JERSEY HEALTH SERVICES PROGRAM TITLE XIX (MEDICAID)

PROVIDER AGREEMENT BETWEEN

NEW JERSEY DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

AND

PROVIDER

PROVIDER AGREES:

- 1. To comply with all applicable State and Federal "Medicaid" laws and policy, and rules and regulations promulgated pursuant thereto;
2. To keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving assistance under the Medicaid Program;
3. To furnish the Division of Medical Assistance and Health Services, the Secretary of Health and Human Services and the State Medicaid Investigation Unit with such information as may be requested from time to time, regarding any payments claimed for providing services under the Medicaid Program.
4. To comply with the requirements of Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 and any amendments thereto; and Section 1909 of P.L. 92-603, Section 242(c) which makes it a crime and sets the punishment for persons who have been found guilty of making any false statement or representation of a material

fact in order to receive any benefit or payment under the Medical Assistance Program. (The Department of Human Services is required by Federal regulation to make this law known and to warn against false statements in an application/agreement or in a fact used in determining the right to a benefit, or converting a benefit to the use of any person other than one for whom it was intended.) The provider may, on thirty days written notice to the Division, terminate this Agreement.

Date

Signature of Provider

Title

FD-62 Rev. 5-81

Medicaid 3031-M Ed. 7-81

- 10:49-1.4 Authorized services for covered persons
(a) The items and services provided to covered persons [will] are not normally [be] limited in duration or amount. Any limitation imposed will be consistent with the medical necessity of the patient's condition, as determined by the attending physician or other practitioner, in accordance with standards generally recognized by health professionals and promulgated through the New Jersey Medicaid Program. The following items and services, more specifically defined in subsequent sections of the appropriate provider manual, are authorized under the program:
1. Inpatient hospital services.
i. In General Hospitals: [Unlimited] Service is unlimited except for exclusion of elective cosmetic surgery and diet therapy for exogenous obesity. [Need for initial hospitalization must be certified to by attending physician. The initial number of days of hospitalization approved depends on the diagnosed condition for which the patient is treated.] The admitting (attending) physician is required to certify concerning the reasons for admission. All inpatient stays must be approved through the utilization review mechanism to be eligible for reimbursement.
ii.-iii. (No change.)
iv. Non-Approved Hospital emergency services: Limited to emergency services with a maximum of 20 days payment allowed. No requirements for prior authorization.
2. Outpatient hospital services: There are no limitations, except for exclusion of elective cosmetic surgery and prior authorization required for certain dental services (See N.J.A.C. 10:56). Prior authorization is also required for partial hospitalization after the first 30 calendar days (See N.J.A.C. 10:52-1.7). Take home drugs dispensed by the hospital pharmacy are included.
3. Care and services in Christian Science sanatoria: The same limitations are required as outlined in 1. and 2. above.
4.[3. Other] Clinical laboratory and x-ray services: There are no limitations. Services must be ordered by the attending practitioner.
5.[4.] Long-term care (skilled and intermediate care) nursing services—general: Available for persons of all ages. There are no durational limitations. Prior authorization from the Medicaid district office is required for admission, except where patient is transferred to facility direct from an acute care hospital, private or public psychiatric hospital or class A

special hospital. Also, recertification of continued need for long term care must be done periodically.

6.[5.] (No change in text.)

7.[6.] Physician's services (M.D. and D.O.): **There are no limitations. Prior authorization is required for elective cosmetic surgery and for [psychiatric treatment] mental health services when payment for services rendered to any single patient by any single provider exceeds \$300.00 in a 12-month period. The \$300 limit does not apply to boarding homes or long-term care facilities. Authorization is required after the initial visit in these facilities.**

8.[7.] Dental services.

i. Comprehensive services: **A comprehensive spectrum of dental services are provided. Services defined as "routine" do not require prior authorization. Other services ("non-routine") and routine services in conjunction with "non-routine" services require the authorization of dental consultants in [dental field office] the Dental Claims Review Unit.**

ii. Dentures: Partial or complete dentures are provided only when masticatory deficiencies are likely to impair general health of the patient. Replacement is limited to once every [five] 7½ years. Prior authorization is required for initial or replacement request.

9.[8.] Services of licensed other practitioners.

i. Podiatrists: Routine care must be qualified by medical necessity of professional treatment. [Treatment of subluxations must be qualified.] Treatment of flat feet **and subluxation conditions are not covered, with exceptions:**

(1) Supportive devices for symptoms and pain;

(2) When talo crural (ankle) joint is involved;

(3) Postoperative or post-fracture treatment is part of plan. Orthotic devices require prior authorization.]

(1) Where treatment is an integral part of postfracture or postoperative treatment plan.

(2) Where supportive devices (i.e., arch supports, specific additions to shoes, etc.) and prescribed to palliate pain and other symptoms associated with the conditions.

(3) Where the talo-crural joint is involved.

(4) Where there may be attachment of a supportive device to a bar or brace.

ii. (No change.)

iii. Psychologists: Prior authorization is required when payment for services rendered to any single patient by any single provider exceeds \$300.00 in a given 12-month period. **Mental health services for recipients in boarding homes or long-term care facilities require prior authorization after the initial visit (See N.J.A.C. 10:67).**

iv. Chiropractors: Services [which] are limited to manual manipulation of the spine [and are] provided personally by the chiropractor. It includes services furnished in the office, the patient's home, skilled nursing facility, intermediate care facility, [and] sheltered boarding home **and in hospitals where privileges have been granted. It is not a covered out-of-State service.**

v. (No change.)

10.[9.] Home [health] care services. [The following services are provided to recipient while at home:] **Prior authorization is required from the Medicaid district office, except for the initial visit to evaluate the need for home health care services or personal care assistant services.**

[Nursing and related services furnished by certified licensed home health agency to home-bound patient or pursuant to physician's order and in accordance with a plan of treatment. Prior authorization is required for services beyond initial evaluation visit.]

i. **Home health care services are limited to those services provided directly by a home health agency (certified/licensed) approved to participate in the New Jersey Medicaid Program or through arrangement of that agency for other services.**

ii. **Personal care assistant services are furnished by both a home health agency (certified/licensed) and a homemaker agency (proprietary and voluntary non-profit). Medicaid recipients may not simultaneously receive home health care services and personal care assistant services (See N.J.A.C. 10:60).**

11.[10.] Medical supplies and equipment: Medical supplies, equipment and appliances are provided, including purchase or rental of hospital beds, wheelchairs and other durable medical equipment; bandages, surgical dressings, catheters and other medical supplies. [In all other cases] Prior authorization by **the Medicaid district office is [local office] required for [items when the cost exceeds \$30.00.] medical supplies and durable medical equipment for which the charge to the program exceeds \$30.00.**

12.[11.] Clinic services (**independent outpatient health care facilities**) (other than hospital): **Services are provided in (non-profit) facilities meeting standards of New Jersey State Department of Health or other agencies to qualify as an independent outpatient health facility. Prior authorization is required for certain clinic services.**

13.[12.] [Rehabilitation] **Rehabilitative services.**

i. Physical therapy: An initial evaluation visit for physical therapy made by a [qualified] **licensed** therapist does not require prior authorization. For all therapy treatment visits prior authorization is required when provided by a home health agency, independent clinic, [or] long-term care facility or in a physician's office. Services may also be provided in a hospital outpatient department. The reimbursement fee for the initial visit will be the same as the allowance for the treatment visits. No payments **are made** to privately practicing therapists. **There are no other limitations.**

ii. Occupational therapy: An initial evaluation visit for occupational therapy made by a qualified therapist does not require prior authorization. For all therapy treatment visits prior authorization is required when provided by a home health agency, independent [outpatient health] clinic or long-term care facility. Services may also be provided in a hospital outpatient department. The reimbursement fee for the initial visit will be the same as the allowance for the treatment visits. No payments **are made** to privately practicing therapists. **There are no other limitations.**

iii. Speech-Language [therapy] **Pathology Services:** An initial evaluation visit for speech-language [therapy] **pathology services** made by a [qualified] **licensed** therapist does not require prior authorization. For all [therapy] treatment visits prior authorization is required when provided by a home health agency, independent [outpatient health] clinic or long-term care facility. Services may also be provided in a hospital outpatient department. The reimbursement fee for the initial visit will be the same as the allowance for the treatment visits. No payments **are made** to privately practicing therapists. **There are no other limitations.**

iv. Audiology: Limited to such services when provided **in the office of a licensed specialist in otology or otolaryngology** or as part of clinic or hospital outpatient services. No payment **is made** to privately practicing audiologists.

14.[13.] Prescribed drugs: Both legend and non-legend drugs are provided with [few] exceptions.

15.[14.] Prosthetic and orthotic devices.

i. Optical appliances: Optical appliances are provided with certain limitations. Prior authorization is required for artificial eyes, subnormal vision devices and contact lenses. **Contact lenses are granted only for specific ocular pathological conditions or for patients who cannot achieve vision of 20/70 with regular lenses.** Prior authorization is required for optical appliances prescribed in excess of one every two years for individuals ages 19 to 59 and one per year for all others.

ii. Hearing aids: Hearing aids and accessories are provided. [Audiometric evaluation] **Audiologic and otologic examinations are required.** Prior authorization is required except for batteries.

iii. Other prosthetic and orthotic devices: This includes devices to replace all or part of an internal organ; artificial limbs, braces, abdominal and other supports. Orthopedic shoes are provided under certain conditions. Prior authorization is required for limbs, braces, supports and orthopedic shoes [for which the charge to the program exceeds \$30.00].

iv. Repairs or replacements: Prior authorization is required for the repair or replacement of any of the above items, **when the cost exceeds \$20.00.**

16.[15.] (No change in text.)

[16. Care and services in Christian Science sanatoria: Same limitations as outlined in paragraphs 1 and 2 of this subsection.

17. Emergency hospital services: Limited to emergency services with a maximum of 20 days payment allowed. No requirements for prior authorization.]

17.[18.] Transportation.

i. Ambulance: **Services are provided** when use of any other method of transportation is medically contraindicated. [Prior authorization is required except in emergency conditions.]

ii. Invalid coach: Invalid coach specifically designed for medical transportation is provided when patient does not need ambulance service [and] **but is physically unable to [use public conveyances] be transported by any lower mode of transportation.** Prior authorization is required except in emergency conditions.

iii. Other transportation: Contact **the** county welfare agency.

[19. Personal care assistant services are health related tasks performed by a qualified individual in a recipient's home, under the supervision of a registered professional nurse, as certified by a physician in accordance with a written plan of care and prior authorized by the State Agency.

i. The purpose of personal care is to accommodate long-term chronic or maintenance health care, as opposed to short-term skilled care required for some acute illnesses.

ii. Personal care assistant services will receive Medicaid reimbursement when provided to Medicaid eligible recipients in their places of residence, such as a:

- (1) Private home;
- (2) Rooming house; and
- (3) Boarding house.

iii. Medicaid Reimbursement will not be made for personal care assistant services provided to Medicaid eligible recipients in a:

- (1) Residential health care facility;
- (2) Class C boarding home;
- (3) Hospital;
- (4) Skilled nursing facility;
- (5) Intermediate care facility;
- (6) Division of Mental Retardation adult foster care homes; and

(7) Division of Youth and Family Services foster care homes.

iv. Personal Care Assistant Services provided by a family member are not covered services.

v. In order to provide a statewide Personal Care Assistant Program, the New Jersey Medicaid Program will recognize, upon approval, the following agencies as personal care providers:

- (1) Certified licensed home health agencies;
- (2) Voluntary nonprofit homemaker/home health aide agencies;
- (3) County welfare agencies employing homemaker staff;
- (4) Independent clinics under contract to the Department of Human Services Division of Mental Health and Hospitals;
- (5) Other State agencies providing personal care services, such as the Division of Mental Retardation and the Division of Youth and Family Services.]

10:49-1.5 General exclusions

(a) The items listed here are general exclusions from New Jersey Medicaid coverage. There are certain additional specific exclusions and limitations which are detailed in the appropriate provider manual sections. Payment is not made for:

1. (No change.)
2. Any services or items furnished in connection with elective cosmetic procedures;

Note: There are certain exceptions to this rule. A written certification of medical necessity and a treatment plan must be submitted by the physician to the [local medical assistance unit] **Medicaid district office** for consideration, as prior authorization is required.

3.-12. (No change.)

13. Any claim submitted by a provider [not listed on the red Special Status Card issued pursuant to N.J.A.C. 10:49-1.2(k) to the recipient signing the claim.] **for services(s) rendered to a recipient whose Medicaid Eligibility Identification Card (FD-73/178) has a printed message restricting the recipient to another provider of the same service(s).** (See N.J.A.C. 10:49-1.2.)

10:49-1.7 Utilization of insurance benefits

(a) Medicaid benefits are last-payment benefits. All health and accident insurance benefits, including Medicare, workers compensation and no-fault auto insurance shall be used first and to the fullest extent in meeting the medical needs of the covered person. Since Medicare covers aged and certain disabled persons, providers should inquire about Medicare eligibility when rendering Medicare covered services to a person with program code 10, 20 or 50. Supplementation of available benefits shall be as follows:

1. Title XVIII (Medicare): For those individuals who are covered under Medicare, responsibility for payment by the New Jersey Medicaid Program will be limited to the unsatisfied deductible to the extent that the **combined total of payments** do not exceed the maximum allowable under the program in the absence of other coverage. (Exception: Co-insurance is reimbursable for hospital billings, long-term care facility billings, durable medical equipment and supplies, and prosthetic and orthotic devices to the extent that the **combined total of payments** do not exceed the maximum allowable under the program in the absence of other coverage.)

2.-6. (No change.)

10:49-1.8 Prior and retroactive authorization (general)

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

(c) Retroactive authorization will not be granted under the following circumstances:

1. Services the provider identified as medically emergent are determined, following the medical review by the [Contractor] **fiscal agent**, to be non-emergent.

2.-3. (No change.)

10:49-1.9 Policy on out-of-State medical care and services

(a) Prior authorization is required for all inpatient and outpatient hospital services provided outside the State of New Jersey except in the following situations:

1. Care provided in an emergency;

2. Transfer from in-State to out-of-State hospital if the delay results in a significant risk to life or health or unduly prolongs a hospitalization of the recipient.

3. **Care provided to Medicaid recipients residing out-of-state at the discretion of the New Jersey Department of Human Services.**

(b) (No change.)

10:49-1.10 [Contractors] **Fiscal Agents**

(a) (No change.)

(b) Contracts have been negotiated on behalf of the State of New Jersey with the Hospital Service Plan of New Jersey (Blue Cross of New Jersey) and The Prudential Insurance Company of America to function as its [intermediary] **fiscal agents**.

(c) Blue Cross of New Jersey is responsible for the processing and payment of hospital inpatient, hospital outpatient and **hospital-based** home health agency claims for those providers who have selected Blue Cross as their intermediary under Title XVIII (Medicare). In addition, Blue Cross processes [and pays] pharmaceutical services claims and claims for out-of-State hospitals and **out-of-state hospital based** home health agencies. Hospitals who have not participated in Title XVIII are assigned to [the hospital service plan] **Blue Cross of New Jersey**.

(d) The Prudential Insurance Company of America handles the processing and payment of hospital inpatient, outpatient and **certain hospital-based** home health agency claims for those providers who have selected Prudential as their intermediary under Title XVIII (Medicare), **and free standing home health agency claims**. In addition, The Prudential Insurance Company processes [and makes payment] **claims** for all other health services covered by the program, with the exception of pharmaceutical services, **SNFs, ICFs, ICFs/MR, State and some county psychiatric hospitals**.

10:49-1.12 Timely submission of claims and claim inquiries

(a) Rules concerning non-institutional provider claims (90-day time limitation) are as follows.

1. (No change.)

2. All claims for payment of non-institutional goods and services must be received by the [contractor] **fiscal agent** no later than 90 days after the last date the goods or services were rendered and no later than 12 months from [any] **the earliest** date of service indicated on the claim form.

(b) Rules covering **the New Jersey Medicaid Program** [Title XIX] certified institutional provider claims are as follows.

1. All claims for services rendered to eligible Medicaid recipients must be received by the [contractor] **fiscal agent** no later than:

i. (No change.)

ii. Twelve months from [any] **the earliest** date of service on the claim forms for outpatient hospital or home health claims.

2. All claims for services performed in skilled nursing facilities, intermediate care facilities, **ICFs/MR** [ICF/MRs] and State and county psychiatric hospitals must be received by the Division of Medical Assistance and Health Services no later than:

i. Five months from the last day of the billing month in which services were initially provided; or

ii. Six months from the last day of the billing month in which an improperly submitted claim was rejected; but

iii. Never later than 11 months from the last day of the billing month in which services were initially provided.

(c) Rules concerning inquiries to the [contractor] **fiscal agent** are as follows.

1. Submitted claims—no response: Inquiries must be made no later than 180 days after the last date of service entered on the queried claim.

2. (No change.)

10:49-1.14 Use of service bureau and/or management agency

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

(e) Standard Medicaid hard-copy claim forms, available from the Medicaid [Contractors] **fiscal agents**, must be used unless the provider has been authorized to submit claims via an automated data exchange billing system for all instances except where hard-copy claims are required as detailed in the appropriate provider manual.

1. (No change.)

2. In order to obtain prior authorization the provider/agent must submit a printers prototype of an exact replica of the Medicaid claim form and the programming instructions for completion of the form to the appropriate [Contractor] **fiscal agent**, The Prudential Insurance Company (P.O. Box 1900, Millville, New Jersey 08332) or Blue Cross of New Jersey (33 Washington St., Newark, New Jersey 07102).

3. (No change.)

(f) The New Jersey Medicaid Program, in authorizing/approving any provider/agent agreement, assumes no responsibility for the performance of the provider or agent. In the event that any error of the provider/agent requires special programming to be made by the Medicaid [Contractor] **fiscal agent** in order to have claims paid correctly the provider/agent must assume the entire cost of the special programming.

10:49-1.16 Provisions for appeals; fair hearings

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

(d) In order to obtain a fair hearing, the provider or the eligible person should submit a request in writing to the Director, Division of Medical Assistance and Health Services, [P.O. Box 2486] **CN 712**, Trenton, New Jersey 08625, outlining the reason for the request.

(e) (No change.)

10:49-1.17 Program participation

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

(c) Definitions, as used in these regulations, include the following:

1.-8. (No change.)

9. "[Contractors] **Fiscal Agents**" means the Hospital Service Plan of New Jersey (Blue Cross of New Jersey) and The Prudential Insurance Company of America, or their successors.

10. (No change.)

(d) Any of the following, among other things, shall constitute a good cause for debarment, suspension or disqualification of a person engaged in State contracting, as defined herein, by the Division of Medical Assistance and Health Services:

1.-21. (No change.)

22. Submission of a false or fraudulent application for provider status to the division or to its [contractors] **fiscal agents**;

23.-26. (No change.)

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

(h) Scope of debarment rules are:

1.-2. (No change.)

3. Debarment, by the director, of any provider of service shall preclude such provider from submitting claims for payment, either personally or through claims submitted by any clinic, group, corporation or other association to the Division of Medical Assistance and Health Services or its [contractors] **fiscal agents** for any services or supplies he has provided under the New Jersey Medicaid Program, except for services or supplies provided prior to the debarment. No clinic, group, corporation or other association which is a provider of services shall submit claims for payment to the division or its [contractors] **fiscal agents** for any services or supplies provided by a person within such organization who has been debarred by the director, except for services or supplies provided prior to the debarment.

4. (No change.)

(i)-(l) (No change.)

(m) (Scope of suspension rules are:

1. (No change.)

2. Suspension, by the director, of any provider of service shall preclude such provider from submitting claims for payment, either personally or through claims submitted by any clinic, group, corporation or other association to the Division of Medical Assistance and Health Services or its [contractors] **fiscal agents** for any services or supplies he has provided under the New Jersey Medicaid Program, except for services or supplies provided prior to the suspension. No clinic, group, corporation or other association which is a provider of services shall submit claims for payment to the division or its [contractors] **fiscal agents** for any services or supplies provided by a person within such organization who has been suspended by the director, except for services or supplies provided prior to the suspension.

3. (No change.)

(n)-(q) (No change.)

10:49-1.20 Free choice by covered person and by provider

The concept of freedom of choice applies to both provider and recipient. An eligible person is free to choose providers of service who meet program standards and who elect to participate. It is understood that when a provider has accepted an individual for care he will accept the program's policies and reimbursement for all covered services and/or items which he provides or delivers during that period when, by mutual agreement, the recipient is under the provider's care. In the provision of professional services, it is considered automatic that the provider will be bound by the code of ethics governing his profession. The [local medical assistance unit] **Medicaid district office** will assist covered persons in obtaining services if the eligible person cannot locate a provider.

10:49-1.22 Confidentiality of records

[All medical records, computer data, and other information of covered persons acquired under this program shall be confidential and shall not be released by the program without the written consent of the covered person or his authorized representative. This shall not preclude the release of statistical or summary data or information in which covered persons are not, and cannot be, identified, nor shall it preclude exchange of information between individuals or institutions providing care, contractors and State or local official agencies. Disclosure without consent of the covered person shall be limited to purposes directly connected with the administration of the program pursuant to Federal and State law.]

(a) **All information concerning applicants and recipients acquired under this program shall be confidential and shall not be released without the written consent of the individual or his authorized representative. If, because of an emergency situation, time does not permit obtaining consent before release, the program shall notify the individual, his family or authorized representative immediately after releasing the information. The restriction on the disclosure of information shall not preclude the release of statistical or summary data or information in which applicants or recipients are not, and cannot, be identified; nor shall it preclude the exchange of information between providers furnishing services, fiscal agents of the program and State or local government agencies for purposes directly connected with administration of the program. Disclosure without the consent of the applicant or recipient shall be limited to purposes directly connected with the administration of the program in accordance with Federal and State law and regulations.**

(b) **The types of information about applicants and recipients that will be safeguarded by the program includes but is not limited to:**

1. Names and addresses;
2. Medical services provided;
3. Social and economic conditions or circumstances;
4. Program evaluations of personal information; and
5. Medical data, including diagnosis and past history of disease or disability.

(c) **Purposes directly connected with the administration of the program includes but is not limited to:**

1. Establishing eligibility;
2. Determining the amount of medical assistance;
3. Providing services for recipients; and
4. Conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to the administration of the program.

10:49-1.24 [Directory of Medicaid District Offices] **Reserved**

[(a) The following is a directory of Medicaid District Offices:

MEDICAID DISTRICT OFFICES

County	Address	Telephone No.
Atlantic	1 So. New York Ave. Atlantic City, 08401	609-441-3620
Bergen	50 Main St. Hackensack, 07601	201-488-5667
Burlington	50 Rancocas Road Mt. Holly, 08060	609-261-0448

HUMAN SERVICES

PROPOSALS

Camden	P.O. Box 1089 Parkade Bldg. 519 Federal St. Camden, 08101	609-757-2870
Cumberland (Cape May)	501 Landis Ave. Vineland, 08360	609-696-6560
Essex	155 Washington St. Newark, 07102	201-648-2470
Gloucester (Salem)	Southwood Shopping Ctr. Woodbury, 08096	609-845-7185
Hudson	880 Bergen Ave. Jersey City, 07306	201-792-6390
Hunterdon (Somerset & Warren)	84 Park Ave. Flemington, 08822	201-782-1130
Mercer	1424 So. Broad St. Trenton, 08610	609-292-7315
Middlesex	75 Paterson St. New Brunswick, 08903	201-246-0653
Monmouth	1200 Memorial Drive Asbury Park, 07712	201-775-5700
Morris (Sussex)	10 Park Place Morristown, 07960	201-267-1700
Ocean	1861 Hooper Ave. Toms River, 08753	201-255-6226
Passaic	100 Hamilton Plaza Paterson, 07505	201-523-2800
Union	125 No. Broad St. 6th Floor, Hersh Towers Elizabeth, 07201	201-648-4630

Gloucester (Salem)	251 N. Delsea Drive Woodbury Plaza, Suite B Deptford, 08096	609-845-7185
Hudson	2815 Kennedy Blvd. Jersey City, 07306	201-433-8011
Hunterdon (Somerset)	84 Park Ave. Flemington, 08822	201-782-1130
Mercer	28 West State Street Trenton, 08608	609-292-7315
Middlesex	75 Paterson St. New Brunswick, 08903	201-246-0653
Monmouth	1200 Memorial Drive Asbury Park, 07712	201-775-5700
Morris (Sussex and Warren)	10 Park Place Morristown, 07960	201-267-1700
Ocean	1861 Hooper Ave. Toms River, 08753	201-255-6226
Passaic	100 Hamilton Plaza Paterson, 07505	201-977-4077
Union	125 No. Broad St. 6th Floor Hersh Towers Elizabeth, 07201	201-820-3135

(a)

10:49-1.25 [Medicaid reimbursement for abortions] **Reserved**

(a) Payments for abortions are reimbursable under the New Jersey Health Services Program (Medicaid) only when performed in a licensed hospital by a licensed physician who determines that it is medically necessary to preserve the woman's life.

(b) In no event shall any payment be made to any physician performing the abortion and/or the hospital wherein the procedure is performed unless the performing physician submits a written report with the respective physician's and/or hospital's claim stating in detail the reasons for finding it necessary to terminate the pregnancy to preserve the woman's life.]

APPENDIX A

MEDICAID DISTRICT OFFICES

County	Address	Telephone No.
Atlantic	1 So. New York Ave. Atlantic City, 08401	609-441-3620
Bergen	50 Main St. Hackensack, 07601	201-488-5667
Burlington	50 Rancocas Road Mt. Holly, 08060	609-261-0448
Camden	P.O. Box 1089 Parkade Bldg. 519 Federal St. Camden, 08101	609-757-2870
Cumberland (Cape May)	108 Landis Ave. Vineland, 08360	609-696-6560
Essex	155 Washington St. Newark, 07102	201-648-2470

Manual for Special Hospital Services Admission and Billing Procedures

Proposed Readoption: N.J.A.C. 10:53-2.1, 2.2, 2.4, 2.5, 2.7 through 2.9, 2.11, 2.12, 2.14 through 2.18

Proposed Readoption with Concurrent Amendments: N.J.A.C. 10:53-2.3, 2.6, 2.10 and 2.13

Authority: N.J.S.A. 30:4D-6a(1)(2), 7, 7a, 7b.
Proposal Number: PRN 1985-129.

Pursuant to Executive Order No. 66(1978), N.J.A.C. 10:53-2 expires on May 16, 1985. The readoption of the existing rules becomes effective upon filing with the Office of Administrative Law of a notice of readoption. The concurrent amendments to the existing rules become effective upon publication in the Register of a notice of adoption.

The agency proposal follows:

Summary

This subchapter (10:53-2) describes the procedures that special hospitals are required to follow when they submit a claim to the New Jersey Medicaid Program for reimbursement. Special hospitals are those facilities that provide specialized care or services. There are three classes of special hospitals: Class A (Acute or short term); Class B (Rehabilitation); and Class C (Long term specialized hospitals that do not qualify as either Class A or B).

The topics covered in this subchapter include identification of a financially eligible Medicaid patient, billing procedures

for both inpatient and outpatient services, procedures to be followed when the patient has both Medicare and Medicaid coverage, submission of corrected hospital bills, assessment of interest on overpayments, and automated data exchange. The rule was promulgated to establish a standardized method of claim submittal by special hospitals in order that the Division's fiscal agents, either the Prudential Insurance Company, or New Jersey Blue Cross, can expeditiously process and pay these claims.

An administrative review has been conducted, and a determination made that the rule should be continued because it is adequate, reasonable, efficient, understandable and responsive for the purpose for which it was created. The rule enables special hospital providers to bill and be reimbursed by the Medicaid program.

The rule has been amended several times. In 1975 the rule was amended to prohibit reimbursement for covered services rendered by unlicensed physicians unless there was a specific statutory exemption granted under the laws of the State of New Jersey (7 N.J.R. 431(a)). N.J.A.C. 10:53-2.17 was added to describe the procedures for assessment of interest on overpayments (12 N.J.R. 323(c)). N.J.A.C. 10:53-2.18 explains the procedures for obtaining approval for automated billing if a special hospital wished to use this method of claim submittal (13 N.J.R. 418(a)).

The rule is being amended upon re adoption. The reference to the facilities' per diem rate is being deleted from N.J.A.C. 10:53-2.3(c) because it does not apply to all specialized hospitals. Some of these facilities are reimbursed according to the DRG (Diagnosis Related Group) principles of reimbursement. N.J.A.C. 10:53-2.6, entitled Medicare/Medicaid coverage, is being deleted because the material is included in N.J.A.C. 10:53-2.13. N.J.A.C. 10:53-2.10 is being deleted because AID (Approval by Individual Diagnosis) days are no longer being used. N.J.A.C. 10:53-2.13 is being amended by indicating the correct item number (57) on the UB-82 claim form which is used for patients who have both Medicare and Medicaid coverage. In addition, subsection (b) has been added to N.J.A.C. 10:53-2.13 to explain the procedures to be followed when Medicare benefits have been exhausted. This language previously appeared in 2.6(b). Subsection (b) is redesigned as subsection (c). The current text of subsection (c) is being deleted since it already appears at 2.3(c).

Social Impact

The rule's impact is more economic than social, because it concerns hospital billing for services that have already been rendered. However, an orderly system of billing will help insure continued availability of inpatient and outpatient special hospital services to Medicaid patients. The proposal will not change the current system that hospitals use for submitting claims to the Medicaid program.

The public that is affected is any Medicaid patient that requires treatment in a special hospital, whether on an inpatient or outpatient basis. The rule also impacts on all special hospitals, who are required to follow the procedures contained in the rule.

The rule should be continued to enable hospitals to continue to be reimbursed for treating Medicaid patients. The Division's fiscal agents, the Prudential Insurance Company,

and New Jersey Blue Cross, will continue to process claims submitted by special hospitals.

Economic Impact

For Fiscal Year 1984 the Division spent approximately six million dollars (federal-state combined) on special hospital reimbursement.

There is no cost to the Medicaid patient for treatment in a special hospital.

Hospitals who submit claims correctly will be reimbursed for services rendered to financially eligible Medicaid patients. The rule should be continued for this reason.

Full text of the proposed re adoption appears in the New Jersey Administrative Code at N.J.A.C. 10:53-2.

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

10:53-2.3 Inpatient Hospital Claim form; services covered

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

(c) Reimbursement for covered services furnished by unlicensed physicians employed directly or indirectly by a hospital shall not be made unless said unlicensed physician is lawfully practicing medicine and/or surgery pursuant to a specific statutory exemption under the laws of the State of New Jersey, and reimbursement in such instances is limited to reasonable costs which are made part of the facilities [per diem] rate. All other reimbursement for services rendered by unlicensed physicians is specifically prohibited.

10:53-2.6 [Medicare/Medicaid coverage] (**Reserved**)

Delete the current text and reserve this section.

10:53-2.10 [Inpatient recertification] (**Reserved**)

Delete the current text and reserve this section.

10:53-2.13 Medicare/Medicaid coverage

(a) When the patient is covered under both Medicare and Medicaid programs, only a Medicare form should be completed, with Item [11] **57** showing the Health Services Program case and person number on that Medicare form (**UB-82**).

(b) Where benefits have been exhausted under Medicare, the charges to be billed to the program must be itemized for the non-covered period and the case and person number must be shown on the Medicare form.

[(b)] (c) Where prior authorization is required for program purposes it must be obtained and submitted with the Medicare billing form.

[(c) Reimbursement for covered services furnished by unlicensed physicians employed directly or indirectly by a special hospital shall not be made unless said unlicensed physician is lawfully practicing medicine and/or surgery pursuant to a specific statutory exemption under the laws of the State of New Jersey, and reimbursement in such instances is limited to reasonable costs. All other reimbursement for services rendered by unlicensed physicians is specifically prohibited.]

(a)

**Procedure Code Manual
Immunizations**

Proposed Amendments: N.J.A.C. 10:54-3

Authority: N.J.S.A. 30:4D-6a (4)(b), a(5), 7, 7a, 7b.
Proposal Number: PRN 1985-128.

The agency proposal follows:

Summary

This proposal contains revisions to the immunization fees listed in the Procedure Code Manual. The fee revisions in this proposal will result in an increase in fees for the majority of the procedure codes listed. Five procedure codes (9457, 9459, 9461, 9445 and 9446) are being decreased slightly. Ten codes are being increased. The proposed new amounts appear in the boldface text below.

The method of computing the Medicaid dollar values for immunization procedure codes is based on the average wholesale price of the vaccine plus a 15 percent mark-up plus \$2.00 (overhead).

The reason for the changes in the fee schedule is due to a rapid and dramatic increase in the cost of certain vaccines used primarily for the immunization of children.

Social Impact

The revised fee schedule is designed to insure that all Medicaid patients, including children, will be able to continue receiving necessary immunizations that are essential for their continued health and well being.

The proposal also impacts on physicians who are providing immunizations to Medicaid patients.

Economic Impact

The estimated cost of the proposed fee increase to the Division of Medical Assistance and Health Services will be approximately \$250,000 per year.

The economic impact on physicians will vary, depending on the number of Medicaid patients being treated. The objective of the rule is to reimburse providers for immunizations based on the new fee schedule.

There is no cost to the Medicaid patient for these services.

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

		MEDICAID DOLLAR VALUE	NS
9075	RHO(D) Immune Globulin (Human) (Microdose for Abortions and Miscarriages)	[34.00]	42.40
9450	Immunization—Measles	[9.15]	10.25
9451	Immunization—Rubella	[9.50]	10.65
9452	Immunization—Mumps	[10.25]	11.55
9453	Immunization—Measles and Rubella combined vaccine	[13.55]	15.35
9454	Immunization—Measles, Mumps, Rubella combined vaccine	[17.50]	22.15
9455	Immunization—Diphtheria, Pertussis, Tetanus combined vaccine	[3.50]	5.86
9456	Immunization—Diphtheria, Tetanus Toxoid combined vaccine	[4.25]	4.65

9457	Immunization—Diphtheria Toxoid	[5.00]	4.90
9459	Immunization—Tetanus Toxoid	[3.95]	3.90
9460	Immunization—Oral polio vaccine	[4.25]	7.10
9461	Immunization—Pneumococcal vaccine polyvalent	[9.75]	9.25
9462	Immunization—Rubella, Mumps combined vaccine	[14.60]	16.50
9445	Immunization—Influenza	[4.75]	4.70
9446	Immunization—Tetanus Antitoxin	[5.50]	5.45

DIVISION OF PUBLIC WELFARE

For proposals numbered PRN 1985-114, 132, and 133, submit comments by April 3, 1985 to:

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

(b)

**Assistance Standards Handbook
Initial Grant Computation**

Proposed Amendment: N.J.A.C. 10:82-2.2

Authority: N.J.S.A. 44:7-6 and 44:10-3; 45 CFR 206.10(a)(6)(i)(D).
Proposal Number: PRN 1985-133.

The agency proposal follows:

Summary

Current regulations at N.J.A.C. 10:82-2.2(a)1 provide that all income available from the date of application to the end of the month is to be counted in determining the amount of the initial grant. Federal rules at 45 CFR 206.10(a)(6)(i)(D) require that all income received in the month of application be counted in the determination of the initial grant. Hence, N.J.A.C. 10:82-2.2(a)1 is being amended to provide that all income which has been received or will be received in the month of application be counted and will ensure conformity with Federal regulations.

Social Impact

This amendment will reduce the initial grant for clients who have income in the month of application in certain circumstances, most particularly for persons who apply for AFDC in the latter part of the month.

Economic Impact

Little or no economic impact is to be seen as a result of this amendment as it merely ensures uniformity with text at 45 CFR 206.10(a)(6)(i)(D). Rather, inasmuch as it reduces the likelihood of Federal fiscal sanctions against the State, this amendment provides a positive but unknown economic impact.

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

10:82-2.2 Initial grant

(a) When eligibility has been determined, the initial grant shall be computed as follows:

1. All income [available from the date of application to the end of the month] **which has been received or which will be received in the month of application** shall be [considered] **counted in accordance with the best estimate policy found at N.J.A.C. 10:90-2.4(a)**. The countable income shall be subtracted from the appropriate monthly assistance standard and the result shall be prorated by multiplying that amount by the factor appropriate for the date of application in the table below. If the result is not a whole dollar amount, the amount shall be rounded to the next lower whole dollar.

Date of Application	Multiplication Factor	Date of Application	Multiplication Factor
1	1.000	16	.5000
2	.9666	17	.4666
3	.9333	18	.4333
4	.9000	19	.4000
5	.8666	20	.3666
6	.8333	21	.3333
7	.8000	22	.3000
8	.7666	23	.2666
9	.7333	24	.2333
10	.7000	25	.2000
11	.6666	26	.1666
12	.6333	27	.1333
13	.6000	28	.1000
14	.5666	29	.0666
15	.5333	30 and 31	.0333

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

(a)

DIVISION OF PUBLIC WELFARE

**General Assistance Manual
Determination of Unemployability**

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

Authority: N.J.S.A. 44:8-108, 109, 111(d).
Proposal Number: PRN 1985-114.

The agency proposal follows:

Summary

This amendment delineates criteria relevant to the determination as to whether a person is unemployable under provisions of the General Assistance program. While the amendment does not stipulate that a person with no earnings is unemployable, it does indicate that a person with gross earnings of \$75.00 monthly or more must be considered employable. The \$75.00 figure is used on the basis of a recommendation presented after review and discussion by the General Assistance Manual Policy Advisory Committee, a group of persons representing various aspects of the administration of the program, including clients. The committee recognized that

the figure must be carefully selected in order to distinguish between those destined for return to full normal employment and those, such as sheltered workshop employees, whose unemployable status under the statute (N.J.S.A. 44:8-108, 109) is not to be disturbed. The committee observed that customarily, persons in sheltered workshops earn less than \$75.00 monthly and that individuals in other rehabilitation programs will, by the time their earnings reach that level, be prepared to return to employable status. Without this amendment, individuals who have submitted to the municipal agency a physician's statement of unemployability could have earnings as high as \$345.00 per month before being subjected to termination of assistance.

Social Impact

This amendment will require an adjustment by those few who would collect assistance as unemployable while earning substantial amounts of money. Any earnings over \$75.00 monthly will not result in terminations of assistance but will undoubtedly necessitate that such persons manage their income more carefully. The improved level of fair treatment should have a beneficial social impact both for those who are admittedly employable and for those who are truly unemployable and do not have the ability to develop substantial earnings.

Economic Impact

This amendment will, it is believed, have a very narrow economic impact. It will have an adverse impact on persons now classified as unemployable but who have gross earnings of \$75.00 a month or more. The unemployable segment represents the lesser portion of the caseload. Few of the unemployables have any earnings at all. Very few have earnings over \$75.00 monthly. The benefit to the public treasury is expected to be imperceptible.

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

10:85-3.2 Application process

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

(g) Work requirement: Eligibility for public assistance in New Jersey is directly related to an individual's willingness to work when [he/she] **he or she** is able to do so. It is, therefore, a part of the application process to explain the work requirement to the applicant and to record in the case file the reasons for any exemption from this requirement.

1.-2. (No change.)

3. Exemptions from work requirement: An individual shall be exempt from the work requirement if any of the following exist:

i.-iv. (No change.)

v. The individual is unemployable: For purposes of General Assistance, unavailability of employment cannot be the basis of a determination of unemployability. Only persons included in any of the following groups are unemployable:

(1)-(8) (No change.)

(9) **Persons who in the month prior to the determination have earned less than \$75.00 gross before any deductions, exemptions, expenses, or disregards and who are determined by the MWD to be unemployable when such determination is supported by any of the following:**

(A)-(D) (No change.)

4.-8. (No change.)

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

(a)

General Assistance Manual Suits and Claims

Proposed Amendment: N.J.A.C. 10:85-3.4

Authority: N.J.S.A. 44:8-111(d).
Proposed Number: PRN 1985-132.

The agency proposal follows:

Summary

The proposed amendment is designed to clarify existing wording on suits and claims. The clarification is necessary since existing wording does not state that the municipal welfare director is to make every effort to obtain an agreement to repay and does not make a clear statement that the signing of such an agreement is a voluntary act rather than an eligibility requirement. Further, the current rule does not require the municipal welfare departments to provide advice pertaining to these regulations in order for the applicant/recipient to make an informed decision regarding his or her agreement to repay.

Social Impact

Beneficial social impact is expected from the elimination of ambiguity. By having a clear understanding of the voluntary nature of the signing, the applicant/recipient will be in a better position to make an informed decision.

Economic Impact

Given the understanding that assistance may be repaid, more recipients may in fact make voluntary repayment. Also, in the event that the local agency decides to pursue judicial collection in accordance with N.J.S.A. 44:1-95, the court effort could be eased. There is no way to estimate the dollar benefit to the public treasury.

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

10:85-3.4 Resources

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

(e) **Suits and claims:** Where a member of the eligible unit is, at time of application, or subsequently becomes the owner of an interest in a suit or claim arising out of an accident, inheritance or legacy, insurance on the lives of relatives or others, statutory benefits or pensions, unfulfilled contracts or obligations, and so forth, such interests constitute personal property and are potential resources which must be recognized.

1. Where assistance is extended during the period that the receipt or liquidation of such interest is pending, [an agreement shall be made] **the MWD shall make every effort to obtain the signature(s) of the applicant(s)/recipient(s) on an agreement** whereby the eligible unit will, when liquidation occurs, repay the agency the amount of assistance granted since the incident or claim occurred, or the amount received as the result of the claim, whichever is less. **The MWD will explain to the applicant(s)/recipient(s) that the agreement is entirely voluntary and the signing or not signing will have no influence on eligibility or on the amount of assistance to be granted, if any.**

(f) The following are not subject to repayment to the MWD: retroactive Social Security (RSDI) payments, Veteran's benefits, [workmen's] **workers'** compensation, temporary disability benefits, and SSI payments not repayable to the

DPW/MWD in accordance with a valid Form GA-30. However, when such monies are received, they shall be recognized as countable income and the client's eligibility shall immediately be redetermined.

(b)

DIVISION OF YOUTH AND FAMILY SERVICES

Child Care

Manual of Standards for Child Care Centers

Proposed Amendments: N.J.A.C.

**10:122-2.3, 2.6, 3.2, 3.3, 4.1, 4.3, 4.6, 6.8,
and 6.9**

Proposed New Rule: N.J.A.C. 10:122-3.2

Authority: N.J.S.A. 30:5B-1 to 15.
Proposal Number: PRN 1985-134.

Submit comments by April 3, 1985 to:

J. Patrick Byrne, Chief
Bureau of Licensing
Division of Youth and Family Services
1 South Montgomery Street
CN 717
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The State Child Care Center Licensing Act (N.J.S.A. 30:5B-1 to 15) requires the licensing of publicly and privately operated child care centers serving six or more children below six years of age. Currently, there are 1,720 licensed child care centers operating in New Jersey.

Recently, the sexual exploitation and abuse of children in child care settings has become the focus of much media attention. There has been a dramatic increase in the reporting of child abuse and child sexual abuse incidents in child care centers, stemming from a growing public awareness of the issue and an increasing willingness by citizens to report suspected abuses to the Division of Youth and Family Services, which is responsible for investigating all allegations of child abuse or neglect. In 1983, there was a total of 69 reports of alleged abuse in child care centers in New Jersey, including 7 cases of alleged sexual abuse. From January 1 to November 30, 1984, there were some 187 reports of alleged child abuse in centers; of these, 46 reports involved cases of alleged sexual abuse. Experience has shown that upon investigation about one out of every five cases of alleged child abuse in out-of-home care turns out to be substantiated. New Jersey's experience mirrors that of other states in what has become a national social problem.

To stem this growing problem, the Department of Human Services is taking initiatives on several fronts, mostly with the aim of preventing child abuse and sexual abuse before it occurs. Those initiatives include amendments to the child care center licensing regulations that are being proposed here; the proposed amendments are designed to strengthen certain re-

quirements in order to help both this Department and the State's child care community, including child care center operators and parent consumers, to reduce the risk of child abuse and child sexual abuse in child care centers. The changes would provide for increased parent and community involvement in day care centers to enhance public scrutiny of these programs and would establish more rigorous methods for screening potential abusers from employment in these centers.

Specifically, the proposed revisions to the regulations include: (1) requirements that child care centers afford the parents of enrolled children ample opportunities to participate in and to observe the operation and activities of the center and encourage participation by local community representatives, as well. However, the rule allows centers a number of options to meet this requirement in order to avoid imposing any undue administrative burden on these centers; (2) a provision requiring centers to allow parents of enrolled children to visit the center at any time without having to secure the center's prior approval; (3) a requirement that centers provide parents of every enrolled child with a written statement/pamphlet specifying the center's obligation by law to be licensed and to comply with the licensing regulations, the parents' right to participate in and observe the operation and activities of the center, their entitlement to report suspected licensing violations to the Bureau of Licensing in the Division of Youth and Family Services, and the statutory obligation of all persons who have reasonable cause to believe that a child in the center has been abused, neglected or exploited to report that to the Division's child abuse reporting hotline; (4) requirements that each center establish and post a written statement of philosophy on its child disciplinary practices, which must also be distributed to staff members and be made available to parents upon request; (5) a provision that centers maintain and convey to staff members a listing of persons not authorized by an enrolled child's custodial parent(s) to visit or take the child from the center; (6) a requirement that centers must secure the prior written consent of parents to take their children on any field trip, outing, or special event away from the center; (7) a requirement that each center secure and maintain on file a full written disclosure of the director's and every staff member's background, previous work experience, schooling, convictions, if any, along with at least two letters of reference for each individual, attesting to their fitness and suitability to fulfill their job responsibilities; (8) a provision that the director designate a qualified staff member to be in charge of the center whenever he/she is absent from the center; (9) a provision obligating the center to cooperate in any complaint investigations conducted by the Division; (10) a provision requiring the Bureau of Licensing to advise a center's sponsor of the results of a complaint investigation within 15 working days after the investigation report is completed; and (11) a provision that requires a center sponsor to suspend or remove a staff member or reassign him/her to duties not involving contact with children whenever the Division's Institutional Abuse Unit, while investigating an allegation of child abuse/neglect, determines that such action is necessary to protect the children. Such suspension, removal or reassignment remains in effect pending the results of the investigation.

Personnel decisions concerning persons employed or seeking employment at a center who have been convicted of a crime must, under the proposed revisions, be made in keeping with the provisions of the State Rehabilitated Convicted Offenders Act. That law provides that a person convicted of a crime may not be disqualified or discriminated against by a

licensing authority unless the conviction relates adversely to the occupation, trade, vocation, profession or business for which a license is sought.

Social Impact

The proposed changes to the regulations will have a positive social impact by strengthening the protections and safeguards for child care centers against potential child abuse or sexual abuse and exploitation. The changes would institute requirements that allow for better screening of child care center directors and workers through written disclosures of their backgrounds, and would build upon the existing recordkeeping and administrative requirements in ways that will help the Department regulate these programs more effectively. In addition, the changes would expand the involvement of parents and community members in the operations and activities of licensed child care centers, enabling parents and the community to play an active role in these programs and to observe and monitor the care and treatment being provided to children who attend these centers. Such parent and community involvement could go a long way to aid the efforts of the Department to license and monitor child care centers.

Economic Impact

The proposed changes are not expected to have any economic impact on licensed child care centers. The changes in the requirements would obligate centers to assume additional administrative tasks aimed at screening job applicants more effectively and affording increased opportunities for parent and community involvement in the center's activities. These requirements would not result in increased costs to the center. The changes would require centers to provide parents with a written statement or pamphlet providing brief information on the center's obligation under law to be licensed and the steps to be taken to report suspected child abuse/neglect/exploitation; however, the cost involved to meet this requirement would be negligible. In fact, many centers already provide to parents written brochures and other informational materials in which this information could be incorporated at no additional cost.

The State also would not incur any additional costs as a result of these regulatory changes. Some additional record checking and verification would have to be done by State licensing inspectors to insure that the requirements are being met. However, this would be done as part of the normal licensing inspection process and would not involve additional costs to the State agency.

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

10:122-2.3 Causes for denial, suspension or revocation of a license

(a) A child care center's license may be denied, suspended or revoked for good cause, including but not limited to the following:

1.-4. (No change.)

5. Refusal to permit an authorized representative of the Division to gain admission to the center during normal operating hours; [or]

[6. Any conduct, engaged in or permitted, which adversely affects or presents a serious or imminent hazard to the education, health, safety and well-being and physical and intellectual development of any child attending the child care center, or which otherwise demonstrates unfitness or inability to operate a child care center.]

[7.] 6. Failure to provide a developmental or age-appropriate program that meets the physical, social, emotional and cognitive needs of the children in the center as required by this chapter [.] ; or

7. Failure by the director or any staff member to comply with the requirements as specified in N.J.A.C. 10:122-3.3(b)3. and in 10:122-4.1(a) and (b).

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

10:122-2.6 Complaints

(a) Whenever the Bureau receives a report questioning the licensing status [or conditions affecting] of a child care center[,] or alleging violations of this chapter at the center, the Bureau shall [promptly] investigate the allegation within 10 working days to [and] determine whether the complaint is substantiated. [and shall notify the center in question accordingly; if the complaint is substantiated or if any other violations are found as a result of the investigation, the center shall be required to abate the violations and come into full compliance with the provisions of the State child care licensing law and of this chapter.] The Bureau shall notify the sponsor in writing of the results of the complaint investigation within 15 working days after the report of the Bureau's investigation has been finalized. Such notification shall include the results of the investigation, in keeping with the State Public Records Law (N.J.S.A. 47:1A-1 to 4), with the exception of any information not permitted to be disclosed under the Child Abuse and Neglect Law (N.J.S.A. 9:6-8).

(b) If the complaint is substantiated or if any other violations are found as a result of the investigation, the center shall be required to abate the violations and come into full compliance with provisions of the State Child Care Center Licensing Law and of this chapter.

[(b)] (c) Any individual filing a complaint may do so anonymously. If the complainant reveals his/her identity, the name of the complainant, together with a description of the complaint and its status, shall be included in the [center's] Bureau's records and shall be available for public review upon completion of the investigation by the Bureau, in keeping with the State Public Records Law [(N.J.S.A. 47:1A-1 to 4).], with the exception of any information not permitted to be disclosed under the Child Abuse and Neglect Law.

(d) Whenever the Bureau receives a report alleging child abuse/neglect of a child at a center, the Bureau shall immediately refer the matter to the Division's Institutional Abuse Unit, which is responsible for investigating allegations of child abuse/neglect of children in out-of-home settings, in accordance with provisions of the Child Abuse and Neglect Law. That unit shall notify the sponsor in writing of the results of its investigation.

(e) Whenever the Division conducts complaint inspections as specified in (a) and (d) above, the center shall cooperate with the Division's investigators.

10:122-3.2 Information to parents

(a) The center shall provide the parent(s) of every enrolled child with a written statement/pamphlet indicating that:

1. The center is required to be licensed by the Bureau of Licensing of the New Jersey Division of Youth and Family Services (DYFS) pursuant to State law (N.J.S.A. 30:5B-1 to 15);

2. The center is required by law to comply with all applicable provisions of the Manual of Standards for Child Care Centers;

3. The center is required to retain a current copy of the Manual of Standards and to make it available for the review and perusal of parents of enrolled children;

4. Parents of enrolled children are encouraged to bring to the attention of and discuss with the center director any questions/concerns about the policies of the center or the meaning, application or alleged violations of the Manual of Standards. If, after discussing their concerns with the director, the parents believe or suspect that the center is in violation of any provision of the Manual of Standards, they are entitled to report such alleged violations to the Bureau of Licensing;

5. Any parent may secure a copy of the Manual of Standards by contacting the Bureau of Licensing of the Division of Youth and Family Services, One South Montgomery Street, CN 717, Trenton, New Jersey 08625. A nominal fee is charged for the manual, in keeping with Department policy;

6. The center is required to make available for review by parents of enrolled children the Bureau of Licensing's Inspection/Violation Reports on the center;

7. The center is required to post its license in a prominent location within the center; as specified in N.J.A.C. 10:122-2.2(h);

8. The center is required to post a copy of its written statement of philosophy on the disciplining of children in a prominent location within the center, as specified in N.J.A.C. 10:122-6.8(f), and to make a copy of it available to parents upon request.

9. The center must afford the parent(s) of enrolled children ample opportunities to participate in and to observe the operation and activities of the center, as specified in N.J.A.C. 10:122-6.9(a);

10. Parents of enrolled children may visit the center at any time without having to secure the prior approval of the center;

11. The center must inform the parent(s) in advance of any field trip, outing or special event away from the center that it plans for the children and must secure the prior written consent of the parent(s) before taking a child on such a field trip, outing or special event; and

12. Any person who has reasonable cause to believe that a child enrolled in the center has been/is subjected to any form of hitting, corporal punishment, abusive language, ridicule, or harsh, humiliating or frightening treatment, or any other kind of child abuse/neglect/exploitation by center administrators and/or staff members is required by State law to report such allegations to the Division of Youth and Family Services Office of Child Abuse Control (toll-free hotline (800) 792-8610). Such reports may be made anonymously.

(b) The center shall comply with the requirements specified in (a) above by providing the statement/pamphlet to every parent of an enrolled child no later than five days after the child begins attending the program.

(c) The sponsor shall maintain in files located at the center a single copy of the statement/pamphlet specified in (a) above and a record indicating:

1. The date the statement/pamphlet was issued to every parent; and

2. The parent's signature attesting to his/her receipt of the statement/pamphlet on that date.

(d) The center may satisfy the record keeping requirement specified in (c) above by including in its child enrollment, application or registration form the parent's signature attesting to his/her receipt of the statement/pamphlet and the date of receipt.

(e) A copy of the statement/pamphlet specified in (a) above shall be posted in a location of prominence within the center.

(f) The center shall comply with the provisions of N.J.A.C. 10:122-3.2 either by distributing copies of a model statement/pamphlet, to be prepared by the Bureau, or by including the required information, as noted above, in the center's own manual/handbook/pamphlet/brochure.

(g) At the time of enrollment and thereafter as the need arises or at the request of the parent(s), the director or staff member shall discuss with each parent the child's habits, activities and schedules while at home and at the center and any special concerns about the child's behavior and development.

(h) The center director or staff member shall advise the parent(s) of any unusual incident involving the child that occurs at the center, preferably on the same day of the occurrence, but by no later than 24 hours afterwards. Such incidents would include, but not be limited to: unusual sexual activity; assaultive, violent or destructive behavior; or sudden significant or unanticipated change(s) in the child's personality, behavior or habits.

(i) If the director or his/her designee, based on knowledge of and/or experience with the particular family, has reasonable cause to believe that informing the parent(s) of the unusual incident will subject the child to parental abuse or neglect, the director or his/her designee shall report the incident to the Division's Office of Child Abuse Control (toll-free 800-792-8610) or, for children under the Division's supervision, to the Division caseworker assigned to the family, rather than to the parent, as specified in (h) above.

(j) When a child has been identified by the center as having a handicapping condition, or suspected handicapping condition, the director or staff member shall inform the parent(s) of their child's right to a special education program and related services and shall refer the parent(s) to the special toll-free telephone number (800) 322-8174 for a possible comprehensive evaluation and individual service plan development for the child.

(k) When a child has been identified by the center as having a handicapping condition, or suspected handicapping condition, the director or staff member shall inform the parent(s) of the availability of the Special Child Health Services Program at (609) 292-5676 for a possible comprehensive medical evaluation for the child.

10:122-3.[2]3 Reporting requirements

(a) The [center] sponsor, director or any staff member shall verbally notify the Bureau and the Office of Child Abuse Control (toll-free 800-792-8610) immediately [if any of the following events occur:

1. Injury or illness requiring hospitalization and/or the death of any child which occurred while the child was on the premises of the center or in the care of center personnel; and

2. Abuse and/or neglect of a child] **whenever there is reasonable cause to believe that an enrolled child has been subjected to abuse and/or neglect by a staff member(s) or any other person, as specified by the Child Abuse and Neglect Law (N.J.S.A. 9:6-8.9, 8.10, 8.13 and 8.14). Under provisions of this law, any person who has reasonable cause to believe that a child has been subjected to child abuse/neglect/exploitation must report this to the Division.** Copies of the law and information about it are available from the Division, upon request.

(b) The center shall notify the Bureau verbally of any of the following changes or events within 24 hours after [any of

them occur:] the center learns of their occurrence, to be followed with written notification to the Bureau within five working days:

1. Injury or illness that is not caused by child abuse/neglect and that results in the death or admittance to a hospital of any child which occurred while the child was on the premises of the center or while under the official supervision of center personnel;

[1.] 2. Unanticipated temporary or permanent closing of the center;

3. Any convictions of the director or of any staff member;

[2.] 4. Legal action against a center or staff member which involves or affects any child or the operation of the center; and

[3.] 5. Damage to the premises of the center caused by fire, accident or the elements.

(c) (No change.)

10:122-3.[3]4 Records

(a) General requirements:

[1.] Records required to be maintained by the center pursuant to this chapter shall be kept on file at the center. If the sponsor operates more than one center and maintains records in a central file, a duplicate individual file for each child shall also be kept at each center.

[2.] 1. Records shall be open for inspection by an authorized representative of the Bureau.

[3.] 2. The center shall ensure the confidentiality of records, in accordance with State law.

(b) Children's records: The [center] sponsor shall maintain in [its] files located at the center an up-to-date record on each child [and it] **which shall be conveyed and made available to appropriate staff members and shall include:**

1. The child's full name, address, birth date, and date of enrollment;

2. Name, home address, employment address, and telephone number of parent(s);

3. Instructions for reaching parent(s);

4. Name(s), address(es), and telephone number(s) of any person(s) authorized by the custodial parent(s) to take the child to or from the center and to assume responsibility for the child in an emergency if the parent(s) cannot be reached immediately;

5. **Name(s) and address(es) of any person(s) specifically not authorized by the custodial parent(s) to visit the child at or to take the child from the center. If the list of unauthorized persons includes a non-custodial parent, the record shall include written documentation from the custodial parent that the non-custodial parent has been denied access to the child by a court order;**

[5.] 6. Name, address, and telephone number of the child's physician;

[6.] 7. Health information, as specified in N.J.A.C. 10:122-6.1;

[7.] 8. Written authorization from parent(s) for emergency medical care; [and]

[8.] 9. Injury and illness record, including reports of any accidents, of treatment by a physician, or of injury or death of a child while on the premises or in the care of the center; and

[9.] 10. For a center that serves any child having a cognitive, or socio-emotional or physical handicap, including mental retardation, social maladjustment, perceptual impairment, neurological impairment, auditory handicap, emotional problems, communication handicap, or orthopedic handicap, a record(s) from a health, education or social service agency or

professional which documents the existence or suspected existence of a handicapping condition. The record(s) shall be obtained prior to or as soon as possible following the child's admission. The record(s) shall indicate the particular nature of the child's handicap and any program or environmental modification that is required to meet the exceptional child's needs.

(c) [Staff] **Personnel records:** The [center] sponsor shall maintain in [its] files located at either a central administrative office or the center an up-to-date personnel record of the director and of every staff member for as long as that individual is working at the center. The record shall include:

1. [Staff member's n]Name, address, and telephone number;
2. Information on health, as specified in N.J.A.C. 10:122-4.2; [and]
3. Dates of employment or work[.];

4. A full written disclosure of the director's and of every staff member's background, previous work experience, schooling, and convictions, if any. Such information shall be placed in the individual's personnel record at the time she/he first joins the center's staff and shall be updated whenever a change occurs in any area noted above; and

5. At least two character references on the director and every staff member, as specified in N.J.A.C. 10:122-4.1(b).

(d) **Administrative records:** [The center shall maintain the following records in its files:

1. A copy of the center's insurance coverage including:
 - i. Comprehensive liability insurance; and
 - ii. If applicable, vehicle insurance, as specified in N.J.A.C. 10:122-7.5;
2. Transportation records, if the center provides transportation, as specified in N.J.A.C. 10:122-7.4;
3. A written record of the performance of required monthly fire drills, as specified in N.J.A.C. 10:122-5.2(b)9;
4. A current copy of the Manual of Standards;
5. Employee work schedules and time sheets;
6. Daily attendance records for the children enrolled;
7. A written plan specifying the procedures to be followed in the event that the parent(s) or other person(s) authorized by the parent(s) fails to pick up or is late in picking up a child at the time of the center's daily closing. The plan shall insure that:

- i. The child is supervised at all times by center staff members;
- ii. Every effort is made by center staff members to contact the parent(s) and/or other person(s) authorized by the parent(s) to care for the child; and
- iii. Whenever the parent(s) and/or other person(s) authorized by the parent(s) fails to pick up the child one hour or more after closing time, and provided that the center staff members have been unable to make other arrangements for returning the child to his/her parent(s) and/or guardians, a center staff member shall call the Division's 24-hour Child Abuse Hotline (800-792-8610) to seek assistance in caring for the child until his/her parent(s) or other person(s) authorized by the parent(s) is available to care for the child; and

8. For a drop-in center, a record of the daily time of arrival and time of departure for each child.]

1. The sponsor shall maintain in files located at either a central administrative office or the center the following administrative records:

- i. A copy of the center's insurance coverage including:
 - (1) Comprehensive liability insurance; and

(2) If applicable, vehicle insurance, as specified in N.J.A.C. 10:122-7.5;

ii. Transportation records, if the center provides transportation, as specified in N.J.A.C. 10:122-7.4; and

iii. A written record of the performance of required monthly fire drills, as specified in N.J.A.C. 10:122-5.2(b)9.

2. The sponsor shall maintain in files located at the center the following administrative records:

i. A copy of the statement/pamphlet providing information to parents, as specified in N.J.A.C. 10:122-3.2(a);

ii. A written record of the parent's receipt of the statement/pamphlet, as specified in N.J.A.C. 10:122-3.2(c) and (d);

iii. A record of prior written consents from the parents of enrolled children for the center to take their children on a field trip, outing or special event away from the center;

iv. A copy of the center's statement of philosophy on the disciplining of children, as specified in N.J.A.C. 6.8(f).

v. A written record of each staff member's receipt of the statement of philosophy on the disciplining of children, as specified in N.J.A.C. 10:122-6.8(g).

vi. A copy of records pertaining to parent/community participation, as specified in N.J.A.C. 10:122-6.9(a);

vii. Current employee work schedules and time sheets;

viii. Daily attendance records for the children enrolled;

ix. A written plan specifying the procedures to be followed in the event that the parent(s) or other person(s) authorized by the parent(s) fails to pick up or is late in picking up a child at the time of the center's daily closing. The plan shall insure that:

(1) The child is supervised at all times by center staff members;

(2) Every effort is made by center staff members to contact the custodial parent(s) and/or other person(s) authorized by the parent(s) to care for the child; and

(3) Whenever the custodial parent(s) and/or other person(s) authorized by the custodial parent(s) fails to pick up the child one hour or more after closing time, and provided that the center staff members have been unable to make other arrangements for returning the child to his/her custodial parent(s), a center staff member shall call the Division's 24-hour Child Abuse Hotline (800-792-8610) to seek assistance in caring for the child until his/her custodial parent(s) or other person(s) authorized by the custodial parent(s) is available to care for the child; and

x. For a drop-in center, a record of the daily time of arrival and time of departure for each child.

10:122-3.[4]5 Telephone

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

10:122-4.1 General requirements for director/staff members.

(a) The director and [E]very staff member shall:

1.-2. (No change.)

[3. Make a full disclosure of his/her background, experience, previous work, schooling and arrests and convictions, if any;]

[4.]3. Be in sufficient physical, mental and emotional health to perform his/her job duties satisfactorily; and

[5.]4. Be qualified by professional education, knowledge, training and/or experience to carry out the functions of the position to which she/he is assigned and possess such other skills, attributes and characteristics necessary to the proper performance of the job in an effective and suitable manner.

(b) Prior to the hiring of a director or staff member the sponsor shall insure that two written character references on that person are secured and verified, attesting to the individual's fitness and suitability to fulfill the responsibilities and duties of his/her position or to serve or deal with children in an appropriate manner, as specified in (a) above. If the sponsor is unable to obtain written character references prior to the individual's hiring, the sponsor shall:

1. Secure the character references verbally and place written documentation of those in the center's personnel records prior to that person's beginning date of employment; and

2. Have the written character references submitted to the center within 30 calendar days and included in the center's personnel records, as specified in N.J.A.C. 10:122-3.4(c)5.

[(b)] (c) A staff member's failure to comply with the requirements as specified in (a) above and/or any evidence demonstrating a staff member's unfitness or unsuitability to fulfill the responsibilities and duties of his/her position or to serve or deal with children in an appropriate manner shall constitute grounds for the possible removal of such staff member from his/her position, termination from the job, and suspension or revocation of the center's license, or all of the above. Evidence of conviction for crimes of violence, anti-social behavior [, moral turpitude] and/or child abuse/neglect/exploitation shall be among those actions [suggesting evidence of] that are considered in determining a staff member's [unfitness] fitness and [unsuitability] suitability to serve in a staff position in a center.

(d) Evidence of conviction of a crime, in itself, shall not automatically preclude a person from working in the center and shall not automatically result in the removal or termination of a director or staff member from his/her position or job. Such determinations shall be made in keeping with the provisions of the State Rehabilitated Convicted Offenders Act (N.J.S.A. 2A:168A-1 et seq.), which provides that a person convicted of a crime may not be disqualified or discriminated against by a licensing authority unless the conviction relates adversely to the occupation, trade, vocation, profession or business for which a license is sought.

[(c)] (e) The [Bureau] sponsor shall [make every effort to insure] be responsible for insuring that the director meets the requirements as specified in (a) and [(b)](c) above and the director shall be responsible for insuring that all staff members of the center meet the requirements as specified in (a) and [(b)] (c) above. The director's failure to do so shall constitute grounds for his/her possible termination from the center. [or revocation of the center's license or both.]

(f) Whenever the Division's Institutional Abuse Unit, during the course of investigating an allegation of child abuse/neglect, determines that in order to protect the children it is necessary to remove or suspend the affected staff member(s) from the center or reassign him/her to other duties that do not involve contact with the children, the sponsor shall carry out that recommendation. Such suspension, removal or reassignment shall remain in effect until such time as the results of the investigation have been determined. Substantiation of the child abuse/neglect allegation by the Institutional Abuse Unit shall not, in itself, automatically result in the termination of the accused staff member from his/her position in the center, but shall constitute grounds for possible termination if the person's continued employment at the center would place the children at risk. Such determination shall be made by the Bureau of Licensing after considering information provided by the sponsor, the affected employee(s) and the Institutional Abuse Unit.

10:122-4.3 Types, responsibilities and qualifications of staff

(a) General requirements:

[(1)]1. Every [center] sponsor shall [have a] appoint a director who is responsible for the actual operation and management of the center and who shall:

i.-ii. (No change.)

2.-3. (No change.)

4. When the director is absent from the center for any reason, she/he shall designate a responsible person to supervise the center's operation. The director or his/her designee shall be on the premises at all times when the center is operating.

(b)-(h) (No change.)

10:122-4.6 Staff training and development

(a) (No change.)

(b) The director shall insure that all staff are trained in implementing the center's statement of philosophy on the disciplining of children and in recognizing and reporting directly to the Office of Child Abuse Control (toll-free 800-792-8610) any incident in which there is reasonable cause to believe that an enrolled child has been subjected to abuse/-neglect/exploitation.

[(b)] (c) As resources permit, the Bureau shall provide technical assistance, materials and information to all licensed centers in fields relevant to the center's program and the children served.

10:122-6.8 Discipline

(a) The methods of guidance and discipline used shall be positive, consistent with the developmental needs of the children and applied with the full knowledge and understanding [and approval] of the parent(s).

(b) There shall be no use of hitting, corporal punishment, abusive language, ridicule, or harsh, humiliating or frightening treatment [..], or any other kind of child abuse/neglect/exploitation.

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

(f) The center shall prepare a written statement of philosophy on the disciplining of children by staff members. The statement shall reflect the provisions specified in (a) through (e) above and shall be:

1. Distributed to every staff member;

2. Posted in a location of prominence within the center; and

3. Made available to parents upon request.

(g) The center shall maintain in its file a single copy of the statement of philosophy as specified in (f) above, and a record reflecting each staff member's signature attesting to his/her receipt of the statement.

10:122-6.9 Parent/Community participation

(a) At the time of enrollment and thereafter as the need arises or at the request of the parent(s), the director or staff member shall discuss with each parent the child's habits, activities and schedules while at home and at the center and any special concerns about the child's behavior and development.

(b) The center shall allow the parent(s) opportunity to visit and observe the center's program.

(c) When a child has been identified by the center as having a handicapping condition, or suspected handicapping condition, the director or staff member of the center shall inform the parent(s) of their child's right to a special education program and related services and shall refer the parent(s) to the special toll-free Child Find telephone number (800) 322-8174

for a possible comprehensive evaluation and individual service plan development for the child.

(d) When a child has been identified by the center as having a handicapping condition, or suspected handicapping condition, the director or staff member of the center shall refer the parent(s) to the Special Child Health Services Program at (609) 292-5676 for a possible comprehensive medical evaluation for the child.]

(a) The center shall adopt one of the following options to insure parent participation in the activities and operations of the center and to promote community participation as well:

1. A governing board responsible for approving, reviewing and monitoring the center's policies, budget, staff recruitment and selection, physical environment, and program activities. Such a board shall consist of parents and community representatives, including persons from the civic, business, educational and child care community. The board shall meet at least quarterly during the operating year and the center shall keep on file a list of the board's current membership and a record of its meetings; or

2. An advisory committee that offers advice and counsel to the center on its policies, staff recruitment and selection, physical environment and program activities. Such a committee shall consist primarily of parents and should include community representatives, including persons from the civic, business, educational and child care community. The committee shall meet quarterly and the center shall keep on file a list of the committee's current membership and a record of its meetings; or

3. A written policy providing for the direct involvement of parents in the center's operation and activities, and which should include community representatives, including persons from the civic, business, educational and child care community. The center shall keep on file a copy of this policy and records documenting its implementation. The policy should reflect such activities as:

- i. The use of parents and/or community representatives as volunteers to help in the center's program;
- ii. Periodic meetings between parents/community representatives and center administrators and staff;
- iii. Open houses, to which parents/community representatives are invited for the purpose of visiting and observing the center;
- iv. Presentations/talks by local officials and professionals in the community to enhance the center staff's and the children's knowledge of community services, programs and resources;
- v. Presentations by center staff members at community functions; and/or
- vi. Use of the center's facilities for community meetings and functions.

4. Sponsors choosing the options spelled out in 2. or 3. above shall retain the authority to make final decisions on all matters involving the policies, budget and operation of the center.

(b) The center shall allow the parent(s) of enrolled children to visit the center at any time to observe its operation and program activities without requiring the parent(s) to secure the prior approval of the center.

(c) The center shall inform the parent(s) in advance of any field trip, outing or special event away from the center that it plans for the children and shall secure the written consent of the parent(s) before taking a child on such a field trip, outing or special event. A record of these written consents shall be

maintained in the center's administrative records, as specified in N.J.A.C. 10:122-3.4(d)2. iii.

INSURANCE

(a)

DIVISION OF ACTUARIAL SERVICES

Health Insurance

Minimum Standards, Health Insurance

Solicitation, Individual Health Insurance Rate Filings

Proposed Readoption: N.J.A.C. 11:4-16, 17 and 18

Authorized By: Jasper J. Jackson, Director, Legislative and Regulatory Affairs.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17B:22-1 and 17B:26-1 et seq., 17B:26-44.6, and 17B:26-45.

Proposal Number: PRN 1985-131.

Submit comments by April 3, 1985 to:

Verice M. Mason, Director
Legislative and Regulatory Affairs
Department of Insurance
CN 325
Trenton, NJ 08625

Pursuant to Executive Order No. 66(1978), N.J.A.C. 11:4-16, 17 and 18 expire on April 21, 1985. The readoption of N.J.A.C. 11:4-16, 17 and 18 becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of readoption.

The agency proposal follows:

Summary

Subchapters 16, 17, and 18, commonly known as the minimum standards rules, were promulgated to provide protection for health insurance policyholders and consumers from various abuses by agents and companies. Subchapters 16, 17, and 18 were adopted and became effective on April 21, 1980. On June 12, 1980, the Legislature adopted Senate Concurrent Resolution 110 disapproving these subchapters pursuant to N.J.S.A. 17B:26-45d. On August 5, 1980, the Department of Insurance readopted subchapters 16, 17, and 18 in their entirety with amendments to N.J.A.C. 11:4-16.8(b) and N.J.A.C. 11:4-17.6 and 17.7.

Subchapters 16, 17, and 18 are scheduled to "sunset" on April 21, 1985, pursuant to Executive Order No. 66(1978). The Department of Insurance has conducted an administrative review of these subchapters and has amended N.J.A.C. 11:4-16.8 to bring this section into compliance with Federal requirements regarding medicare supplement policies and contracts (see: 17 N.J.R. 459(a)). The Department has determined these subchapters should be continued.

The minimum standards rules address three subject categories. The first, N.J.A.C. 11:4-16.1 et seq., contains minimum

standards for the provision of benefits in individual health insurance policies. Included within this subchapter are definitions of policy terms, prohibitions against certain policy provisions and coverages, mandatory disclosure of benefit provisions to insureds, and minimum requirements to be contained in policy forms submitted for filing to the Department of Insurance. N.J.A.C. 11:4-17.1 et seq., contains the minimum standards for health insurance solicitation. Included within this subchapter is a section listing prohibited unfair and deceptive acts, a section setting forth standards for replacement of policies, and a penalty section for violations of the standards set forth in this subchapter. The last subchapter, N.J.A.C. 11:4-18.1 et seq., designates the third subject area which concerns rates and rate filings. Included within this subchapter is a section setting forth requirements for rate submissions and a section setting forth standards for loss ratios.

The purpose of the minimum standards rules is to implement N.J.S.A. 17B:26-45. N.J.S.A. 17B:26-45a provides the Commissioner of Insurance with authority to promulgate regulations to establish minimum standards. N.J.S.A. 17B:26-45b provides that such minimum standards shall include any or all of the following:

(1) reasonable standardization and simplification of language, terms and coverages to facilitate understanding and comparisons; (2) elimination of provisions which may be misleading or unreasonably confusing in connection with either the purchase of such insurance or the settlement of claims; (3) elimination of deceptive practices in connection with the sale of such insurance; (4) elimination of provisions which may be contrary to the health care needs of the public; (5) elimination of coverages which are so limited in scope as to be of no substantial economic value to the holders thereof; and (6) elimination of unfair renewal practices which are contrary to the health care needs and economic well-being of the public.

N.J.A.C. 11:4-16 implements (1), (2), (4), and (5) of N.J.S.A. 17B:26-45(b). N.J.A.C. 11:4-17, implements (3) and (6) of the above mentioned statute. N.J.A.C. 11:4-18 promulgated in accordance with 17B:26-45(a), records the policies and practices which the Commissioner has traditionally applied to assure that individual health insurance benefits are reasonable in relation to the premiums charged.

Since their adoption, the minimum standards rules have been effective in implementing the statutory mandate of N.J.S.A. 17B:26-45. For example, subchapter 16 requires insurers to provide policyholders with an outline of the coverage policyholders will receive. This outline simplifies language and facilitates policyholder's understanding of the benefits. Subchapter 16 has also helped prevent substandard policies by providing insurers with notice that certain policies with limited benefits, such as cancer policies, are not acceptable for filing. Subchapter 17 delineates and prohibits deceptive practices such as the stacking of policies. Subchapter 17 also provides a procedure for maintaining complaint records. This procedure enables the Department of Insurance to determine upon examination whether companies are responding properly to consumer complaints. Subchapter 18 assures that individual health insurance benefits are reasonable in relation to the premiums charged.

The Department of Insurance feels that the minimum standards rules need to be readopted to assure continued protection of the public as mandated by N.J.S.A. 17B:26-45.

Social Impact

Since the adoption of the minimum standards rules, policyholders and consumers have experienced several social bene-

fits. For example, the prohibition of deceptive policies has provided consumers with a better quality product choice. The requirement that insurers provide insureds with an outline of coverage facilitates insureds' understanding of the benefits and provides a means for insureds to make comparisons of products available in the marketplace.

The minimum standards rules also provide agents and companies with social benefits. For instance, problems are eliminated from the marketplace, improving the public image of agents and companies. The rules also provide a degree of uniformity by setting minimum benefits for policies sold.

Economic Impact

Since the adoption of the minimum standards rules, consumers and policyholders have received several economic benefits. For example, with a better product on the market, consumers are assured of getting coverage which is commensurate with the premium charge. Certain provisions, such as these requiring outlines of coverage and simplified definitions, facilitate product comparison and assist the consumer in selecting a policy best suited to their needs. Similarly, the elimination of coverages which provide very limited benefits helps ensure that consumers will not spend money on policies with little economic value. Consumers and policyholders also receive an economic benefit by the assurance that the rates charged are reasonable.

Insurers also receive an economic benefit. For example, the prohibition of deceptive practices and the enhancement of products allows for better competition in the marketplace.

Full text of the proposed reoption appears in the New Jersey Administrative Code at N.J.A.C. 11:4-16, 17 and 18.

LAW AND PUBLIC SAFETY

(a)

BUREAU OF AMUSEMENT GAMES CONTROL

Conduct of Licensees and Operation of Licensed Games

Preproposal Hearings on Possible Amendments to N.J.A.C. 13:3-3.4 to 3.6

Authorized By: John F. Vassallo, Jr., Director, Division of Alcoholic Beverage Control, and Commissioner, Bureau of Amusement Games Control.

Authority: N.J.S.A. 5:8-79, 5:8-79.1, 5:8-85, 5:8-101 and 5:8-107.

Take notice that John F. Vassallo, Jr., Amusement Games Control Commissioner, pursuant to the authority of the Amusement Games Licensing Law, N.J.S.A. 5:8-78 et seq., including the rule making authority and public hearing requirements of N.J.S.A. 5:8-79 and N.J.S.A. 5:8-107 has determined to conduct public hearings with respect to the possible initiation of subsequent rule making proceedings covering the conduct, control and operation of amusement games of skill or chance licensed and operated at recognized amuse-

ment parks, seashore or other resort areas and at agricultural fairs and exhibitions.

The specific area of discussion will include the November 3, 1981, approval (by referendum) which vests in the Amusement Games Control Commissioner the authority to determine the value of prizes to be awarded and amount of charge for participation. Prizes currently cannot exceed \$300.00 retail value and the patron participation fee cannot exceed \$1.00 or \$.50 for any arcade games (N.J.A.C. 13:3-3.5 and 3.6), as established following hearings held in June, 1982.

Interested persons may present comments, statements or arguments at the public hearings on: Friday, March 29, 1985 at 9:30 A.M. at:

Fourth Floor Conference Center
Richard J. Hughes Justice Complex
25 Market Street
Trenton, New Jersey

Persons intending to make presentations at the hearings should advise the Commissioner, in writing, by March 27, 1985 to facilitate scheduling. Written submissions to the Commissioner at the referenced address will be received until April 4, 1985.

Both requests for presentation, scheduling and written submissions should be addressed to:

John F. Vassallo, Jr.
Amusement Games Control Commissioner
Division of Alcoholic Beverage Control
Richard J. Hughes Justice Complex
CN 087
Trenton, New Jersey 08625

(a)

DIVISION OF MOTOR VEHICLES

Licensing Service Bus Drivers

Proposed Readoption with Amendments: N.J.A.C. 13:21-14

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

Authority: N.J.S.A. 39:3-10; 39:3-10.1 and 39:5-30.

Proposal Number: PRN 1985-135.

Submit comments by April 3, 1985 to:

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

The agency proposal follows:

Summary

The Division of Motor Vehicles proposes to readopt the provisions of N.J.A.C. 13:21-14.1 through 13:21-14.7 concerning bus drivers, with the exception of N.J.A.C. 13:21-14.4 which is not being readopted. These rules were initially filed and became effective prior to September 1, 1969. These rules were subsequently amended on January 9, 1970, August

2, 1971 and March 18, 1980. The rules will expire on March 18, 1985. The rules are now to be readopted in accordance with Executive Order No. 66(1978).

The rules implement those provisions of the Motor Vehicle and Traffic Law (N.J.S.A. 39:3-10.1) pertaining to the issuance of bus drivers' licenses. N.J.A.C. 13:21-14.1 sets forth the purpose of the Bus Driver Rules which is the implementation of the public policy to require drivers of "for-hire" motor vehicles having a carrying capacity of more than six, intrastate "not-for-hire" motor vehicles having a carrying capacity of more than sixteen, and school buses to be specially licensed as bus drivers.

N.J.A.C. 13:21-14.2 defines the term "bus" as including the three categories specified above. N.J.A.C. 13:21-14.3 sets forth the bus driver license requirement.

N.J.A.C. 13:21-14.5 specifies the qualifications for bus drivers. Applicants must be 18 years old, have three years driving experience, be of good character and be physically fit to operate a bus. Finger-printing is required as part of the application procedure. An applicant must be the holder of a valid New Jersey driver's license. Examination of driving ability, familiarity with the mechanism of a bus, knowledge of the motor vehicle laws and visual acuity may be conducted. The Director may not issue a bus driver's license if the applicant has (1) a driving record which includes a suspension for operating a motor vehicle while under the influence of intoxicating liquor, narcotics or habit-producing drugs; for operating a motor vehicle while impaired by alcohol; or for leaving the scene of an accident which resulted in personal injury or death; (2) a driving record of 12 or more points; (3) a driving record of three or more motor vehicle accidents within one year of the application date; (4) committed a misstatement of fact or withheld material information on the application; (5) failed to submit proof of continuing physical fitness, good character and driver experience every 24 months; (6) failed to notify the Division and employer immediately of any medical condition which may affect the ability to operate a motor vehicle safely; (7) failed to pass the prescribed driving test; (8) failed to complete satisfactorily a written examination; (9) failed to meet the medical and physical qualifications set forth by the United States Department of Transportation; (10) a criminal record which is disqualifying.

For purposes of the Bus Driver Rules, a criminal record is disqualifying if it involves (1) an offense involving the manufacture, transportation, possession, sale or habitual use of a "controlled dangerous substance", (2) a crime or offense involving deviate or illicit social behavior, (3) a crime or offense involving the use of force or the threat of force to or upon a person or property, or (4) a crime or offense indicative of bad moral character. The Director may deny or suspend a bus driver's license upon the person's arrest for any crime or offense if the Director determines that the person is of bad character or is morally unfit to hold a bus driver's license or is a potential danger to passengers and other motorists. The Director may waive any provision of the rules if reasonable grounds are established at a hearing. Prior to such hearing, an applicant must submit a request for such waiver and the basis of such request. N.J.A.C. 13:21-14.6 generally provides that the information on an application for a bus driver license shall be considered privileged information. Upon the licensee's written authorization, a copy of the application will be released. Upon request for information, the Division will release the name, address, personal description, driver license number of the applicant and the name and address of the physician who conducted the physical examination of the

applicant. N.J.A.C. 13:21-14.7 provides that a person driving a bus which is not being used for the transportation of persons is not required to be licensed as a bus driver. Therefore, a mechanic who is road testing a bus need not be licensed as a bus driver.

The Division of Motor Vehicles has reviewed the rules in accordance with Executive Order 66 and has determined that they are "necessary, adequate, reasonable, efficient, understandable and responsive to the purposes for which they were promulgated." The rules provide an efficient procedure for the administration of the bus driver licensing provisions of the Motor Vehicle and Traffic Law and protect the public interest in an area relating to the safe operation of buses on the State's highways. The rules will continue to protect the public interest in this regard.

Social Impact

The rules proposed for readoption have a positive impact on highway safety. Persons who are deemed unable to safely operate buses due to a poor driving record, medical condition or criminal record may be denied bus drivers' licenses or may have their bus drivers' licenses suspended. Bus passengers, including school children, and persons using the State highway system are protected in this regard.

The rules proposed for readoption will have a continuing beneficial impact on highway safety and have been determined necessary to assure such safety.

Economic Impact

There is an economic impact on the State in funding the Division's Bureau of Driver Testing. The Program is entirely State funded but the actual cost of administration is unknown since it is only a part of the driver testing and driver improvement programs which conduct numerous tests and administrative hearings to determine driver qualification. The cost of continuing the Program is justified in light of the highway safety benefits which result. Presumably, the Program reduces costs to society by preventing unqualified drivers from operating buses thereby reducing the number of accidents involving buses and the resultant expenses.

There is no general impact on the general public other than those persons who are denied a bus driver's license because of a disqualification.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 13:21-14.

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

13:21-14.4 [Grace period for newly-designated bus drivers]

Reserved

[(a) Drivers of any bus, as defined in section 1 (Definitions) of this subchapter, which previously could have been driven without a special bus driver license, shall obtain the special bus driver license no later than June 15, 1980.

(b) Drivers of any bus which previously could have been driven without a special bus driver license who are holders of valid New Jersey driver licenses and who have had at least 90 days or 200 hours experience in driving omnibuses shall be eligible to receive the omnibus endorsement without completing the road test portion of the examination upon application and proof of driving experience which is satisfactory to the director; except that drivers of any bus with a carrying capacity of 17 or more shall be eligible to receive the omnibus endorsement without completing the road test portion of the

examination upon application and proof of driving experience until June 15, 1980.]

BOARD OF ACCOUNTANCY

Proposals numbered PRN 1985-138 and 139 are authorized by the State Board of Accountancy, Paul M. Kurisko, C.P.A., President.

Submit comments by April 3, 1985 to:
 John J. Meade, Executive Secretary
 State Board of Accountancy
 Room 507-A
 1100 Raymond Boulevard
 Newark, NJ 07102

(a)

General Rules and Regulations

Proposed New Rules: N.J.A.C. 13:29-1.1 through 1.6 and 1.8 through 1.12

Authority: N.J.S.A. 45:2B-6.g. and 45:2B-17.
 Proposal Number: PRN 1985-138.

The agency proposal follows:

Summary

The proposed new regulations set forth the basic rules governing the qualifications for licensure as a certified public accountant in New Jersey. The former rules found in the New Jersey Administrative Code expired on July 21, 1983, pursuant to Executive Order No. 66 (1978). In pertinent part the new rules provide the following: The Board shall be known as the New Jersey State Board of Accountancy which holds a meeting once a year in April for the purpose of electing officers. The regular monthly meetings of the Board are held in accordance with a published schedule of meetings. To qualify to sit for the Certified Public Accountancy examination an applicant must be a resident of New Jersey, have an office or be employed in the State. The filing of an application for licensure requires the applicant to conform to rules governing qualifications for licensure. Applicants for examination must submit an academic qualifying certificate certifying that the applicant possesses a baccalaureate degree based on the minimally acceptable educational criteria established by the Board. Applicants who have passed all parts of the examination must submit evidence of having attained two years' diversified experience in public accounting in the office of a certified public accountant or firm. This experience must be obtained on a full time basis in regular employment. In lieu of two years experience the Board may accept four years or more experience obtained by agents employed by the Internal Revenue Service or experience obtained in the office of a public accountant or firm, or in employment of some state or political subdivision of the United States government. The Board may accept service in the Armed Forces on the basis of one month's credit for each six months service with a maximum credit of eight months. The Board may evaluate any and all accounting and auditing experience and give credit towards the two years' experience requirements. Applications for li-

censure by endorsement must satisfy the same requirements as applications for licensure by examination. Examinations are held on three consecutive days in May and November of each year. After an application has been approved an admission card is mailed to the applicant. The examinations are the Uniform Certified Public Accountants Examinations prepared by the Board of Examiners of the American Institute of Certified Public Accountants. The advisory grading service provided by the American Institute of Certified Public Accountants is used and, to pass the examination the candidate must receive 75 points in each subject. The Board grants credit for subjects which have been passed in another state which gives the American Institute of Certified Public Accountants exam and has qualifications comparable to those of New Jersey. Every successful applicant for licensure must comply with the Board's rules of professional conduct. The holder of a valid certified public accountant's license may receive a public school accountant's license issued on a yearly basis.

Social Impact

The proposed new rules are based on a recent and thorough review of the rules and regulations governing the qualifications for licensure as a certified public accountant in New Jersey. They are in conformity with the requirements established by law. The regulations will have a favorable impact on prospective licensees because they will serve to clarify many of the general statements contained in the law and explain the Board's long standing interpretations of the law. The regulations will have a favorable impact on the public because they will serve to inform them of the basic qualifications required of each professional rendering service to them as a licensed certified public accountant. Finally, the regulations will have a favorable impact upon the day-to-day operation of the Board because they will serve to impose standardized and uniform policies for the interpretation of the law.

Economic Impact

The regulations will have a minimal economic impact upon the public, prospective licensees and the Board itself. The regulations impose a minimal burden upon the prospective licensee to pay a fee in order to sit for the Certified Public Accountancy first examination and reexamination or to apply for licensure by endorsement and to pay a fee of \$6.00 for issuance of the certified public accountant certificate. It also requires payment of a yearly \$5.00 fee to receive a public school accountant's license and biennial renewal of Certified Public Accountant certificate for \$40.00. There will be no foreseeable economic burden on the public or the Board caused by the promulgation of these regulations.

Full text of the proposed new rules follows.

SUBCHAPTER 1. GENERAL RULES AND REGULATIONS

13:29-1.1 Establishing name of Board

The Board shall be known as the New Jersey State Board of Accountancy, and shall maintain an office in the State of New Jersey for the regular transaction of its business.

13:29-1.2 Meetings

(a) The Board shall hold an annual meeting, in each year, in the month of April for the purpose of electing officers, from among its members, each for the term of one year, or until a qualified successor has been duly elected.

(b) Regular monthly meetings will be held in accordance with a published schedule of meetings. Special meetings may be held at the request of any Board member.

13:29-1.3 Applications; applicant qualifications

(a) Application forms for original examination, reexamination and for a certificate by endorsement will be furnished by the Board upon request.

(b) Applications for examination shall be received by the office of the Executive Secretary of the Board on or before March 1 for the May examinations, and on or before September 1 for the November examinations. Applications will not be accepted if received later than the above dates.

(c) Every applicant who becomes eligible to sit for the examinations, or has met the requirements for a certificate, and is eligible to receive a certificate, shall be a bona fide resident of the State of New Jersey, or shall maintain an office for the practice of public accounting in the State of New Jersey, or shall be in the employ of a Certified Public Accountant, or firm of Certified Public Accountants, having an established office and performing services within the State of New Jersey. Such eligibility shall continue until the certificate is issued. For purposes of eligibility, a mailing address or telephone number is not sufficient to show that an office is maintained for the practice of public accounting.

(d) Applicants shall appear upon request before the Board or any Committee appointed by the Board for the purpose of determining qualifications for licensure.

(e) Any applicant who is reexamined in any subject shall qualify under the rules in effect at the time the supplemental application is filed.

13:29-1.4 (Reserved)

13:29-1.5 Filing constitutes agreement

The act of filing an application for examination, or a certificate by endorsement, shall constitute an agreement on the part of the applicant that he will observe and conform to the requirements of this chapter.

13:29-1.6 Applications for original examination

(a) Applications for original examination shall be accompanied by the following items:

1. Photograph, two-inch by two-inch in size, bust picture, front view, without a hat, taken within 30 days prior to filing an application;

2. An Academic Qualifying Certificate from the New Jersey Department of Higher Education, Trenton, New Jersey certifying that applicant possesses a baccalaureate degree, or its equivalent, based upon a curriculum which shall include:

i. A minimum of 60 semester hours selected from courses in English, history, foreign languages, mathematics, general psychology, philosophy, biological sciences, physical sciences, economics, sociology, religion, government, political science, geography, fine arts and music; and

ii. A minimum of 60 semester hours in professional courses including: at least 24 semester hours in accounting including municipal and government accounting; at least six semester hours in business law, at least six semester hours in finance, at least six semester hours in economics; and at least 18 semester hours in related business subjects.

(b) An applicant for examination for the Certified Public Accountant's certificate who meets the requirements of (a) above to the Board's satisfaction shall be granted admission

to sit for the examination in theory of accounts, accounting practice, commercial law and auditing.

(c) An applicant who has passed all parts of the examination shall furnish evidence of two years' diversified experience in public accounting in the office of a Certified Public Accountant, or firm of which one member is a Certified Public Accountant. Experience shall be obtained in full-time regular employment based on a seven-hour day and a five-day work week. Such evidence shall take the form of a notarized affidavit on the employer's letterhead indicating in detail the nature of the two-year diversified experience in public accounting.

(d) In lieu of the two years' experience required in (c) above, the Board may accept four years' or more experience obtained as an Internal Revenue agent employed in the Field Division of the Internal Revenue Service, in a classification grade level acceptable to the Board. Any part of a period of two years' experience obtained in the employment of a Certified Public Accountant, may be considered as part of the four years' experience with the Internal Revenue Service.

(e) In lieu of the two years' experience required in (c) above, the Board may accept four years' or more experience obtained in the office of a Public Accountant or firm, of which one member is a Public Accountant.

(f) In lieu of the two years' experience required in (c) above, the Board may accept four years' or more accounting experience obtained in the employment of some state or any political subdivision of the United States.

(g) The Board may accept service in the Armed Forces of the United States for experience credit on the basis of one month's credit for each six month's service, with a maximum credit of eight months.

(h) The Board may, in its discretion, evaluate any and all accounting and auditing experience obtained by any applicant and give appropriate credit for said experience toward the two years' experience required in this section.

13:29-1.17 Application for reexamination (No change in text.)

13:29-1.8 Applications for certificate by endorsement

(a) Applications for a certificate by endorsement shall be accompanied by the following items:

1. The fee of \$100.00;
2. The requirements listed in N.J.A.C. 13:29-1.3 (Applications; applicant qualifications) and 13:29-1.6 (Applications for Original Examination);
3. Written verification from the authority issuing the original certificate that it is valid and in good standing, setting forth the full name, number and date of certificate issuance.

13:29-1.9 Chartered accountant

A chartered accountant may sit for the State of New Jersey examinations, and if he passes, the Board may, in its discretion, accept chartered accounting experience. A certificate by endorsement shall not be issued to a chartered accountant.

13:29-1.10 Examinations

(a) Examinations will be held on three consecutive days, in May and November of each year, at a place designated by the Board.

(b) After the application has been approved, an admission card shall be mailed to the applicant which must be used for admittance to the examination room. The card shall be kept in the possession of the applicant during the examinations and handed to a proctor at the conclusion of the applicant's examinations.

(c) Examinations shall be in writing, but this shall not bar additional examinations of such other nature as the Board may deem necessary.

(d) Examination papers are the property of the Board and shall be left with the proctors.

(e) Examination papers shall remain in the office of the Executive Secretary for a period of six months after each examination. During the six months an applicant may arrange to review his examination papers.

(f) Applicants for examination shall be given a number for identification purposes and only this number shall be used on all papers.

(g) Examinations are prepared by the Board of Examiners of the American Institute of Certified Public Accountants known as the Uniform Certified Public Accountants Examinations. The advisory grading service provided by the American Institute of Certified Public Accountants shall be utilized and, to pass the examination, a candidate shall receive 75 points in each subject.

(h) The New Jersey State Board of Accountancy shall grant credit for subjects which have been passed in another state which utilizes the American Institute of Certified Public Accountants Examination and which utilizes educational and experiential criteria comparable to that of the State of New Jersey.

13:29-1.11 Successful applicants

(a) Applicants who satisfy the requirements of this subchapter shall be issued a certified public accountant's certificate upon the payment of a fee of \$6.00.

(b) Every successful applicant shall comply with the Rules of Professional Conduct, N.J.A.C. 13:29-3.

(c) A Certified Public Accountant shall renew his license for a period of two years from the last expiration date. A Certified Public Accountant who fails to timely renew his certificate shall have it declared forfeited. When the Certificate holder seeks to renew a certificate which has been declared forfeited the Board may reinstate his certificate provided he pay the fee for the current registration period in addition to a reinstatement fee set by the Board.

13:29-1.12 Public School Accountant's license

The holder of a certificate as a Certified Public Accountant or registered municipal accountant shall be granted a Public School Accountant's license upon application to the Board, and the payment of a \$5.00 fee for a period of one year.

13:29-1.13 Fees

(No change in text.)

(a)

Registered Municipal Accountants

Proposed New Rules: N.J.A.C. 13:29-2.1, 2.2 and 2.3

Authority: N.J.S.A. 45:2B-33, 34 and 35.

Proposal Number: PRN 1985-139.

The agency proposal follows:

Summary

The proposed new regulations set forth the basic rules governing the qualifications for licensure as a registered municipi-

pal accountant in New Jersey. The former rules found in the New Jersey Administrative Code expired on July 21, 1983 pursuant to Executive Order No. 66(1978). In pertinent part the new rules provide the following: Every applicant for a license as a registered municipal accountant must be a resident of the State or have an office or be employed in the State, have a baccalaureate degree based on the minimally acceptable educational criteria established by the Board, and have attained two years' experience in municipal accounting and auditing acceptable to the Board. In lieu of the two years' experience, the Board may accept evidence of licensure as a certified public accountant in New Jersey or accounting and auditing experience in employment for the Division of Local Government in New Jersey. Examinations are held in November of each year. After the application has been approved, an admission card is mailed to the applicant. Examinations include questions on the theory of municipal and public school accounting, and problems in municipal and public school accounting, municipal and public school law and finance, and auditing and additional related subjects as determined by the Board. To pass the examination the applicant must attain a grade of 75 percent. Where a licensee allows his license to expire, and then seeks renewal, the Board may require him to pay a fee for the current registration period in addition to a reinstatement fee.

Social Impact

The proposed new rules are based on a recent and thorough review of the rules and regulations governing the qualifications for licensure as a registered municipal accountant. The regulations will have a favorable impact on prospective licensees and current certified public accountants because they serve to explain many of the long standing interpretations of the law made by the Board. The regulations will have a favorable impact on the public because they serve to inform the public on the basic qualifications necessary of professionals rendering services to municipalities of this State. Finally, the regulations will have a favorable impact upon the day-to-day operation of the Board because they set uniform policies necessary for the interpretation of the law.

Economic Impact

The proposed regulations will have minimal economic impact upon the public prospective licensees or the Board itself. The regulations impose a minimal burden on the prospective licensee to pay a biennial fee of \$40.00 to be licensed as a municipal accountant as well as fees to apply for and sit for the first examination and reexaminations and yearly \$5.00 fee. There will be no foreseeable economic burden placed on the public or Board caused by promulgation of these regulations.

Full text of the proposed new rules follows.

SUBCHAPTER 2. REGISTERED MUNICIPAL ACCOUNTANTS

13:29-2.1 Applications; requirements

(a) Every applicant for a license as a registered municipal accountant shall submit to the Board a written application on a form provided by the Board, a photograph (two-inch by two-inch in size, bust picture, front view, without a hat, taken within 30 days prior to application) and satisfactory proof of the following:

1. Good moral character, evidenced by affidavits from three persons;

2. Bona fide residence in the State, maintenance of an office for the practice of public accounting in the State, or employment in the State by a Registered Municipal Accountant, Public School Accountant, Certified Public Accountant or a firm of Certified Public Accountants, having an established office and performing services within the State;

3. Baccalaureate degree or its equivalent as determined by the New Jersey Department of Higher Education including 60 semester hours in liberal arts and 60 semester hours in professional courses as follows:

- i. At least 24 semester hours credit in accounting;
- ii. At least six semester hours credit in business law;
- iii. At least six semester hours credit in finance;
- iv. At least six semester hours credit in economics;
- v. At least 18 semester hours in business electives;

4. Two years' experience in municipal accounting and auditing acceptable to the Board with a public accounting firm engaged in New Jersey municipal accounting and auditing, as evidenced by employer affidavit(s).

(b) In lieu of the experience requirements of (a) above the Board may accept proof of licensure as a Certified Public Accountant in New Jersey.

(c) In lieu of the experience requirements of (a) above the Board may in its discretion consider the experience of an applicant who has had two years' experience in accounting and auditing as an employee of the Division of Local Government of the State of New Jersey.

(d) Any applicant being reexamined shall be qualified under the provisions of this chapter in effect at the time his or her supplemental application is filed.

13:29-2.2 Examinations

(a) Examinations shall be held in November of each year, at a place designated by the Board. Applications shall be filed by September 1 for the November examination.

(b) After the application has been approved, an admission card shall be mailed to the applicant which shall be used for admittance to the examination room. This card shall be kept in the possession of the applicant during the examinations and handed to a proctor at the conclusion of the examination.

(c) Examinations shall be in writing, but this shall not bar additional examinations of such other nature as the Board may deem necessary.

(d) Examination papers are the property of the Board and shall be left with the proctors.

(e) Examination papers shall remain in the office of the Executive Secretary for a period of six months after each examination, and during the six months, any applicant may make arrangement to review the examination papers.

(f) Applicants for examination shall be given a number for identification purposes and only this number shall be used on all papers.

(g) Examinations shall include questions on the following:

- i. Theory of municipal and public school accounting and problems in municipal and public school accounting;
- ii. Municipal and public school law and finance;
- iii. Auditing;
- iv. Any additional related subjects as determined by the Board.

(h) Applicants shall attain a grade of 75 percent in order to pass the examination.

13:29-2.3 Licenses

(a) When the holder of a Registered Municipal Accountant's license seeks to renew a license which has expired, the

Board may reinstate his license, provided he pays the fee for the current registration period in addition to a reinstatement fee set by the Board.

(b) Applicants who have complied with all of the provisions in this subchapter and passed the examination shall comply with the Rules of Professional Conduct promulgated by the New Jersey State Board of Accountancy.

(a)

BOARD OF MEDICAL EXAMINERS

Proposals numbered PRN 1985-136 and 137 are authorized by the State Board of Medical Examiners, Edward W. Luka, M.D., President.

Submit comments by April 3, 1985 to:
 Edward W. Luka, M.D., President
 State Board of Medical Examiners
 28 West State Street
 Trenton, NJ 08608

Licensing Examinations and Endorsements, Fee Schedule, Limited Exemptions from Licensure Requirements

Proposed Amendments: N.J.A.C. 13:35-3.1, 3.2, 3.3, and 3.4

Authorized By: State Board of Medical Examiners,
 Edward W. Luka, M.D., President.
 Authority: N.J.S.A. 45:9-2.
 Proposal Number: PRN 1985-137.

The agency proposal follows:

Summary

The proposed amendments would take into account the phasing out of the old three-part FLEX examination and its replacement and adoption by all of the medical licensing agencies throughout the country of the revised and modernized medical licensure examination.

Social Impact

The new FLEX examination has been revised and modernized to more accurately test the fund of knowledge necessary for a physician entering unsupervised private practice. Component I is designed to test the extent of academic medical education acquired by the time a physician has graduated medical school, receiving the degree of Doctor of Medicine or Doctor of Osteopathy. Component II is designed to test the medical knowledge acquired as a result of one or more years of post-graduate clinical training, as required by N.J.S.A. 45:9-8 before being eligible for plenary licensure. The new FLEX examination has been designed by the Federation of State Medical Boards of the United States, Inc, which has functioned since 1968 as a service organization for information and examination development to all of the fifty states and US territories. As of June 1985, the Federation is phasing out the old three-part FLEX examination and will utilize henceforth the new two-component FLEX examination. All medical boards across the country are presently in the process

of amending their current regulations to take into account these changes. The proposed amendments provide an applicant the option of satisfying the examination requirement by taking and passing only the new two-component FLEX, or by demonstrating passage of a combination of FLEX and specialty board certifications. These options are available for an applicant seeking licensure by endorsement also.

Economic Impact

Economic impact is not expected to be substantial, in light of the responsibilities of physicians practicing medicine in this State. The old FLEX examination could be administered for a recent cost of \$200.00. The purchase and administration of the new test will require a cost of \$300.00. The fee increase is being proposed by a companion rule amendment to N.J.A.C. 13:35-6.13.

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

13:35-3.1 Federation licensing examination [(flex)] **(FLEX)**

(a) (No change.)

(b) FLEX examination for medical licensure in New Jersey, when taken for the first time, must be taken as a complete unit, that is, a consecutive three-day [total] **two-component** examination.

(c) [All]A candidate[s] who attains a [FLEX weighted grade average] score of 75 or over in **both Component I and Component II** shall be adjudged to have successfully [completed] **passed** the examination, and the **executive** secretary of the Board shall be authorized to issue a certificate of medical licensure in New Jersey to [each] **the** successful candidate who has met all other requirements of N.J.S.A. 45:9-1 et seq. for medical licensure in this State.

(d) [All candidates failing to attain a FLEX weighted grade average of 75 or over shall be adjudged to have failed the examination.] **A candidate shall be eligible to re-take the Component failed, but only within five years of passing the other Component. Thereafter, no passing credit shall be carried over, and a candidate shall be required to take both Components as in (b) and (c) above.**

[(e) Any candidate may be reexamined only in the part or parts of the examination failed, provided that the reexamination shall be taken at one session. If the candidate receives a passing grade in said part or parts that would provide an adjusted weighted grade average of 75 or over, the secretary of the Board is authorized to issue a certificate of medical licensure in New Jersey to each successful candidate who has met all the requirements of N.J.S.A. 45:9-1 et seq. for medical licensure in this State.]

13:35-3.2 Endorsement; Federation Licensing Examination

(a) The Board shall grant without examination a license to practice medicine and surgery to any person who shall furnish proof that he or she can fulfill the requirements demanded in N.J.S.A. 45:9-1 et seq. relating to applicants for admission by examination provided that satisfactory proof is presented by such applicant of licensure by FLEX examination to practice medicine and surgery in another state, territory or possession of the United States, or another country, with a FLEX weighted grade of 75 or better in **an examination taken prior to June 1985, or a score of 75 or better in each of the two Components of the new FLEX examination, both Components of which were passed within a five year period.**

13:35-3.3 Endorsement of sister-state M.D. or D.O. license after extended practice or specialty board or na-

tional board certifications or by any combination of national boards and FLEX examinations; also, podiatry board endorsement and chiropractic endorsement

(a) The Board shall grant without examination a license to practice medicine and surgery to any person who shall furnish proof of satisfaction of the requirements demanded in N.J.S.A. 45:9-1 et seq. relating to applicants for admission by examination who shall further furnish proof of any of the following:

1.-3. (No change.)

4. Certification of either the National Board of Medical Examiners or of Osteopathic Examiners that the applicant has attained a passing score in the first two parts of the National Boards as well as the third part of the FLEX examination taken in another state and passed with a score of 75 or better **prior to June 1985, or FLEX Component II passed in New Jersey or in another state with a score of 75 or better.** Such license granted under this provision shall be deemed a FLEX examination license.

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

13:35-3.4 Examination in [third part of] **FLEX Component Two** after proof of passing first two parts of National Boards of Medical or Osteopathic Examiners

An applicant who provides certification of passing the first two parts of the National Board of Medical Examiners or of Osteopathic Examiners examination, as applicable, and who satisfies the requirements of N.J.S.A. 45:9-1 et seq. relating to admission by examination, shall be permitted to take [the third part alone of] **FLEX Component II alone.** Such applicant, upon attaining a passing score of 75 or better in the FLEX examination **Component II,** shall be granted a license to practice medicine and surgery. The license herein to be granted shall be a FLEX examination license.

(a)

Fee Schedule

Proposed Amendment: N.J.A.C. 13:35-6.13

Authority: N.J.S.A. 45:9-2 and 45:2C and P.L. 1984, c. 203.

Proposal Number: PRN 1985-136.

The agency proposal follows:

Summary

The proposed amendment changes the fees required for licensure examination of physicians and of acupuncturists. The proposal will also add registration and other fees for a new category of registrant, athletic trainers, as required by a law approved December 4, 1984 (P.L. 1984, c.203). Specific fees for examination, reexamination and endorsement of athletic trainers will be proposed by the Board after consultation with the National Athletic Trainers Association as referenced in Chapter 203, Laws of 1984. Finally, the proposal deletes

references to fees for physical therapists and physical therapist assistants who are no longer licensed by the Medical Board.

Social Impact

The proposed amendment will impact physicians and acupuncturists in the amount of fees charged for licensure examination. Athletic trainers are also impacted since they are now subject to licensure by the Board.

Economic Impact

The proposed amendment is expected to have minimal economic impact, as the fees established will be paid only by applicants or licensees of the particular professional practice and the fees are set at the lowest level necessary to reimburse the agency for the costs expended in the licensing or examination procedures specified.

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

13:35-6.13 Fee schedule

(a) The following fees shall be charged by the Board of Medical Examiners:

1. Medicine and Surgery (M.D. or D.O. license)	
i. Examination—[all three parts, three days]	
Both Components	[\$200.00] \$300.00
ii. Re-examination	
[Day 1]	[75.00]
[Day 2]	[75.00]
[Day 3]	[125.00]
Component I	200.00
Component II	225.00
iii.-vii. (No change.)	
2.-5. (No change.)	
6. [Physical therapy (registration)]	
i. Examination, plenary practice	50.00
ii. Re-examination, plenary practice	50.00
iii. Registration fee after examination	100.00
Physical therapy assistant	
iv. Examination	50.00
v. Re-examination	50.00
vi. Registration, limited practice	100.00
vii. Endorsement (both plenary and limited practice)	100.00
viii. Biennial registration (both plenary and limited practice)	60.00
Athletic Trainer (registration)	
i. Temporary registration or authorized registration without examination	60.00
ii. Examination	(reserved)
iii. Re-examination	(reserved)
iv. Registration fee after examination	60.00
v. Biennial registration	60.00
vi. Reinstatement fee	25.00
vii. Endorsement	(reserved)
7. (No change.)	
8. Acupuncturist [registration] certification	
i. Examination including [license] certification	150.00
ii. Re-examination	150.00
iii. Endorsement	150.00
iv. Biennial registration	60.00
v. Reinstatement	25.00
9.-10. (No change.)	

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Office of Cable Television Rules of Practice and Procedure

Proposed New Rule: N.J.A.C. 14:18-3.10

Authorized By: Bernard R. Morris, Director, Office of Cable Television.

Authority: N.J.S.A. 48:5A-10 and N.J.S.A. 48:5A-49.
Proposal Number: PRN 1985-116.

Submit comments by April 3, 1985 to:

Bernard R. Morris, Director
Office of Cable Television
1100 Raymond Blvd.
Newark, NJ 07102

The agency proposal follows:

Summary

The proposed new rule develops a mechanism for determining just compensation for damage incurred as a result of the taking of property resulting from the installation of cable television facilities in multi-unit dwellings. A public hearing was held on September 12, 1984, notice of which was published in the New Jersey Register on August 6, 1984 (16 N.J.R. 2069). Following the hearing a comment period was extended through October 12, 1984. For this proposal the Office of Cable Television considered the nature of cable television and its installation as well as the effect of said installation of facilities upon the distinct commercial investment expectations of multi-unit landlords. The Office also considered the legislature's intent to promote adequate, economical and efficient cable television service to citizens and residents of this State and to encourage optimum development of the cable television medium. In determining compensation, the Office of Cable Television adopted the following conclusions:

A. Cable television is not an essential service, but it does offer certain benefits to individual consumers and the community.

B. Installation of cable television facilities in multi-unit dwellings may constitute a compensable taking of property under the 5th Amendment as made applicable to the States by the 14th Amendment.

C. Direct physical attachment of poles, plates, boxes, wires, bolts and screws to property and buildings constitutes a permanent physical occupation of an owner's property. However, in most instances the value of such occupation is wholly abstract.

D. The introduction of cable services in multi-unit dwellings does not abrogate the right of fee owners to use their properties to profit from the operation of a competitive television service (e.g., satellite master antenna television). Parallel television services shall not be excluded from multi-unit dwellings as a result of the placement of franchised cable facilities. At the same time, protection of the landowner's right cannot be used as a barrier to the introduction of franchised cable service.

E. Although the right of access for cable television installation in multi-unit dwellings is unequivocally constitutional, fee owners may require that the installation of cable facilities conform to all reasonable conditions necessary to protect the safety, functioning, appearance and value of the premises and the convenience, safety and well being of tenants. These rights are pre-eminent and accompany a fee owners protection of a commercial investment. Fee owners are defined in N.J.S.A. 48:5A-49(b)(1).

F. Fee owners must be indemnified for any damage caused by the installation, operation or removal of cable television facilities and for any liability which may arise out of such installation, operation or removal. Cable television installation must be performed in a workmanlike manner.

G. Fee owners possess a unique set of rights associated with their commercial investment. This investment begets certain expectations which demand remuneration for even a nominal taking of property. But these rights must be balanced against the tenants' rights to receive cable service and the degree of the taking necessary to achieve this result.

H. The introduction of cable service, may result in the enhancement of the fee owners' property value.

I. In those cases where compensation for taking is warranted, the standard for determining the value of such compensation should be the decrease in property values caused by the installation of cable.

In consideration of balanced equities, compensation should be set at zero, provided landlords possess the undeniable right to petition the Board for just compensation based upon various criteria. This reasoning recognizes that cable television facilities occupy an unknown percentage of a fee owners' property and that each unit is unique and may be examined separately.

Social Impact

The proposed new rule develops a mechanism wherein a landowner may be compensated for the taking of property resulting from cable television installation in multi-unit dwellings. The rule preserves the essential bundle of rights of fee owners and should expedite the provision of cable television services to tenants and promote optimum development of the cable television medium. It also demonstrates the tenants' absolute right to the enjoyment of the freehold in their leases, which includes the right to receive cable service.

Economic Impact

The reasoning of the rule satisfies the requirements of the United States Constitution. Neither cable television nor landowners will suffer any adverse economic effect.

Full text of the proposed new rule follows.

14:18-3.10 Compensation for taking because of installation of cable television facilities

(a) A cable television operator shall serve written notice to the fee owner of its intent to install cable television service or facilities upon the fee owner's property at least 30 days prior to commencing such installation. The Director of the Office of Cable Television shall prescribe the procedure for service of such notice, and the form and content of such notice, which shall include at a minimum:

1. The name and address of the cable operator;
2. The name and address of the fee owner, manager or superintendent;
3. The approximate date of the installation;
4. The names of persons seeking cable service;

5. Citations from the Cable Television Act and New Jersey Administrative Code specifically N.J.S.A. 48:5A-49 and N.J.S.A. 48:5A-51, and N.J.A.C. 14:18-3.10;

6. A general description of the proposed method of installation.

(b) If no response to the notice is forthcoming within 30 days the cable operator has a statutory right and obligation to provide service to tenants who have requested service.

(c) Upon notice served pursuant to (a) above, fee owners may apply to the Office of Cable Television for just compensation. The owner has the burden of proof to clearly demonstrate:

1. The value of the applicant's property before the installation of cable television facilities;

2. The value of the applicant's property subsequent to the installation of cable television facilities;

3. The method or methods used to determine such values;

4. Out of pocket costs directly attributed to the installation of cable television facilities in the multi-unit dwelling;

5. Any extraordinary costs to be borne by the applicant associated with the installation of cable television facilities (for example, supervision of installation, maintenance of cable facilities, facilitation of access, collection of equipment, etc.).

(d) The Director may, upon good cause shown, permit the filing of additional information to supplement the application. Copies of the application filed with the Office of Cable Television shall be served upon the cable television company in compliance with N.J.A.C. 14:17-5.1 et seq. Answers, if any, shall be filed with 20 days in compliance with N.J.A.C. 14:17-8.1 et seq.

(e) The Director shall determine whether an application filed consistent with (c) above establishes a contested case for compensation pursuant to (c). In such an event the matter shall be handled in accordance with the Administrative Procedure Act, N.J.A.C. 52:14B-1 et seq. and the rules of the Office of Administrative Law, N.J.A.C. 1:1-1.1 et seq.

(f) All executed access agreements must be filed with the Office of Cable Television pursuant to N.J.S.A. 48:5A-9(b).

TRANSPORTATION

The following proposals are authorized by John P. Sheridan, Jr., Commissioner, Department of Transportation.

Submit comments by April 3, 1985 to:

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

(a)

ADMINISTRATION

Records Management

Proposed Readoption as New Rules:

N.J.A.C. 16:1

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-27, 47:1A-1 et seq.

Proposal Number: PRN 1985-107.

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order No. 66(1978), the Department of Transportation proposes to readopt as new rules N.J.A.C. 16:1-1 and 1-2 concerning "Records Management." These rules were originally filed and became effective prior to September 1, 1969. Subsequent amendments were filed and became effective on September 9, 1977 and December 14, 1978. Pursuant to the Executive Order the chapter expired on December 13, 1983.

N.J.A.C. 16:1-1 contains rules concerning regulatory manuals. The rules specify which State and Federal manuals and regulations are applicable to the operation of the records management program, and where they may be reviewed and obtained.

N.J.A.C. 16:1-2 contains rules concerning issuance and sale of New Jersey Department of Transportation records. The rules define public record, specify what records are available for public inspection and outline the procedural requirements for the issuance and sale of NJDOT records.

The Department has reviewed the rules and found them to be necessary and adequate for the continued and effective administration of records management operations.

Social Impact

The proposed readoption of the records management rules will continue the procedure to be followed in records management and sale of public records within the Department. The continuation of these rules will assist the Department and the interested public who may require such records to maintain an orderly and efficient procedure for the sale or issuance of DOT information. There will be no significant additional impact since the current procedures are not changed and there are no proposed amendments.

Economic Impact

The proposed readoption will have no new or additional economic impact on those doing business with the Department since the rules are proposed without change. The current fees for providing copies of DOT public records are set by statute and regulation which are found at N.J.A.C. 16:1-2.2(f) and (g).

Full text of the rules proposed for readoption appears in the New Jersey Administrative Code at N.J.A.C. 16:1-1 and -2.

(a)

RIGHT OF WAY**Relocation Assistance****Proposed Readoption as New Rules:
N.J.A.C. 16:6**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-27, 27:7-72 through 27:7-88.

Proposal Number: PRN 1985-112.

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order No.66(1978), the Department proposes to readopt as new rules N.J.A.C. 16:6-1 and 6.2 concerning "Relocation Assistance" within the Division of Right-of-Way in the Department of Transportation. These rules were originally filed and became effective prior to September 1, 1969. Subsequent amendments were filed and became effective on September 11, 1973 and June 6, 1979.

N.J.A.C. 16:6 contains rules concerning relocation assistance to owners or tenants of a residential dwelling, mobile home residents and businesses which are displaced as the result of a DOT transportation project.

N.J.A.C. 16:6-1.1 enumerates the services and payments provided such as assistance in finding replacement housing and business locations, moving expenses, allowances in lieu of moving reimbursement, rent supplements and downpayments. N.J.A.C. 16:6-1.2 discusses the type of public information the Department will disseminate in order to facilitate public knowledge of a relocation and of the relocation program. Public hearings, notices in newspapers, radio and television, brochures and other materials are used to notify the public of the Department's intended action.

N.J.A.C. 16:6-2 contains rules concerning moving reimbursement which define a moving expense, exclusions, the types of moves covered, eligibility payments for replacement housing and appeal procedures for relocation assistance determinations.

Social Impact

The intent of the rules contained in N.J.A.C. 16:6 is to comply with the provisions of the Uniform Transportation, Replacement Housing and Relocation Act. (P.L. 1972 c.47) and especially to comply with the Federal Uniform Relocation Assistance and Real Property Acquisition Act of 1970. The rules are necessary and vital to the Department's relocation operation since they provide an orderly and efficient procedure to provide relocation assistance to those persons displaced as a result of a DOT transportation project. The rules have had a beneficial impact on such displaced persons and should be continued. The readoption will not significantly change the current procedures because no amendments are proposed. Failure to readopt, however, will have a detrimental affect since the relocation program would not have any guidelines to follow.

Economic Impact

The proposed readoption will have no new or additional economic impact on the Department or others conducting business with the Department since there has not been any amendments effecting changes in fees. The Department does

incur various cost in the relocation of persons or businesses in the acquisition of real property for public use. From funds appropriated to the Department, the sum of \$100,000,000 is utilized to provide relocation assistance, and Federal aid reimbursement is available under the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970. Any reduction in funds would adversely affect the Department in its statutory requirements, those it intends to serve and the overall relocation program.

Full text of the rules proposed for readoption appears in the New Jersey Administrative Code at N.J.A.C. 16:6-1 and 6-2.

(b)

LOCAL AID**Federal Aid Urban System Substitution
Program
County and Municipal Aid****Proposed Amendment: N.J.A.C. 16:20A-4.4,
Appendix I**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-13.1 et seq., 27:7-47, and the 1984 New Jersey Transportation Trust Fund Authority Act.

Proposal Number: PRN 1985-120.

The agency proposal follows:

Summary

On September 17, 1984 the Department adopted emergency new rule and concurrent proposal N.J.A.C. 16:20A and 16:20B at 16 N.J.R. 2456(a) establishing procedures and guidelines for counties and municipalities to follow in the receipt of aid from the State in accordance with the "1984 New Jersey Transportation Trust Fund Authority Act," P.L. 1984, c. 73, approved July 10, 1984. The rules were readopted on December 17, 1984, at 16 N.J.R. 3470(a).

A review of the rules as promulgated indicates an error in Appendix I, which depicted the counties and municipalities eligible to receive aid.

The Department therefore proposes to amend N.J.A.C. 16:20A-4.4, Appendix I, to reflect the correct qualified Counties and Municipalities.

Social Impact

The proposed amendment will correct an administrative oversight to reflect the proper Counties and Municipalities in Appendix I depicted to receive depressed rural center aid. The respective Counties and Municipalities will be pleased to see that proper action has been undertaken by the State.

Economic Impact

The Department will not incur direct and indirect costs for its work force for processing the amendment. There will be no significant impact to Counties and Municipalities since there will be no loss of funds as a result of this amendment.

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

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

APPENDIX I

Municipalities Qualified for Depressed Rural Centers Aid

County	Municipality
[Middlesex] Hunterdon	Lambertville City
[Monmouth] Middlesex	Jamesburg Borough
Monmouth	Allentown Borough

APPENDIX II

Municipalities Qualified for Urban Aid Funding (No change.)

(a)

LOCAL AID

State Aid to Counties and Municipalities

Proposed Readoption: N.J.A.C. 16:21

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:8-1 to 9. Proposal Number: PRN 1985-110.

The agency proposal follows:

Summary

In accordance with the "sunset" other provisions of Executive Order No. 66(1978), the Department proposes to readopt N.J.A.C. 16:21 concerning "State Aid to Counties and Municipalities". These rules were filed and became effective March 24, 1980. Pursuant to the Executive Order they are scheduled to expire on March 24, 1985.

The rules outline the general provisions of the 1979 Transportation Bond Issue Funds as appropriated by the Legislature as the State's share of the cost for the construction, reconstruction, resurfacing, restoration and rehabilitation of county and municipal roads and bridges. The rules specify the standards and design criteria which must be followed in improvement projects; procedures for filing applications and agreements for funds; performance of work through contract; plans and specifications to be prepared by a professional engineer; the awarding of contract; contract completion and payment; and the State's participation in costs.

Social Impact

The rules proposed for readoption impact on counties and municipalities since they outline the procedures followed in disbursing State aid to the local governments as appropriated by the Legislature. The rules are necessary to provide and promote uniformity in disbursement of the funds and avoid ambiguity or confusion in the procedure and disbursement.

Economic Impact

Funds under this program are appropriated by the Legislature out of the states share of the costs for construction, reconstruction, resurfacing, restoration, and rehabilitation of county and municipal roads and bridges. Funding is allocated

according to the formula set forth in the legislation appropriating the funds. Counties and municipalities undertaking projects under this program without the approval of the Department will bear the costs for the project. Any reduction in funding would adversely affect the Department's capability to fund counties and municipalities which would further affect the economic well-being of the populace they serve.

Full text of the rules proposed for readoption appears in the New Jersey Administrative Code at N.J.A.C. 16:21.

(b)

TRANSPORTATION OPERATIONS

Turns

Route 35 in Monmouth County

Proposed Amendment: N.J.A.C. 16:31-1.4

Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-183.6. Proposal Number: PRN 1985-108.

The agency proposal follows:

Summary

The proposed amendment will establish no left turn movement along Route 35 in Shrewsbury Borough, Monmouth County for the safe and efficient flow of traffic, the enhancement of safety and well-being of the populace.

Based upon a request from the local officials of Shrewsbury Borough, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of a no left turn along Route 35 in Shrewsbury Borough was warranted.

The Department therefore proposes to amend N.J.A.C. 16:31-1.4 based upon the request from the local officials and the results of the traffic investigation.

Social Impact

The proposed amendment will establish no left turn movement along Route 35 in Shrewsbury Borough, Monmouth County for the safe and efficient flow of traffic, the enhancement of safety and well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for its work force for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:31-1.4 Route 35

(a) Turning movements of traffic on the certain parts of State highway Route 35 described [herein] below are regulated as follows:

- 1. No left turn: i.-ix. (No change.)

x. North to west onto Haddon Avenue in Shrewsbury Borough, Monmouth County.

(a)

CONSTRUCTION**Construction Control****Proposed Readoption as New Rules:
N.J.A.C. 16:33**

Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 27:2-1 to 2.8.

Proposal Number: PRN 1985-111.

Under Executive Order 66(1978) this rule expired on June 6, 1984. The adoption becomes effective upon publication in the New Jersey Register of a notice of adoption.

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order 66(1978), the Department of Transportation proposes to readopt N.J.A.C. 16:33 concerning "Construction Control". Subchapters 1 and 2 were filed and became effective prior to September 1, 1969. Subchapter 3 was filed and became effective June 6, 1979.

The rules provide the guidelines, controls and requirements in subletting of contract work, processing of contractor's claims and the follow-up of construction to substantial completion.

N.J.A.C. 16:33 is summarized as follows.

Subchapter 1, "Subletting of Contract Work," provides the procedure to be followed by a contractor under contract with the Department, prior to subletting work.

Subchapter 2, "Contractor Claims," outlines the steps to be undertaken by a contractor should a contractual dispute exist. Included are rules concerning notice of intent to present a claim; negotiations prior to presentation of claim; contents of claim; processing and disposition of claim; and appeal procedure.

Subchapter 3, "Substantial completion", provides the definition of substantial completion as pertains to construction projects.

The Department has reviewed the rules and found them adequate and necessary for the continued efficient control and operation of construction projects.

Social Impact

The readoption of the construction control rules will continue to facilitate the orderly subletting of contract work. Both the Department and the contractors who bid on State projects will benefit by this readoption in that the rules will continue to provide a uniform procedure in the subletting process.

The proposed readoption is expected to have no new or additional social impact since the proposal does not include any amendments and the contractors normally doing business with the Department have been in compliance with the construction control regulatory provisions for some time.

Economic Impact

The readoption of the construction control rules may have a beneficial economic impact on the Department and the contractors in that the rules provide definite procedures in the subletting of contract work and the resolution of contract disputes should they arise. This avoids uncertainty and ambi-

guity in the subletting process and lessens the administrative costs of settling contract differences.

The proposed readoption will have no new or additional economic impact on the Department or contractors in the performance of the Contractual Agreement, since no changes are proposed to the current text.

Full text of the rules proposed for readoption appears in the New Jersey Administrative Code at N.J.A.C. 16:33.

(b)

CONSTRUCTION AND MAINTENANCE**Junkyards Adjacent to the Interstate and
Primary Highway Systems****Proposed Readoption as New Rules:
N.J.A.C. 16:43**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:5E-1 et seq.
Proposal Number: PRN 1985-109.

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order No. 66(1978), the Department of Transportation proposes to readopt N.J.A.C. 16:43 concerning "Junkyards Adjacent to the Interstate and Primary Highway Systems." The rules were filed and became effective December 26, 1979. Pursuant to the Executive Order the rules expired on December 26, 1984.

The intent of the Chapter is to effectuate the purposes of the New Jersey Junkyard Control Act, N.J.S.A. 27:5E-1 et seq., which are to promote the public safety, health, welfare, convenience and enjoyment of public travel; to protect the public investment in public highways; to preserve and enhance the scenic beauty of lands bordering public highways; and to foster the public policy of the State expressed by the Act, which is to regulate and restrict the establishment, operation, and maintenance of junkyards in areas adjacent to the interstate and primary highways systems within the State. The rules also ensure New Jersey compliance with section 136 of Title II of the Federal Highway Beautification Act of 1965, and the provisions of Title 23 of the Code of Federal Regulations, Part 751, Junkyard Control and Acquisition.

Subchapter 1 contains rules which outline the powers of the Commissioner of Transportation; define applicable words and terms; and state the affect of the rules on local government ordinances.

Subchapter 2 contains rules on the establishment, operation and maintenance of illegal junkyards; screening and removal of illegal junkyards; and the abatement of junkyards which are declared public nuisances.

Subchapter 3 contains rules on the screening and removal of non-conforming junkyards; acquisition lands; compensation and relocation assistance; operation and maintenance of non-conforming junkyards.

Subchapter 4 contains rules on the location, construction and maintenance of screening and fencing and surveillance of junkyard inventory.

TRANSPORTATION

PROPOSALS

Social Impact

The rules proposed for readoption affect those owners of junkyards whose premises are adjacent to interstate and primary highways systems within the State. These owners are required to comply with the provisions of these rules in order to promote the stated public policy of enhancing and maintaining the scenic beauty of the public roadways. Readoption of these rules will continue to focus attention to the beautification of the State's roadways for the general benefit and welfare of the entire State.

Economic Impact

The proposed readoption will continue to impact on those persons who maintain or establish junkyards, because of re-

quired compliance with local ordinances and zoning codes of the municipality in which the facility is located, and their prescribed fees. The Department incurs variable costs for the periodic review which is conducted to assure compliance with the Junkyard Control Act, and is not reimbursed or appropriated by any Federal funding to support the program.

Full text of the rules proposed for readoption appears in the New Jersey Administrative Code at N.J.A.C. 16:43.

RULE ADOPTIONS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Rules of Special Applicability Experimental Conference Hearings and Civil Service Cases

Readoption: N.J.A.C. 1:2-2

Proposed: December 17, 1984 at 16 N.J.R. 3338(a).
Adopted: January 29, 1985 by Ronald I. Parker, Acting
Director, Office of Administrative Law.
Filed: January 30, 1985 as R.1985 d.77, **with technical
changes** not requiring additional public notice and
comment (see N.J.A.C. 1:30-3.5).

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

Effective Date: January 30, 1985.
Expiration Date pursuant to Executive Order No.
66(1978): June 19, 1985.

Summary of Public Comments and Agency Responses:

The Department of Civil Service commented that the statement in the Economic Impact section of the proposal, "while working no inconvenience to the Department of Civil Service" inadequately expressed the Department's full support for the conference hearing concept. The OAL by written communication thanked the Department for its support. Since the Department's comment was directed to the Economic Impact statement, no change to the rule was necessary.

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

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

1:2-2.11 ***[Expiration date]* *(Reserved)***
[This subchapter shall expire one year from its effective date.]

(b)

OFFICE OF ADMINISTRATIVE LAW

Rules of Special Applicability "Hearings on the Papers" and Motor Vehicle Cases

Readoption: N.J.A.C. 1:2-3

Proposed: December 17, 1984 at 16 N.J.R. 3339(a).
Adopted: January 29, 1985 by Ronald I. Parker, Acting
Director, Office of Administrative Law.

Filed: January 30, 1985 as R.1985 d.78, **with technical
changes** not requiring additional public notice and
comment (see N.J.A.C. 1:30-3.5).

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

Effective Date: January 30, 1985.
Expiration Date pursuant to Executive Order No.
66(1978): June 19, 1985.

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

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

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

1:2-3.11 ***[Expiration date]* *(Reserved)***
***[The rules in this subchapter shall expire on March 2,
1985]***

(c)

OFFICE OF ADMINISTRATIVE LAW

Rules of Special Applicability Public Welfare Hearings

Adopted New Rules: N.J.A.C. 1:10

Proposed: November 19, 1984 at 16 N.J.R. 3068(a).
Adopted: January 29, 1985 by Ronald I. Parker, Acting
Director, Office of Administrative Law.
Filed: January 30, 1985 as R.1985 d.79, **with substan-
tive and technical changes** not requiring additional
public notice and comment (see N.J.A.C. 1:30-3.5).

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

Effective Date: March 4, 1985.
Expiration Date pursuant to Executive Order No.
66(1978): March 4, 1990.

Summary of Public Comments and Agency Responses:

During the comment period, the OAL received written comments from the Department of the Public Advocate, the Paramus Board of Social Services and two comments from the Burlington County Welfare Board. Each comment was responded to individually.

The commenters from the Burlington County Welfare Board and from the Paramus Board of Social Services each objected to the proposed requirement that exceptions be filed with the Director of Public Welfare within 5 business days of receipt of the initial decision, and to the prohibition on cross exceptions.

The OAL believes that the 5-day provision is essential to the speedy resolution of these cases. Additionally, while cross exceptions may help clarify issues in some cases, the OAL

believes that they are not essential in welfare cases and are frequently a cause of delay.

The commenter from the Paramus Board of Social Services also objected to the fact that the proposed rules required the agency to make its file available to the client, while discovery was available to the agency only for good cause shown.

Under the Federal rules, the agency must make its file available to the client. The Federal rules do not provide for discovery by the agencies. The OAL believes that in most cases the necessary information is already available to the agency and therefore discovery is not necessary. In those few cases where discovery would be helpful, it is possible to seek the material by motion. To provide discovery to the agencies in every case may jeopardize the expeditious handling of these cases.

The Department of the Public Advocate noted that proposed N.J.A.C. 1:10-9.1(a) provided that benefits may be continued if the ALJ determines that the issue is one of fact rather than law or policy, while the Federal regulations require the continuance of benefits in these circumstances. The OAL concurs. However, the Federal regulations do permit discontinuance of benefits in other circumstances. The rule has been amended to so indicate.

Additionally, upon review and discussion, the OAL made the following changes.

N.J.A.C. 1:10-3.1(a) now provides that an applicant or recipient may be represented by an attorney or by a relative, friend or other spokesperson. The OAL deleted the reference to assistance in the presentation to eliminate potential confusion.

The requirement for demonstrating good cause to receive an adjournment has been limited to cases other than food stamp matters. N.J.A.C. 1:10-8.1(a) provides that an applicant/recipient is entitled to one adjournment of less than 30 days in food stamp hearings in conformity with Federal regulations.

The discovery provisions at N.J.A.C. 1:10-11.1(b) have been changed to indicate that the prohibition on adjournment to permit discovery does not apply if the CWA or MWD refuses to allow the applicant or recipient or authorized representative the opportunity to review the case file.

Finally, two changes were made in the proposed settlement procedure. A provision requiring immediate return of the case file to DPW if the case is settled prior to the scheduled hearing date was added to N.J.A.C. 1:10-17.1(b). N.J.A.C. 1:10-17.1(d) now gives the OAL 4 workdays to transmit the closed file to DPW in cases where settlement is reached on the scheduled hearing date. Since hearings are frequently scheduled in various locations throughout the State, it is not always possible to retransmit the file within the 3 workdays previously provided.

These rules have been developed with the assistance, cooperation and approval of the Department of Human Services, the single State agency responsible for administering New Jersey's State Plan under the Federal A.F.D.C. law. N.J.S.A. 44:10-3.

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

CHAPTER 10

PUBLIC WELFARE HEARINGS

SUBCHAPTER 1. APPLICABILITY

1:10-1.1 Applicability

(a) The rules in this chapter shall apply to matters transmit-

ted to the Office of Administrative Law by the Division of Public Welfare (DPW) wherein an applicant or recipient disputes the proposed action on eligibility or benefits entitlement by a county welfare agency (CWA) or a local decision or inaction by a municipal welfare department (MWD). These rules also apply to food stamp intentional program violations. To the extent that these rules of special applicability are inconsistent with the Uniform Administrative Procedure Rules (UAPR) contained in N.J.A.C. 1:1-1 et seq., these rules shall apply.

SUBCHAPTER 2. (RESERVED)

SUBCHAPTER 3. CONDUCT OF CONTESTED CASES

1:10-3.1 Representation at hearing

(a) An applicant or recipient may appear at a proceeding without legal representation*[,] ***or may*** be represented by an attorney or ***[be assisted in presentation]*** by a relative, friend or other spokesperson pursuant to the procedures set forth in N.J.A.C. 1:1-3.12. 7 C.F.R. 273.15(c)(4); 45 C.F.R. 205.10(a)(3)(iii); 7 C.F.R. 273.15(d)(3)(ii)(D); 7 C.F.R. 273.15(p)(2).

1:10-3.2 Attendance at hearing

(a) The applicant/recipient or a representative and the CWA or MWD and their representatives, if any, shall attend the hearing.

(b) The hearing may also be attended by other persons having an interest in the matter if permitted by the applicant or recipient.

(c) The judge may limit the number of persons in attendance at the hearing to comport with any hearing room space limitations.

(d) If neither the applicant/recipient nor a representative appears at a hearing concerning an alleged intentional program violation and timely adequate notice of the hearing was given to the applicant/recipient, the hearing shall be conducted ex parte. 7 C.F.R. 273.16(e); N.J.A.C. 10:87-11.4(1).

SUBCHAPTER 4. (RESERVED)

SUBCHAPTER 5. (RESERVED)

SUBCHAPTER 6. (RESERVED)

SUBCHAPTER 7. (RESERVED)

SUBCHAPTER 8. HEARINGS

1:10-8.1 Adjournments

(a) In cases involving food stamp benefits, upon timely application an applicant/recipient shall receive one adjournment of the scheduled hearing date for a period of no more than 30 days.

(b) In all other cases, upon timely application and for good cause shown, an applicant/recipient may receive one adjournment of the scheduled hearing date for a period of no more than 30 days.

[(a) For good cause shown and upon timely application, an applicant/recipient may request one adjournment of the scheduled hearing date for a period of no more than 30 days.]

[(b)]* *(c) The total of all adjournments in a case shall not exceed 30 days, unless good cause is shown for a greater extension of time.

[(c)]* *(d) In cases involving an alleged intentional program violation, the applicant/recipient must request the adjournment at least 10 days before the scheduled hearing date. 7 C.F.R. 273.16(e)(1)(iii).

1:10-8.2 Notice of hearing

(a) In cases involving AFDC or food stamp benefits, except for emergency hearings, the Clerk shall send written notice of the filing and hearing to each party at least 10 days before the scheduled hearing date.

1. The notice may be sent less than 10 days before the hearing date if the applicant or recipient so requests in order to expedite the hearing.

(b) In cases involving an alleged intentional program violation, written notice of the scheduled hearing shall be sent to the applicant/recipient at least 30 days prior to the hearing. 7 C.F.R. 273.16(e)(3).

1:10-8.3 Scheduling of hearing

(a) The hearing shall be held at a time, date and location convenient to the applicant or recipient.

(b) Upon presentation of acceptable information regarding an applicant's or recipient's illness or infirmity which would prevent his or her appearance at a hearing location, the hearing shall be scheduled at the applicant/recipient's residence.

SUBCHAPTER 9. CONTINUED ELIGIBILITY; EMERGENCY FAIR HEARINGS

1:10-9.1 Eligibility for continued benefits in AFDC and food stamp cases

(a) If the recipient is entitled to and has elected to receive continued unreduced benefits, the ALJ shall determine at the conclusion of the hearing whether assistance should be continued unreduced pending a final decision. Benefits *[may]* ***shall*** be continued unreduced if the ALJ determines that the issue is one of fact rather than law or policy. (N.J.A.C. 10:81-6.9(a))* **, unless the recipient has waived the receipt of continued benefits or continued benefits are otherwise not required by State or Federal law.***

(b) An adjournment of a hearing at the request of a recipient shall not prolong continuation of benefits at an unreduced level, unless the adjournment is due to: delay caused by the DPW, the OAL or the CWA; unavoidable causes such as illness on the part of the recipient or the failure of the CWA to provide assistance for transportation when such assistance is required by regulations. Adjournment at the request of the CWA or by the ALJ shall not affect continued benefits. (N.J.A.C. 10:81-6.9(b)).

(c) The judge shall inform the recipient and the CWA in writing either at the time of the hearing or on the first workday following the hearing whether or not benefits will be continued unreduced pending a final decision. (N.J.A.C. 10:81-6.9(c)).

1:10-9.2 Emergency fair hearings in AFDC or General Assistance cases

(a) When DPW determines that a request for hearing should be scheduled as an emergency fair hearing:

1. DPW shall notify the OAL by telephone of the hearing request on the same business day as the request is received. The Clerk of the OAL shall prepare the OAL transmittal form based upon the telephone call.

2. The case shall be scheduled by the OAL for a hearing within three business days after the phone call is received.

3. Notice of the time, date and place of the hearing shall be transmitted by telephone to DPW within one business day after the OAL is notified of the hearing request. DPW shall notify the CWA or MWD, the petitioning applicant/recipient or the petitioner's representative of the scheduled hearing by telephone.

4. The ALJ shall file an initial decision by mailgram with the Director of the DPW and the parties no later than the business day following the date of the hearing.

5. The petitioning applicant/recipient, his or her representative or the CWA or MWD may, by telephone, make exception or objection to the initial decision, to the DPW no later than the first business day following the issuance of the initial decision.

6. The Director of the DPW shall issue a final decision no later than three business days following the date the initial decision is received which shall accept, reject or modify the initial decision. On the date the final decision is issued, the DPW shall notify the CWA or MWD, the OAL and the petitioner or the petitioner's representative by telephone of the final decision and any relief ordered shall be provided on the date notice of the decision is received.

SUBCHAPTER 10. (RESERVED)

SUBCHAPTER 11. DISCOVERY

1:10-11.1 Discovery

(a) The CWA or MWD shall provide the applicant or recipient or his or her authorized representative opportunity to review the entire case file and all documents and records to be used in the hearing. (7 C.F.R. 273.15(i)(1); 45 C.F.R. 205.10(a)(13)(i); 7 C.F.R. 273.16(e)(3)(c)).

(b) Any other discovery shall be by motion to the judge and for good cause shown. In no case shall the hearing date be adjourned to permit discovery ***under this subsection.***

SUBCHAPTER 12. (RESERVED)

SUBCHAPTER 13. (RESERVED)

SUBCHAPTER 14. (RESERVED)

SUBCHAPTER 15. (RESERVED)

SUBCHAPTER 16. DECISIONS

1:10-16.1 Initial decision (other than emergency hearing matters)

(a) In cases involving AFDC benefits, an initial decision shall be issued within 21 days from the date of the hearing.

(b) In cases involving food stamp benefits, an initial decision shall be issued within 14 days from the date of the hearing.

(c) In cases involving food stamp intentional program violations, an initial decision shall be issued within 21 days from the date of the hearing.

(d) In cases involving General Assistance, an initial decision shall be issued within 21 days from the date of the hearing.

1:10-16.2 Exceptions

If the parties wish to take exception to the initial decision, such exception must be submitted in written form to the Clerk of the OAL, the Director of the DPW and to all parties. The exceptions must be received by the DPW no later than five business days after receipt of the initial decision. No replies and cross exceptions shall be permitted.

SUBCHAPTER 17. SETTLEMENTS

1:10-17.1 Division of Public Welfare settlements

(a) The parties to a hearing may resolve a dispute, subsequent to transmittal of a matter to OAL, by agreeing to settlement and withdrawal of the hearing request.

(b) Settlement prior to the scheduled hearing date shall not involve the administrative law judge. The DPW shall notify the OAL of any settlement and withdrawal so derived *[and]* the contested case shall be closed ***and the OAL shall immediately return the case file to DPW.***

(c) If on the date of the scheduled hearing or at any time during the hearing the parties agree to settle the matter at issue, a "Stipulation of Settlement and Withdrawal" shall be executed by the parties. This document shall contain:

1. The reason for the hearing request;
2. The reason for settlement and terms of settlement; and
3. The effective date of eligibility and/or benefit entitlement resulting from settlement when appropriate.

(d) The execution of a Stipulation of Settlement and Withdrawal terminates the contested case. The OAL shall transmit the closed file to the Bureau of Administrative Review and Appeals (BARA), Division of Public Welfare within ***[three]* *four*** workdays of the date of the scheduled hearing.

(e) A review of the settlement shall be completed and written notice shall be provided by BARA not later than three workdays after its receipt from OAL. When approved, any terms or conditions of settlement shall be implemented within three workdays of the date notification of approval is received in the CWA or MWD. In the event settlement action is disapproved, the matter will be returned to OAL within three workdays as a new case. The specific reason for returning the matter and applicable citation of law and regulations shall be clearly stated on the transmittal form.

(f) When implementation by the CWA or MWD is required in a settlement, a written report shall be sent by the CWA or MWD to the BARA within 30 days of the date the action was approved. Such report shall include the calculation of benefits in all cases involving a retroactive payment or a recalculation of benefit entitlement.

(a)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules of Practice

Rules of Special Applicability

Insurance Filing Cases

Adopted New Rules: N.J.A.C. 1:11-1.1 and 1:11-15.1

Proposed: November 5, 1984 at 16 N.J.R. 2866(a).
 Adopted: January 29, 1985 by Ronald I. Parker, Acting Director, Office of Administrative Law.
 Filed: January 30, 1985 as R.1985 d.76, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

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

Effective Date: March 4, 1985.
 Expiration Date pursuant to Executive Order No. 66(1978): March 4, 1990.

Summary of Public Comments and Agency Responses:

During the comment period, the OAL received written comments from the Department of the Public Advocate, Divi-

sion of Rate Counsel and from the Department of Insurance. The OAL discussed the concerns raised in the written comments with the respective agencies.

The Public Advocate recommended the amendment of N.J.A.C. 1:11-1.1 to indicate that the rules applied to hearings involving the determination of a filing submitted by a "filer", rather than a filing submitted by "an insurer or rating organization".

The Department of Insurance objected to the proposed amendment because it felt that the term "filer" was confusing and unnecessarily limiting. N.J.S.A. 17:29A-1(j) defines "filer" as "a rating organization or insurer making its own rates." After consultation with the OAL, the Public Advocate agreed to withdraw this requested amendment.

The Public Advocate proposed that N.J.A.C. 1:11-15.1 be amended to allow for the exchange of written testimony up to ten days prior to the date on which the expert witness is scheduled to testify. This would give parties who have exercised their right to participate adequate time for preparation. The Department of Insurance concurs with this recommendation.

The OAL agrees. The rule has been amended to provide that parties must exchange the required written testimony ten days prior to the commencement of the hearing or ten days prior to the date on which the witness is scheduled to testify.

The Public Advocate also recommended that N.J.A.C. 1:11-15.1 be changed to require the exchange and filing of the supporting data for any expert witness's written testimony. The Department of Insurance objected to this suggestion because it felt that the volume of such data could be too voluminous and because the data is obtainable via discovery.

The OAL concurs with the Public Advocate that supporting data for an expert witness's testimony should be exchanged and has amended N.J.A.C. 1:11-15.1 by adding a new subsection (b). This exchange will allow for a proper review of the expert testimony and will promote efficient use of hearing time since all parties will be aware of the underlying data for the expert's testimony. However, the OAL does not believe that it is necessary to file a copy of the supporting data with the judge, since much of the information may either be inadmissible or unnecessary at the hearing. Additionally, the rule does not require the exchange of supporting data which has already been distributed to the other parties.

The Department of Insurance also suggested that the evidence rule should be codified in N.J.A.C. 1:11-5 rather than 1:11-15. However, the OAL points out that the subchapter designation for special rules is established to correspond with the subchapter covering the same topic in the Uniform Administrative Procedure Rules and evidence is contained within subchapter 15 of the UAPR.

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

OFFICE OF ADMINISTRATIVE LAW
 TITLE 1
 RULES OF SPECIAL APPLICABILITY
 CHAPTER 11
 INSURANCE FILING HEARING

SUBCHAPTER 1. APPLICABILITY

1:11-1.1 Applicability

The rules contained in this chapter shall apply to the notice and hearing of contested case matters involving the determination of a filing (as defined by N.J.A.C. 11:1-2.6) submitted

by an insurer or a rating organization. Any aspect of notice or hearing not covered by these rules of special applicability shall be governed by the Uniform Administrative Procedure Rules (UAPR) contained in N.J.A.C. 1:1-1.1 et seq. To the extent that these rules of special applicability are inconsistent with the UAPR, these rules shall apply.

SUBCHAPTERS 2.-14. (RESERVED)

SUBCHAPTER 15. EVIDENCE

1:11-15.1 Evidence

(a) At least 10 days prior to the commencement of the hearing ***or ten days prior to the date on which an expert witness is scheduled to testify,*** the parties shall exchange, and shall file with the judge, written testimony for each individual that the party intends to call as an expert witness. The written testimony shall include the name, address, title, credentials and area of expertise of the witness and the nature and substance of his or her testimony.

(b) At the same time that the written testimony is exchanged, the parties shall also exchange all supporting data, calculations, work sheets and similar materials used by the expert witness in developing the written testimony. This supporting data shall not be filed with the judge. If the data has been previously distributed to the parties, through discovery or otherwise, the data need not be exchanged at this time.

[(b)]* *(c) All written testimony which meets the requirements of N.J.A.C. 1:1-15.1 et seq. shall be admissible. Parties may object to the admissibility of the written testimony at the evidentiary hearing. When the prefiled testimony of a witness is admitted into evidence, the witness shall be made available and subject to cross-examination.

[(c)]* *(d) Upon application of a party, the judge may exclude, in whole or in part, the testimony of a witness for failure to comply with the requirements of this section.

SUBCHAPTERS 16. AND 17. (RESERVED)

AGRICULTURE

(a)

DIVISION OF PLANT INDUSTRY

Diseases of Bees

Acarine Mite Quarantine

Readoption: N.J.A.C. 2:24-1.1 and 1.2

Proposed: January 7, 1985 at 17 N.J.R. 118(a).

Adopted: February 11, 1985 by Arthur R. Brown, Jr., Secretary, Department of Agriculture.

Filed: February 11, 1985 as R.1985 d.107, **without change.**

Authority: N.J.S.A. 4:6-20

Expiration Date pursuant to Executive Order No. 66(1978): February 11, 1990.

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

Full text of the adoption follows.

CHAPTER 24
DISEASES OF BEES

SUBCHAPTER 1. ACARINE MITE QUARANTINE

2:24-1.1 Acarine mite quarantine

(a) The Secretary of Agriculture declares that the acarine mite, *Acarapis woodi*, an internal parasite of honey bees which causes acarine disease, is detrimental to the welfare of the bee industry of New Jersey.

(b) A quarantine is established against acarine mite, its hosts, and possible carriers.

(c) The following articles and commodities are prohibited entry into New Jersey:

1. Bee colonies, packaged bees, and queen bees of the species *Apis mellifera* which originated in, or during the previous two years overwintered in, any state reported by State agricultural officials or the United States Department of Agriculture to be infested with acarine mite or acarine disease, whether shipped directly from an infested state or transhipped from any other state, district, or territory of the United States.

2. Comb, used hives, and any other appliances used in association with bees as specified in 1. above.

2:24-1.2 Infested states

(a) The states which have been reported and are now known to be infected with acarine mite/acarine disease are Louisiana, Texas, Florida, New York, South Dakota, North Dakota and Nebraska. This regulation will be amended as often as practical to list additional states infested with the mite/disease as such states are reported. The Department of Agriculture shall maintain a list of such reported infested states. The list shall be available on request to the Department's Division of Plant Industry, CN 330, Trenton, New Jersey 08625.

(b) Bee colonies, packaged bees, and queen bees of the species *Apis mellifera*, which are not prohibited entry into New Jersey in N.J.A.C. 2:24-1.1(c)1., may enter New Jersey provided each shipment is accompanied by the following document:

1. A written statement, signed by the shipper of the bees and declaring, under penalty of perjury, that none of the bees in the shipment originated in, or during the previous two years, were overwintered in Louisiana, Texas, Florida, New York, South Dakota, North Dakota and Nebraska, or any state reported to be infested with acarine mite or acarine disease.

(b)

DIVISION OF MARKETS

New Jersey Sire Stakes Program Rules

Adopted Amendments: N.J.A.C. 2:32-2

Proposed: January 7, 1985 at 17 N.J.R. 3(a).

Adopted: February 11, 1985 by Sire Stakes Board of Trustees, Arthur R. Brown, Jr., Secretary of Agriculture.

Filed: February 11, 1985 as R.1985 d.108, **with change** (except N.J.A.C. 2:32-2.7, which is not adopted but still pending).

AGRICULTURE

ADOPTIONS

Authority: N.J.S.A. 5:5-91.

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): March 21, 1988.

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

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

2:32-2.2 Certificate of mating

When a mare is bred to the New Jersey registered stallion, the stallion owner must supply the New Jersey Standardbred Breeders and Owners Association, the New Jersey Department of Agriculture and the United States Trotting Association a certificate of mating, stating that the mare has been bred to said stallion. The certificate is to be supplied by August 15 of the breeding season and must include the name and address of the owner of the mare that was bred.

2:32-2.4 Registration; deadlines

All Standardbred horses, to be eligible to compete in the New Jersey Sire Stakes Program, must be bred in the State of New Jersey and be the product of a registered New Jersey stallion. The stallion must be registered with the Standardbred Breeders and Owners Association of New Jersey as such and listed in their registry books no later than November 1 of each year. Stallions being registered for the first time are granted an extension until December 1. The stallions must be standing on their respective stud farms by January 1 of the following year.

2:32-2.5 Adoption of by laws

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

(g) All disbursements therefrom for the payment of purses and awards, cost of administration, reimbursement of expenses of members of the Board of Trustees, and any other appropriate expenses, shall be made by the Secretary of Agriculture or his designee.

(h)-(o) (No change.)

2:32-2.7 Closing of yearling nominations (Reserved)

2:32-2.10 Guaranteed purse

A purse plus added money will be guaranteed for each Sire Stakes Race at each Fair for two-, three-, and four-year-old trotters and pacers.

2:32-2.11 Allocation for Sire Stakes purse money

(a) After deduction of the Fair Division portion of the Sire Stakes purse money, as well as special event, administrative costs and finals money is made, the Pari-mutuel Division of the Sire Stakes purse money will be allocated as follows:

1. 40 percent of all remaining monies for 2 year olds;
2. 50 percent of all remaining monies for 3 year olds;
3. 10 percent of all remaining monies for 4 year olds.

2:32-2.12

Only the starting fees will be added to the basic purse. Beginning with the 1985 program, the starting fees will be:

Pari-mutuel Division	Fair Division	Meadowlands
2 year olds ... \$400.00	2 year olds ... \$75.00	2 year olds ... \$500.00
3 year olds ... \$400.00	3 year olds ... \$75.00	3 year olds ... \$500.00
4 year olds ... \$200.00	4 year olds ... \$75.00	4 year olds ... \$300.00

2:32-2.16 Entry fee deadline

(a) Beginning with yearlings nominated in 1983, all Sire Stakes Race entry fees must be paid at the time of the race or the horse will not be allowed to start.

(b) All New Jersey Sire Stakes horses entered and drawn to post positions are required to pay starting fees. This starting fee is required even though a horse is scratched.

(c) The starting fee must be paid or the horse will not be permitted to race in any Sire Stakes event until the fee is paid and collected. The United States Trotting Association rule will prevail regarding the death of an entered horse.

2:32-2.17 Qualifying conditions

(a) All starters in the New Jersey Sire Stakes Pari-mutuel Division must meet the qualifying conditions in this section for the 1985 racing season.

(b) The 1985 New Jersey Sire Stakes Qualifying Times at the Pari-mutuel tracks will be as follows:

	1 Mile Track	5/8 Mile Track	1/2 Mile Track
Two-Year-Old Trot	210	211	212
Three-Year-Old Trot	205	206	207
Four-Year-Old Trot	203	204	205
Two-Year-Old Pace	205	206	207
Three-Year-Old Pace	203	204	205
Four-Year-Old Pace	202	203	204

(c) When qualifying for a mile track, two seconds are allowed off the half mile time, but when qualifying for a half mile track, two seconds are added to the mile track time.

(d) If a horse initially makes qualifying time but then fails to meet qualifying time in a subsequent event, it must then requalify to meet the standards of the raceway at which the race is to be contested.

(e) Official workouts are not acceptable as a substitute for a qualifying racing time.

(f) All other qualifying standards in effect at the track where the race is being conducted must be adhered to.

(g) All starters in the New Jersey Sire Stakes Fair Division must meet the following condition for the 1985 racing season:

1. All starters must have at least one satisfactory racing line within 45 days of declaration. A satisfactory racing line is defined as a qualifying or racing line charted in the following times or better with allowance for track conditions:

	Trotters	Pacers
Two-year-olds	2:15	2:13
Three-year-olds	2:13	2:11
Four-year-olds	2:11	2:09

2. Horses may be placed on the steward's list for subsequent poor performance.

2:32-2.23 Fee schedule

In 1985 the sustaining fee schedule will be as follows:

PARI-MUTUEL DIVISION		
Age	First Sustaining Fee	Second Sustaining Fee
2	\$300.00 (Feb. 15)	\$500.00 (Apr. 15)
3	\$350.00 (Feb. 15)	\$600.00 (Apr. 15)
4	\$250.00 (Jan. 15)	\$400.00 (Mar. 15)
FAIR DIVISION		
Age	First Sustaining Fee	Second Sustaining Fee
2	\$100.00 (Jan. 15)	\$150.00 (Mar. 15)
3	\$100.00 (Jan. 15)	\$150.00 (Mar. 15)
4	\$100.00 (Jan. 15)	\$150.00 (Mar. 15)

2:32-2.24 Transfer of race

(a) If for any reason it becomes impractical or undesirable in the opinion of the New Jersey Sire Stakes Board of Trustees, to hold the race(s) at the advertised track, the New Jersey Sire Stakes Board, while making every effort to adhere as closely as possible to the advertised location, fees, date and purse, reserves the right to change any of the foregoing or to cancel the event.

(b) It shall not be the responsibility of the New Jersey Sire Stakes Board of Trustees to individually inform Sire Stakes nominators, agents, or trainers of any of the aforementioned changes.

(c) The Board shall advertise or publicize changes in racing interest trade magazines such as the various Standardbred related magazines and/or newsletters, and suggests all program participants communicate with the New Jersey Sire Stakes offices.

2:32-2.25 Heats

(a) In all Fair Sire Stakes, unless they are conducted on a Pari-mutuel track, an event will be split into heats if there are more than eight horses in a field.

(b) At certain tracks, at the discretion of the judges, there may be less than eight starters allowed per division. Five horses will race in the front tier, and two horses will race in the second tier as trailers.

2:32-2.32 Final Race eligibility monies

Total points accumulated towards Final Race eligibility in the Pari-mutuel Division shall include only Pari-mutuel Division points. Only Fair Division race points count toward the Fair Final eligibility, which will include the top eight point winners in each division.

2:32-2.33 Program continuation

The four-year-old New Jersey Sire Stakes Program scheduled to expire in 1977 will be continued in 1978 and thereafter.

2:32-2.34 Notification of change of horse's name, gait or driver

Owners, trainers, drivers, or Stake Services shall notify the New Jersey Sire Stakes Program of a name, gait, or driver change of a horse by the time of declaration to a race, or the entry will not be accepted for that race.

2:32-2.35 Establishment of "Final" race

(a) There will be a two- and three-year-old "Final" race in each Division with a minimum purse of \$50,000 as well as a "Final" race in the four-year-old Divisions with a minimum purse of \$25,000 at the Pari-mutuel raceways as scheduled by the New Jersey Sire Stakes Board of Trustees. Effective in 1985 there will be a minimum \$10,000 Fair "Final" Race in each Division. There will be no entry fees for these events and each is open to the top ten New Jersey Sire Stakes point winners at the *[Meadowlands and Garden State Racetrack]* ***designated track*** in each Division. Trailers are not permitted to start in any New Jersey Sire Stakes Finals.

(b) Beginning in 1984, all horses competing in both the Pari-mutuel and Fair finals at all tracks will be determined on a point basis. The point value will be awarded as follows:

1. 50 points for winning a heat;
2. 25 points for placing second in a heat;
3. 12 points for placing third in a heat;

4. 8 points for placing fourth in a heat;

5. 5 points for placing fifth in a heat.

(c) In the event of a tie in point standings, money won in Sire Stakes races in which points were accumulated shall take precedence prior to the finals, judges "official order of finish" will be used in determining eligibility to finals exclusive of all appeals yet to be decided at time of closing of the entry box for finals.

(d) In the event of a dead heat for any position in a New Jersey Sire Stakes race, the points will be split equally between the two horses as is currently done with the monies. In the event of a tie in both points and money, the last spot in the top ten or eight will be drawn by lot.

2:32-2.36 Supervising Race Secretary

A member of the New Jersey Sire Stakes staff will be appointed Supervising Race Secretary at all future Fair meets. Furthermore, the New Jersey Sire Stakes Board Secretary is responsible for the complete supervision of the New Jersey Sire Stakes Program as it pertains to the Fairs.

2:32-2.37 Dress requirements

Racing colors, helmet, and white pants in accordance with the New Jersey Racing Commission rules, will be required to be worn by any person warming-up a horse on a New Jersey fair track. Violators will be subject to a fine or suspension.

2:32-2.38 Dishonored checks

An individual whose check for either a sustaining payment, a nominating payment or an entry fee is dishonored by the bank, will have a period of 10 days from the time the check is returned to the Sire Stakes office in Trenton to make the check good by either a money order or certified check. If the check has not been made good within this time period the individual's name will be given to the New Jersey Racing Commission for appropriate action. Following this action the Sire Stakes Board of Trustees will decide as to the future eligibility of the horse to the New Jersey Sire Stakes program.

2:32-2.39 Separate Fair Division

A separate New Jersey Sire Stakes Fair Division, with a separate payment schedule, will begin with yearlings nominated in 1980.

2:32-2.40 Fund policy

Advertised purse monies for all New Jersey Sire Stakes races, including contributions to special event races, are predicated upon the Pari-mutuel handle of New Jersey harness tracks and therefore are subject to change without notice.

2:32-2.41 Qualification for Fairs' Universal Driver's Rating Award

In order to qualify for the Fairs' Universal Driver's Rating Award and the dash winners trophies, a driver must have driven in a minimum of 10 percent, rounded out to the nearest full percentage point, of the total heats contested in the New Jersey Sire Stakes Events at the 10 Fairs. Drives in the Fair Finals do not count.

2:32-2.42 No cash payment or partial payment

Beginning in 1985, the New Jersey Sire Stakes Program will accept no cash payment on nominating and sustaining payments. All fees will be paid in United States Funds. No partial payments on a nominating, sustaining, or entry fee will be accepted on individual horses.

2:32-2.43 Qualification for the New Jersey Sire Stakes

(a) In order to qualify for the New Jersey Sire Stakes, a foal must be the product of the mating of a mare with a New Jersey registered and resident stallion. The mare to be bred must either be a resident at the farm on which the stallion stands or be shipped to the farm on which the stallion stands when impregnated. The shipping or mailing of a New Jersey registered stallion's semen to a broodmare is strictly prohibited.

(b) A foal conceived by semen which is frozen, desicated or transported off the premises from where it is produced, or not implanted on the same day it is collected, is not eligible for nomination to the New Jersey Sire Stakes Program.

2:32-2.44 Broadcasting revenues

(a) In the event the Sire Stakes Board receives revenues derived from the broadcast of Sire Stakes events, any incremental revenues derived from these broadcasts shall be exclusively used by the New Jersey Sire Stakes Program to supplement the purses of Sire Stakes races.

(b) The nominator and/or owner of horses racing in Sire Stakes events expressly and irrevocably assign to the New Jersey Sire Stakes the ownership rights of any broadcast revenues derived therefrom.

(a)

DIVISION OF DAIRY INDUSTRY

**Processors, Dealers and Subdealers
Notices of Intent**

**Adopted Amendments: N.J.A.C. 2:52-2.1
and 3.1; 2:53-4.1**

Proposed: November 19, 1984 at 16 N.J.R. 3071(a).
Adopted: January 28, 1985 by Woodson W. Moffett,
Jr., Director Division of Dairy Industry.
Filed: January 30, 1985 as R.1985 d.75, **without
change.**

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

Effective Date: March 4, 1985
Expiration Date pursuant to Executive Order 66(1978):
June 26, 1985.

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

Full text of the adoption follows.

2:52-2.1 Notice of intent

(a) A dealer licensee may begin selling milk and milk products to an unlicensed store (other than a government agency) upon approval by the Director as follows:

1.-3. (No change.)

4. Without notice, if the unlicensed store account is changing ownership, and the new owner accepts two or less deliveries of milk and milk products from the supplier. (If the new

owner accepts three or more deliveries of milk and milk products from the supplier, notice shall be required). As used herein "changing ownership" must be a bona fide transfer of title to the new owner(s). Transfers of title to another member of the owner's immediate family or partial change of ownership shall not be considered a change of ownership for purposes of this regulation.

5. Without notice, if the authorized supplier transfers the account to another supplier; however, if the unlicensed store is notified in writing of the transfer and accepts three deliveries from the new supplier after the date the written notice is received by the unlicensed store, notice shall be required.

(b) (No change.)

2:52-3.1 Change in source of supply

(a) A dealer may change his source of supply or engage an additional source of supply of milk and milk products upon approval by the Director as follows:

1.-3. (No change.)

4. Without notice, if the business is changing ownership, and the new owner accepts two or less deliveries of milk or milk products from the supplier. (If the new owner accepts three or more deliveries of milk and milk products from the supplier, notice shall be required.) As used herein "changing ownership" must be a bona fide transfer of title to the new owner(s). Transfers of title to another member of the owner's immediate family or partial change of ownership shall not be considered a change in ownership for purposes of this regulation.

5. Without notice, if the authorized supplier transfers the account to another supplier; however, if the licensed dealer is notified in writing of the transfer and accepts three deliveries from the new supplier after the date the written notice is received by the dealer, notice shall be required.

(b) (No change.)

2:53-4.1 Notice of intent

(a) A licensed store may change source of supply or engage an additional supply of milk and milk products upon approval by the Director as follows:

1.-3. (No change.)

4. Without notice, if the store is changing ownership, and the new owner accepts two or less deliveries of milk or milk products from the supplier. (If the new owner accepts three or more deliveries of milk and milk products from the supplier, notice shall be required.) As used herein "changing ownership" must be a bona fide transfer of title to the new owner(s). Transfers of title to another member of the owner's immediate family or partial change of ownership shall not be considered a change in ownership for the purpose of this regulation.

5. Without notice, if the authorized supplier transfers the account to another supplier; however, if the licensed store is notified in writing of the transfer and accepts three deliveries from the new supplier after the date the written notice is received by the store, notice shall be required.

(b) (No change.)

BANKING

(a)

DIVISION OF CONSUMER COMPLAINTS AND LEGAL AND ECONOMIC RESEARCH

Home Mortgage Disclosure

Adopted Amendment: N.J.A.C. 3:1-9.2, 9.3, 9.4, 9.5

Proposed: November 5, 1984 at 16 N.J.R. 2872(a).
Adopted: January 31, 1985 by Mary Little Parell, Commissioner, Department of Banking.
Filed: February 11, 1985 as R.1985 d.98, **without change.**

Authority: N.J.S.A. 17:16F-11.

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): August 26, 1988.

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

Full text of the adoption follows.

3:1-9.2 Definitions

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

...

“Metropolitan Statistical Area” (MSA) and “Primary Metropolitan Statistical Area” (PMSA) mean geographical areas as defined by the Office of Management and Budget of the United States government for statistical purposes. The MSA/PMSA definitions to be used are for the following MSA's/PMSA's:

1. Allentown-Bethlehem, PA-NJ;
2. Bergen-Passaic, NJ;
3. Atlantic City, NJ;
4. Jersey City, NJ;
5. Middlesex-Somerset-Hunterdon, NJ;
6. Monmouth-Ocean, NJ;
7. Newark, NJ;
8. Philadelphia, PA-NJ;
9. Trenton, NJ;
10. Vineland-Millville-Bridgeton, NJ;
11. Wilmington, DL-NJ-MD;

...

3:1-9.3 Exemptions

(a) (No change.)

(b) Each and every depository institution with its principal offices in New Jersey, except for those institutions exempted by subsections (a) and (d) of this section, is required to compile and file the data specified by N.J.A.C. 3:1-9.4 for the preceding calendar quarter.

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

3:1-9.4 Compilation of mortgage and home improvement loan data

(a) Data to be compiled:

1. To satisfy the public disclosure requirements of the Act and N.J.A.C. 3:1-9.5, the data shall be compiled in the format prescribed by the Department of Banking. Such data shall be compiled and aggregated to a calendar year.

2. To satisfy the filing requirements of the Act and N.J.A.C. 3:1-9.6(a), the data shall be compiled in the format prescribed by the Department of Banking. Such data shall be compiled and aggregated to a calendar quarter.

(b) (No change.)

3:1-9.5 Disclosure to public

(a) (No change.)

(b) Rules concerning the office at which disclosure statements to be made available are as follows:

1. Each depository institution shall make available to the public the disclosure statements required to be compiled by (a) above and by the dates specified in (a) above at its principal and at least one branch office in each MSA/PMSA in which it has an office.

2. (No change.)

COMMUNITY AFFAIRS

(b)

DIVISION OF HOUSING AND DEVELOPMENT PUBLIC HOUSING AND DEVELOPMENT AUTHORITY

Homelessness Prevention Program

Readoption: N.J.A.C. 5:12

Proposed: December 17, 1984 at 16 N.J.R. 3497(a).
Adopted: January 29, 1985 by John P. Renna, Commissioner, Department of Community Affairs.
Filed: January 29, 1985, as R.1985 d.74, **with substantive changes** not requiring additional public notice and comments (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 52:27C-24.

Effective Date: January 29, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): January 1, 1990.

Summary of Public Comments and Agency Responses:

N.J.A.C. 5:12-2.5: A comment was received which took issue with the priority categories and the order in which they are placed. The Department is reviewing the priorities and is prepared to make changes should experience with the program show them to be warranted. However, making the changes as part of an adoption would substantially affect the rights of those in categories that are placed lower on the list and this can only be done as a new proposal.

N.J.A.C. 5:12-2.1: The Department of Human Services (DHS) questioned the requirements that applicants be residents of New Jersey, that all available financial resources have been exhausted and that assistance be provided for not more than six months. DHS also asked about procedures for prompt payment and recommended that priorities be controlled at the county level rather than statewide and that welfare agencies and the Department of Youth and Family Services (DYFS) be the principal referral agencies to the program. In response, the Department of Community Affairs (DCA) points out that the program is intended to benefit persons who are in this State, but does not impose any requirement as to how long they must be here prior to applying. DHS is correct in stating that the exhaustion of other resources is more restrictive than the requirements of the public assistance program. This is necessary because this is a program with limiting funding that must concentrate on the most needy cases. The six month requirement, which can be waived in extenuating circumstances, reflects the fact that this is a *temporary* assistance program. It is the Department's intention to get people out of this program and into other housing subsidy programs, particularly the Federally-Funded Section 8 program, as expeditiously as possible. The regulations neither require nor preclude control of priorities at the county level. Should a regulation on this subject become necessary, it will be proposed. Finally, DCA can rely primarily upon county and municipal welfare offices and DYFS for referrals without the necessity for a regulation.

DHS also asks that DCA include in its regulations provisions concerning the notice as to eligibility for housing assistance which is now required to be included in every warrant for possession. No regulation is proposed because enforcement of this provision is the province of the Judiciary.

N.J.A.C. 5:12-2.1: The Division of Public Interest Advocacy questions the requirements that suit be instituted before a person is deemed in imminent danger of losing his home through foreclosure, that annualized current income be used to determine eligibility and that a person be ineligible if he conceals or transfers assets to become eligible. In response, DCA states that a person who has not yet been served with a foreclosure notice is not in *imminent* danger of losing his home, though he may well lose it within a matter of months, and the program is not so funded that it is able to provide loans to large numbers of people who fall behind on their mortgage payments. Again, someone who is currently enjoying adequate income but who faces a *future* loss of income, and who is therefore ineligible based on current income alone, is not yet in *imminent* peril. As to concealment, it is difficult for the Department to conceive of a person giving away his assets and then applying for assistance without there being an intention to obtain an undeserved benefit, but the Department agree with the Division of Public Interest Advocacy that there is always a possibility that someone may mistakenly be determined to have violated this prohibition, or that some other error might be made. Accordingly, the Department has added a provision allowing aggrieved persons an administrative hearing.

Full text of the adoption follows (additions to proposal shown in boldface with asterisks ***thus***).

CHAPTER 12. HOMELESSNESS PREVENTION PROGRAM

SUBCHAPTER 1. GENERAL PROVISIONS

5:12-1.1 Title; purpose

(a) The regulations in this chapter shall be known and may be cited as the "Homeless Prevention Program Regulations".

(b) The purpose of these regulations is to implement the "Prevention of Homelessness Act (1984)" and, in so doing, to provide assistance to persons who are homeless, or face imminent loss of their homes by eviction or foreclosure, because they are without adequate funds for reasons beyond their control.

5:12-1.2 Administration

The Homelessness Prevention Program shall be administered by the Bureau of Housing Services of the Division of Housing and Development.

SUBCHAPTER 2. PROGRAM ELIGIBILITY

5:12-2.1 Eligibility

(a) To be eligible for assistance under the Homelessness Prevention Program, a person or household must be either homeless or in imminent danger of losing their home as a result of eviction for non-payment of rent or mortgage foreclosure, and must be a resident or residents of New Jersey.

1. A person shall be deemed homeless if he involuntarily is without a place of residence for reasons beyond his control.

2. A person shall be deemed to be in imminent danger of losing his home if he is unable to make rental or mortgage payments for reasons beyond his control and he has been served with a summons and complaint for eviction or for mortgage foreclosure, as the case may be.

3. "Mortgage foreclosure" shall include, without limitation, foreclosure for taxes or other municipal liens. In the case of a tax or other municipal lien foreclosure, a person shall be deemed to be in imminent danger of losing his home if he has been served in any legal manner with notice of foreclosure.

(b) No person or household shall be eligible for assistance if their annualized current income (that is, 52 times current weekly income) exceeds 80 percent of current median income for residents of the county in which application is made.

(c) No person or household shall be eligible for assistance unless all other available financial resources have first been exhausted. Concealment or transfer of assets to become eligible for assistance shall result in immediate and permanent disqualification.

5:12-2.2 Distribution of funding

(a) Funds available to the Homelessness Prevention Program shall be so allocated that funding is available for those now homeless, for those facing homelessness as a result of eviction and for those facing homelessness as a result of foreclosure.

(b) Funds shall be so distributed so that applicants in all regions of the State have equal access to assistance.

5:12-2.3 Levels of assistance

(a) The Homelessness Prevention Program shall apply available funds so as to provide assistance to as many people in need of such assistance as possible. Assistance to any one person or household shall not exceed the minimum amount necessary to obtain habitable lodging or to avoid imminent eviction or foreclosure.

(b) Where there is any reasonable prospect of repayment, funds shall be advanced as a loan rather than as a grant, upon such terms as the Bureau of Housing Services shall consider reasonable and appropriate in light of prevailing interest rates and the applicant's present and future ability to repay.

1. Loans shall be evidenced by a note and, if the applicant owns real property, secured by a mortgage. The form and content of the note and mortgage shall be prescribed by the Bureau of Housing Services.

5:12-2.4 Period of assistance

(a) No person who has become eligible for permanent rental assistance under the section 8 program of the United States Housing Act of 1937, 42 U.S.C. § 1437(f) (24 C.F.R. § 882.101 et seq.) or for any subsidized housing which he can afford shall continue to receive assistance under the Homelessness Prevention Program once the permanent rental assistance or subsidized housing becomes available.

(b) No person shall continue to receive assistance under the Homelessness Prevention Program for more than six months, unless the Bureau of Housing Services finds there to be sufficient extenuating circumstances to justify an extension.

5:12-2.5 Priorities

(a) Priorities for assistance among otherwise qualified applicants in the same applicant pool shall be assigned in the following order:

1. Households with a person who is disabled or over 65 years of age;
2. Families in imminent danger of separation due to lack of adequate living accommodations;
3. Single parent households;
4. Individuals who are disabled or over 65;
5. Other households with children;
6. Other households or individuals.

***5:12-2.6 Administrative Hearings**

(a) Any person aggrieved by any notice, order, action or decision of the Bureau of Housing Services under this chapter may appeal that notice, order, action or decision to the Office of Administrative Law for a hearing pursuant to the Administration Procedure Act, pursuant to N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

(b) A request for a hearing must be made in writing within 15 days of the applicant's receipt of the notice or order complained of and must be sent to the Hearing Coordinator, Division of Housing and Development, CN 804, Trenton, New Jersey 08625.*

SUBCHAPTER 3. HABITABILITY STANDARDS

5:12-3.1 Compliance with H.U.D. Housing Quality Standards

(a) Any rental housing unit, the rental for which is paid, in whole or in part, with rental assistance received under the Homelessness Prevention Program, shall be in compliance with the Housing Quality Standards of the United States Department of Housing and Urban Development.

(b) The Bureau of Housing Services may allow payment of rental assistance for a unit if the unit can be occupied without any imminent hazard to health or safety and the owner of the unit is proceeding in a reasonable manner to abate any violation of the H.U.D. Housing Quality Standards.

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code Licenses Required; Trainee Personnel

Adopted Amendment: N.J.A.C. 5:23-5.4

Proposed: December 17, 1984 at 16 N.J.R. 3372(a).
 Adopted: January 31, 1985 by John P. Renna, Commissioner, Department of Community Affairs.
 Filed: February 5, 1985 as R.1985 d.85, **without change.**

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

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): April 1, 1988.

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

Full text of the adoption follows.

5:23-5.4 Licenses required

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

(d) Rules concerning trainee personnel are:

1.-2. (No change.)

3. Persons meeting the following experience requirements shall be eligible to be employed as trainees:

i. Fire protection inspector trainee—a minimum of three years in the fire service or as an architect or engineer.

ii.-iv. (No change.)

4.-12. (No change.)

13. A qualified licensed inspector shall not supervise more than one trainee.

14. Failure of a licensed supervisor to properly supervise a registered trainee in accordance with the provisions of the regulations shall result in disciplinary action.

(e) (No change.)

(a)

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

Tenant Selection Standards

Adopted New Rule: 5:80-7 (formerly codified at 5:80-6)

Proposed: May 7, 1984 at 16 N.J.R. 954(a).

Adopted: February 4, 1985 by New Jersey Housing and Mortgage Finance Agency, Feather O'Connor, Secretary.

Filed: February 11, 1985 as R.1985 d.106, with **substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 55:14J-34(f).

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): March 4, 1990.

Summary of Public Comments and Agency Responses and Changes Upon Adoption:

COMMENT:

Comments were received from the New Jersey Tenants Organization regarding the appropriateness of the screening criteria in N.J.A.C. 5:80-7.3.

RESPONSE:

The criteria adopted are industry-recognized standards which conform to the criteria adopted by the Department of Housing and Urban Development, National Center for Housing Management, Inc., and the Institute of Real Estate Management.

COMMENT:

Comments were also received from the New Jersey Association of Nonprofit Homes for the Aging which commented that they found no objection to the proposed regulations.

At 5:80-7.5(b)3 the original proposal gave priority, in barrier-free units only, to handicapped and disabled persons. Next priority was given to the elderly. The adopted version again gives priority to handicapped and disabled persons but distinguishes between types of handicapped and disabled persons. Within the handicapped and disabled group, first consideration would be given to those who need the unit to live independently. All other handicapped and disabled persons would be considered next. The elderly have not been affected as, in both the proposed and adopted version, they are given priority after the handicapped and disabled group.

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

SUBCHAPTER ***[6.]*** ***7.*** TENANT SELECTION STANDARDS

[5:80-6.1] ***5:80-7.1*** Definitions

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

“Affirmative Fair Housing Marketing Plan” is a plan to attract those people who would least likely apply for residence.

“Disabled person” is a person who is ***[unable, due to a physical or mental impairment to engage in any gainful activity]*** ***under a disability as*** defined in Section 223 of the Social Security Act or a person who has a “developmental disability” which is mental in nature as defined by Developmental Disabilities Amendments of 1970 (42 USC 60001).

“Displaced person” is a family or individual who has been displaced by governmental action or otherwise formally recognized pursuant to Federal disaster or otherwise has been involuntarily displaced.

“Elderly family” is one in which the head of household, spouse or sole member is 62 years of age or older, handicapped or disabled.

“Family” is two or more persons sharing residency and related by blood, marriage or operation of law, or who demonstrate a stable relationship which has existed over a period of time.

“Handicapped” is a person having a physical or mental impairment which is expected to be of long continued and indefinite duration and which substantially impedes his or her ability to live independently and which is of such a nature that such ability could be improved by more suitable housing conditions.

“Household” is one or more persons which share or will share a residence.

“Housing needs” is circumstances beyond the control of a family which are not one of the priorities set forth such as substandard housing, overcrowding, living with family or others, dangerous neighborhood, housing unsuitable because of medical reasons, etc. ***[,etc.]***

“HUD” is the United States Department of Housing and Urban Development.

“Minority” is a household of which one or more of whose members are either Black, Hispanic, American Indian or Oriental. A white person would be considered a minority if he were living in a predominantly black neighborhood.

[5:80-6.2] ***5:80-7.2*** General policy

(a) The process of screening applicants and selecting future residents is a crucial one. On one hand, a housing owner must keep units occupied to minimize vacancy loss and maintain cash flow. On the other hand, the owner must also take the time to screen applicants and to select only those applicants who will be responsible residents and meet HUD eligibility requirements.

(b) Careless selections can result in vandalism, high repair costs, costly evictions and increases in vacancies. To avoid such problems as much as possible, each owner should develop reasonable tenant selection procedures.

(c) The procedures should be designed to select applicants who will not only meet the tenant eligibility requirements for HUD's subsidy programs but will also be responsible tenants. The procedures should instruct project staff on at least:

1. How to screen tenants;
2. Fair Housing and Equal Opportunity laws;
3. Required preferences and economic mixes;
4. Limitations on admission of single persons and over-income applicants; and
5. How to select Tenants from among eligible applicants.

[5:80-6.3] ***5:80-7.3*** Screening criteria

(a) The Agency supports the owner's desire to select responsible tenants.

(b) Owners are expected to exercise sound judgment in the tenant selection process. The fact that an applicant qualifies for program benefits does not mean that he or she is a suitable tenant.

(c) Owners may consider the following factors when screening applicants. These factors are not all inclusive and the absence of any of these factors is not sufficient reason to reject an applicant. Costs of credit checks and home visits may be charged as a project expense.

1. Demonstrated ability to pay rent and make timely payment.

2. Comments from prior landlords: Tenants with histories of damaging units are obviously high risks. The endorsement of at least two prior landlords is preferable over the judgment of a present landlord. A responsible tenant may receive a bad recommendation just as a bad tenant might receive a good recommendation from the present landlord. The other landlord's interests are not always the same as the owner's interests.

3. Good credit references: Although the benefits of a credit check are debatable, credit checks may be useful when no rent-paying history is available. However, the lack of a credit history may not automatically disqualify an applicant.

4. Housekeeping habits: So-called "home visits" can be particularly valuable to make certain that the applicant maintains his or her housing unit in an acceptable manner.

[5:80-6.4]* 5:80-7.4* Non-discrimination

(a) Owners must comply with all Federal, State or local fair housing and civil rights laws ***and regulations*** and with all equal opportunity requirements set forth in N.J.S.A. **[5:14K-1]* 55:14K-1*** et seq., Agency regulations, and HUD's administrative procedures. Federal and State laws provide that owners may not discriminate based upon race, color, creed, religion, sex, national origin, age or handicap. Any complaints alleging violations of civil rights laws will be referred to the Agency or to HUD's Regional Offices of Fair Housing and Equal Opportunity for possible compliance actions.

(b) Owners must also comply with requirements imposed in Agency and HUD program statutes, regulations and administrative procedures. These administrative requirements prohibit restrictions on certain classes of persons. Examples of prohibited practices are shown in Exhibit A. This figure is not intended to be all inclusive.

(c) Owners are subject to all civil rights laws and Agency and HUD administrative requirements on non-discrimination. These civil rights laws and administrative requirements apply to the process of accepting applications and selecting tenants ***[form]* *from*** among eligible applicants as well as to the process of assigning units. Under civil rights laws, an owner may not place minority tenants in one part of the project and non-minority tenants in another part.

(d) In partially assisted Section 8 projects (that is, those with less than 100 percent of the units under a Section 8 contract), HUD administratively requires that assisted tenants must be dispersed throughout the project. Note: In projects designed for both elderly and non-elderly families, owners may place elderly and non-elderly families in separate areas of the project.

[5:80-6.5]* 5:80-7.5* Priorities and preferences

(a) Owners may give priority or preference for admission to otherwise eligible applicants in (b) and (c) below so long as such priorities and preferences are consistent with the fair

housing laws and the owner's Affirmative Fair Housing Marketing Plan.

(b) Handicapped, disabled, displaced and substandard housing applicants shall be treated as follows:

1. For all units, owners must give preference to applicants who are either living in substandard housing or are displaced by government action or activity.

2. For all units designed specifically for the elderly, owners must give priority to elderly, handicapped and disabled applicants on an equal basis.

3. For all barrier free or partially barrier free units designed specifically for handicapped or disabled persons, owners must give ***first*** priority to handicapped or disabled persons who need the modified design to permit them to operate independently with comparative ease under normal circumstances. ***All other handicapped or disabled persons will be given second priority.*** ***[In those units, the]* *The*** elderly will be given ***[secondary]* *third*** priority.

(c) Residency preference shall be as follows:

1. While owners may not require local residency as a prerequisite for admission, with Agency and HUD approval, owners may give priority to residents of the municipality (here defined as the smallest unit of government, that is, town, city, county) in which the project is located.

2. The Agency will approve the use of local residency preferences only if such preferences will not be inconsistent with equal opportunity requirements or frustrate achievement of the goals of the Affirmative Fair Housing Marketing Plan. For example, if the Agency determines that affirmative marketing goals and objectives cannot reasonably be achieved with a residency preference for all units, the Agency may deny a request for use of residency preferences or approve it for only a portion of the units. For example, where the affirmative marketing goal is 5 or 10 percent of the units in a project, the agency may approve a residency preference for only 95 or 90 percent of the units. Residency preferences may be used during initial rent-up and to fill vacancies occurring subsequent to the rent-up period.

i. When applying residency preferences, persons expected to reside in the municipality as a result of current or planned employment must be counted as residents. "Planned employment" means that an individual has a bona fide offer to work in the municipality.

ii. If there are applicants on the chronological waiting list, the owner may select a resident over ***a*** non-resident even if the non-resident is higher on the waiting list or exhibits greater need. However, if there are no eligible residents on the waiting list, an owner cannot hold a unit open until an eligible resident is found.

iii. If certain categories of applicants are targeted on the Affirmative Fair Housing Marketing Plan and if there are insufficient numbers of such applicants who are residents of the municipality, then the owner must solicit those applicants from outside the municipality.

[5:80-6.6]* 5:80-7.6* Limitations on admission of over-income tenants

(a) When applicants who are income-eligible and otherwise qualified are available, the owner may not lease any unit to an applicant whose income exceeds the applicable income limit.

(b) The owner may lease such units to over-income applicants only after he or she has exerted good faith effort to attract income-eligible applicants and such applicants are not available.

(c) Under no circumstances may an owner lease more than 10 percent of the units to over-income applicants without the prior written approval of the Agency.

(d) At BMIR, rent supplement or 236 projects, an owner also must obtain the prior written approval of the HUD or the Contract Administrator.

(e) At Section 8 projects, an owner also must obtain prior ***[within]* *written*** HUD approval, except in older projects where the Section 8 Contract allows up to 20 percent.

(f) Before admitting any over-income applicant in accordance with these regulations, the owner must certify in writing that:

1. He or she has made all assisted units committed under the contract available for occupancy by eligible families;
2. He or she had taken all reasonable steps to attract income-eligible applicants;
3. No income-eligible applicants were available when the over-income applicant was selected for admission.

(g) The owner must retain this certification in the over-income tenant's file.

(h) If an owner fails to comply with the provision of this section, the Agency may invoke any remedies available under N.J.S.A. 55:14K-1 et seq. or Agency regulations. In addition, the HAP contract and/or Section 8 regulations provide that HUD may reduce the number of units under the HAP contract, invoke other remedies available under the contract or consider such failure as grounds for suspension or debarment from HUD programs.

[5:80-6.7]* *5:80-7.7 Non-immigrant student aliens

(a) The Housing and Community Development Act of 1980 prohibits HUD from making housing assistance available to non-immigrant student aliens.

(b) A non-immigrant student alien is a person who:

1. Has a foreign residence which he or she has no intention of abandoning;
2. Is a bona fide student qualified to pursue a full course of study; and
3. Was admitted to the United States temporarily and solely for the purpose of pursuing a full course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by him or her and approved by the Attorney General after consultation with the Department of Education of the United States.

(c) Non-immigrant student alien also means the alien spouse and alien minor children of such student as long as the spouse's and children's right to be in the United States depends on the alien's right.

(d) If an applicant identifies himself or herself or his or her spouse as a student the owner must request proof of United States citizenship, and ask the applicant to sign a statement certifying that he or she is not a non-immigrant student alien. An example certification form may be found as Exhibit B.

[5:80-6.8]* *5:80-7.8 Prohibited conditions for admission

(a) In screening applicants for admission, owners may not impose irrelevant admissions criteria that are used to screen out otherwise eligible applicants.

(b) Physical examinations: Owners may not routinely require that all elderly applicants undergo physical examinations as a condition of admission. However, if the owner has reason to believe that the applicant's physical condition is such that his or her admission might have an adverse impact on the rights of other tenants to enjoy their units, or that he or she might not be able to care for the unit and carry out his or her obligations under the lease, the owner may require the

applicant to furnish evidence of his or her ability to live independently (with or without attendant care).

(c) Donations or contributions: Owners of rental projects may not require a donation, contribution or membership fee as a condition of admission. Of course, owners of cooperative housing projects may charge membership fees.

EXHIBIT A
Example of Prohibited
Discrimination Practices

Class	Civil Rights Laws and Regulations	HUD Statutes, Regulations and Administrative Requirements
Religion, Race, Color, Creed, National Origin	No priorities or application criteria, (e.g. variations in charges or deposits) based upon race, creed, color, religion, or national origin	
Sex	No renting units to single persons of one sex and not the other	In elderly housing, no discrimination against females/males because disproportionate mixture of sexes
Age	No minimum or maximum ages unless necessary *[to normal operation]* to normal operation (e.g. elderly project), or required by State or local law	No maximum age for elderly. In housing for disabled and handicapped minimum age is 18; no minimum may be set above age 18
Children		In family housing no discrimination against families with children
Class Membership		No discrimination against socio-economic classes (e.g. welfare recipients, single-parent households, etc.)
Membership in Sponsoring Organization		No priority to members of sponsoring organizations. No discrimination against non-members
Handicapped	No discrimination solely because of handicap	

Agency Statutes, Regulations and Administrative Requirements

No person shall be discriminated against because of race, religious principals, color, national origin or ancestry by the agency, any housing sponsor, any institutional lender, or any loan originator or agent or employee thereof in connection with any housing project or eligible loan. No persons shall be discriminated against because of age in admission to, or continuance of occupancy in any housing project receiving assistance under this act except for any housing project constructed under a governmental program restricting occupancy of at least 90% of the dwelling units to persons 62 years of age or older and any members of their immediate households or their occupant surviving spouses, or constructed as a retirement subdivision or retirement community as defined in the "Retirement Community Full Disclosure Act," P.L. 1968, c.215 (C.45:22A-1 et seq.) Any persons who violates the provisions of this section is a disorderly person.

district board of education shall credit the sending district board of education with the excess amount. Such adjustment for a contractual agreement for a pupil enrolled in a special education class shall be made no later than the end of the third school year, following the contract year.

4. If the commissioner later determines that the tentative charge established by written contractual agreement, except for a contractual agreement for a pupil enrolled in a special education class, was less than the actual cost per pupil during the school year multiplied by the actual average daily enrollment received, the receiving district board of education may charge the sending district board of education all or part of the amount owed by sending district board of education, to be paid during the third school year following the school year for which the tentative charge was paid. Such adjustment for a contractual agreement for a pupil enrolled in a special education class shall be made no later than the end of the third school year, following the contract year. The county superintendent of schools of the county in which the sending district board of education is located may approve the payment of the additional charge over another period, if the sending district board of education can demonstrate that payment during the third school year following the school year for which the tentative charge was paid would cause a hardship.

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

(a)

STATE BOARD OF EDUCATION

Business Services

Public School Contracts

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

6:20-8.1 through 8.5

Adopted New Rules: N.J.A.C. 6:20-8.6 and 8.7

Proposed: December 17, 1984, at 16 N.J.R. 3372(b).

Adopted: February 6, 1985, by State Board of Education, Saul Cooperman, Secretary.

Filed: February 7, 1985, as R.1985, d.88, **without change.**

Authority: N.J.S.A. 18A:4-15, 18A:18A-5, 18A:18A-7, 18A:18A-37, 18A:18A-40, 18A:18A-42, 40A:11-11 and Chapter 281, Laws of 1983.

Effective Date for Readoption: March 4, 1985.

Effective Date for New Rules and Amendments: March 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): March 4, 1990.

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

Full text of the adoption follows:

6:20-8.1 Restricting the avoidance of competitive bidding for extraordinary, unspecifiable services

(a) (No change.)

(b) Any purchase, contract or agreement of the character described in N.J.S.A. 18A:18A-4, may be made, negotiated or awarded by a district board of education by resolution at a public meeting without public advertising for bids and bidding if the subject matter thereof consists of extraordinary, unspecifiable services. This exception shall be construed narrowly in favor of open competitive bidding where possible and in each instance of such exception, the district board of education is required to state the supporting reasons for its action in the resolution awarding the contract. The use of such exception shall be further limited by the following conditions:

1.-2. (No change.)

3. Avoidance of bids where any precedent exists (in the school district or elsewhere) demonstrating the feasibility of bidding would be an unacceptable use of this provision. Services previously bid shall be subject to the presumption that such services may not be classified as an EUS, unless the district board of education can demonstrate the lack of feasibility of bidding such services;

4. If specifications can reasonably be written covering the services, then they must be bid, notwithstanding that the other criteria of the definition may be met. In cases which may appear too technical for local school officials to prepare detailed specifications, two criteria must be addressed and found to be not possible before it may be concluded that the services cannot reasonably be described by written specifications:

i. If the local school officials do not possess the technical skill to prepare specifications, they should engage consultant assistance to do so;

ii. If the services are of such a nature as to make a description of all actions to be taken unfeasible, or if there are available various (optional or unknown) technical methodologies for achieving the desired end, then the specifications should be written in terms of required end-products and/or standards of performance rather than (or in concert with) descriptions of all technical steps to be taken;

5. Services rendered as EUS must generally be characterized as not being of a continuous ongoing nature. Services which are continued or regularly repetitive shall be subject to a presumption that specifications can be written to describe what has been done. Where this is not the case, the district board of education must specifically address this question;

6.-9. (No change.)

(d) Examples of services generally unacceptable as EUS are:

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.

3. Construction management contracts (involving price guarantee, responsibility for entering into contracts for actual construction, or actual or contingent responsibility for conducting the construction, and so forth);

4. Electrical equipment maintenance;

5. Maintenance of typewriters, dictating machines and other common office equipment;

6. Tradesmen;

7. Heating specialists;

8. Quality analysis or testing of materials;

9. Maintenance of motor vehicle fleets;

10. Feeding programs;

11. Services, materials, equipment or other expenses which were previously exempted from bidding by law, which exemptions are no longer specifically allowed by law;

12. Emergencies (governed by N.J.S.A. 18A:18A-7).

13. The above is a partial list since other services may be unacceptable as EUS for failure to meet the criteria established by N.J.A.C. 6:20-8.1(b).]

6:20-8.2 Certain leases of equipment and service agreements beyond the fiscal year

(a) Leases (which term includes rental agreements) and service agreements for automobiles, motor vehicles, electronic communications equipment, machinery and equipment of every nature and kind may not be renewed or extended beyond five years. Rebidding after the five years should not require that the equipment be in the service of the district board of education.

(b) Such leases and service agreements may be written for any period of time not to exceed the five years, or for shorter periods with provision for renewal at the option of the district board of education provided that such renewal shall not cause the cumulative length to exceed five years. Such renewals may be authorized only by resolution of the district board of education.

(c) 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 district board of education, at its sole option, decides to buy the equipment, and said option was included in the original specifications and in the original contract. Leases may not, however, provide for the acquisition of ownership at the beginning of the lease term, with installment payments to be made thereafter.

(d)-(e) (No change.)

(f) Any such changes made in accordance with subsection (e) of this section shall be made by an amendatory contract and the procedure followed shall be in compliance with the rules regarding change orders.

6:20-8.3 Change orders and open-end contracts

(a) Definitions include the following:

1. A change order is a lawfully prepared and properly authorized document which directs and authorizes a contractor, consultant or other vendor performing work for or supplying materials and supplies to a district board of education pursuant to a contract to change the work, service or materials to be performed, rendered or furnished from that originally specified or estimated and to correspondingly change the payment due therefor;

2. 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. Examples would include blacktopping and recreation supplies. Such contracts, when advertised and awarded, must include a maximum number of units that can be ordered for each item under the contract. Orders placed under such open-end contracts shall not be considered as change orders for purposes of this rule, but shall be subject to the requirements specified in subsection (g) of this section.

(b) (No change.)

1.-3. (No change.)

4. Responsibility required by this rule to be exercised specifically by the district board of education may not be delegated. In those instances in which authority is to be exercised by some school official, the authority, responsibility and re-

quired procedures should be clearly spelled out in advance, by resolution.

(c) (No change.)

1. (No change.)

2. If the change is not within the scope of activities of the original contract:

i. If the contract was awarded without competitive bidding being required by law or rule (as in the case for professional services and certain authorized extraordinary, unspecifiable services per N.J.S.A. 18A:-5a(1) and (2)), any change beyond the original scope of activities may be made by amendatory contract;

ii. If the consulting contract was not a professional service and was required to be subject to competitive bidding, any change beyond the original scope of activity should be by new contract based on new bidding;

3.-4. (No change.)

(d) (No change.)

1.-4. (No change.)

5. Changes may be effectuated by the school official authorized to serve as contracting agent, subject to such controls or approval requirements as the district board of education may lawfully impose;

6. Change orders for materials, supplies and equipment items which are part of a contract which is primarily a construction contract shall be handled in accordance with the rules governing construction contracts. Paving (blacktopping) contracts which were awarded on a unit price basis as an open-end contract shall be handled under the section dealing with open-end contracts. Contracts awarded for the paving, construction or reconstruction of specifically described sections shall be treated as construction contracts.

7. (No change.)

(e) (No change.)

1.-2. (No change.)

3. All change orders for construction, reconstruction, and major repair contracts must be submitted to the Bureau of Facility Planning Services for approval, except:

i. When an emergency condition requires immediate action, the school official designated by the district board of education to handle emergency purchases per N.J.S.A. 18A:18A-7 may authorize the necessary actions to be taken, but only to the extent necessary to meet the emergency.

ii. Minor field (site) modifications, to the extent normally permitted (method is at local option) may be authorized by the district board of education and appropriate school officials, provided that they do not affect the overall scope of work of the contract; however, if these change orders will result in an inability to complete the full contracted scope of services without increasing the contracted price, the Bureau of Facility Planning Services must approve in advance;

iii. If the awarded contract includes a sum for contingencies, said sum should be encumbered against the appropriation at the outset, and charges against that amount may be authorized by the district board of education, provided that the sum so included does not exceed 20 per cent of the overall contract;

4. In those instances where the Bureau of Facility Planning Services approval is necessary, the following procedures will govern:

i. The authorized school official of the district board of education shall file with the Bureau of Facility Planning Services two copies of the 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 district board of education, it must be countersigned by the authorized school official;

ii. The Bureau of Facility Planning Services shall take such steps as it may find appropriate to assure that a change is necessary and that it will actually be carried out;

iii. The Bureau of Facility Planning Services shall be assured that adequate appropriations are available;

iv. If appropriate, the Bureau of Facility Planning Services shall authorize 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 district board of education;

v. A copy of the change order authorization marked "Approved" will be sent to the district board of education for its information and files.

(f) Open-end contracts will be governed by the following:

1. 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:

i. Orders under open-end contracts may 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;

ii. The contract may not be for a period longer than the one-year requirement of the Public School Contracts Law, unless specifically authorized by law;

iii. The certificate of availability of funds shall be executed each time an order is placed, covering the amount of the order, unless the district board of education wishes to commit and certify the full amount at the outset. The certificate must be executed before the district board of education incurs a contractual liability on its part;

iv. Orders may be placed by the school official authorized to serve as contracting agent subject to such controls or approval requirements as the district board of education may lawfully impose.

(g) The requirements contained in this section shall apply to all contracts, agreements, purchase orders, or other actions which are entered into, authorized, executed, reviewed or extended on or after the day on which such rule is finally promulgated.

(h) Every district board of education shall take all steps necessary so that all appropriate school officials and employees shall be aware of and comply with this rule.

6:20-8.4 Bonds

(a) "Bid bond" means a written guarantee, in the form of a certificate, payable to the district board of education, that the bidder, if awarded the contract within such time as may be specified in the invitation to bid, but in no case more than 60 days, unless such bidder has agreed to a longer period, will enter into a contract and will furnish any prescribed performance bond or other security required as a guarantee or indemnification and in default thereof providing payment for the damages suffered by the district board of education as a result of the bidder's refusing to sign the contract.

(b) "Labor and material bond" means a written guarantee, in the form of a certificate, payable to the district board of education, that the bidder will promptly make payment to all claimants, for all labor and material used or reasonably required for use in the performance of the contract between the bidder and the district board of education and in default

thereof providing for payment of all unpaid labor and material bills.

(c) "Performance bond" means a written guarantee, in the form of a certificate, payable to the district board of education, that the bidder will promptly and faithfully perform the contract between the bidder and the district board of education and in default thereof providing for completion of the contract or providing sufficient funds to pay the cost of completion of the contract.

(d) District boards of education may require in the notice to bidders or in the specifications that bidders guarantee that they will enter into a contract with the district board of education and will furnish any prescribed performance bond or other security required as a guarantee or indemnification. The guarantee may be given, at the option of the bidder, by certified check, cashier's check or bid bond. When the guarantee is given in the form of a bid bond, such bid bond shall:

1. Be given by a responsible surety or insurance company licensed to operate in New Jersey. District boards of education are prohibited from requiring that bidders submit a bid bond from a particular surety or insurance company.

2. Shall be given by a responsible individual residing in New Jersey. The district board of education may reject such individual bid bond if it is not satisfied with the sufficiency of the individual surety offered; or

3. Shall be in the form of a certificate, identifying the bidder, whose acts are guaranteed, the name of the surety company, insurance company or individual surety and the district board of education in whose favor the bonds are given. The "penalty" or "penal sum" on performance bonds, labor and material bonds, and all other such bonds shall be expressed in words and figures as a specific number of dollars and not as a percentage of the bid. The "penalty" or "penal sum" on performance and labor and material bonds shall be in the amount of 100 per cent of the contract price.

6:20-8.5 Contract or agreement due to an emergency situation

A copy of any contract or agreement for work or labor, materials, supplies or services made, negotiated or awarded by the secretary, business administrator, business manager or other such officer or employee of a district board of education pursuant to N.J.S.A. 18A:18A-7 and a copy of the written requisition for the performance of such work or labor, or the furnishing of materials, supplies or services shall be filed with the Bureau of Facility Planning Services and the office of the county superintendent of schools within three days after the awarding of the contract or agreement.

6:20-8.6 Contracts for behind-the-wheel driver education

(a) Contracts with private driver education schools providing behind-the-wheel driver education may be made, negotiated or awarded by a district board of education, for any term not exceeding in the aggregate three years, by resolution at a public meeting without public advertising for bids. Such resolution shall indicate that the private driver education school will provide behind-the-wheel driver education that is substantially equivalent to that provided by the district board of education at less cost than current or other proposed programs.

(b) Contracts shall only be made, negotiated or awarded with approved private driver education schools. A driver education school holding a current license or certificate of approval issued by the Director of the Division of Motor Vehicles shall be considered as being approved by the Commissioner of Education for the purpose of providing

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behind-the-wheel driver education. A copy of such current license or certificate of approval shall be obtained by the district board of education from the private driver education school and maintained on file with the contract.

6:20-8.7 Cooperative pricing systems

District boards of education may by resolution establish a cooperative pricing system pursuant to N.J.S.A. 40A:11-11. No cooperative pricing system shall become effective without prior approval of the Director of the Division of Local Government Services in the Department of Community Affairs.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF ENVIRONMENTAL QUALITY

Bureau of Air Pollution Control Permits and Certificates

Adopted Amendments: N.J.A.C. 7:27-8

Proposed: July 2, 1984 at 16 N.J.R. 1671(a).

Adopted: February 4, 1985 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: February 11, 1985 as R.1985 d.96, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 13:1D-5 and -9 and 26:2C-8 and -9.2.

Effective Date: March 4, 1985.

Operative Date: April 5, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): Exempt under 42 U.S.C. 7401 et seq.

DEP Docket No. 040-84-06.

Summary of Public Comments and Agency Responses:

The Department heard testimony from four persons at a public hearing on August 2, 1984 at the State Library in Trenton. The Department received written comments from 21 persons regarding the proposed amendment. A summary of testimony presented and comments received on major issues and the Department responses thereto, are presented below. The Department has prepared a Report of Public Hearing which summarizes all relevant testimony comments and Department responses thereto. Copies of the transcript of the hearing, the written comments regarding the proposed amendments, and the Report of Public Hearing are available for inspection at the Bureau of Air Pollution Control, John Fitch Plaza, Labor and Industry Building, Room 1110, Trenton, New Jersey 08625.

The majority of the comments were related to certain general concepts and these are briefly summarized below:

1. Many commentators asked for a clarification as to when a replacement of equipment represented an "alteration" and when such replacement represented an "amendment" to a permit. The Department will classify any replacement of equipment as either an alteration or an amendment to the

ENVIRONMENTAL PROTECTION

permit and certificate, based on information submitted to the Department. If the state of the art of air pollution control has not changed, a replacement which is identical or equivalent for the purposes of air pollution control to the existing equipment is treated as an amendment. If a proposed change or replacement of equipment does not represent the state of the art, the change or replacement is not permitted. This qualification is applicable even if the replacement is with identical or similar equipment.

2. Some commentators suggested that equipment malfunctions not be considered violations of a permit and certificate and, therefore, be exempt from enforcement action. The Department is reviewing the issue of whether to amend N.J.A.C. 7:27 to add a malfunction provision. In the interim, the Department will continue its policy of taking enforcement action which it deems appropriate for the specific situation.

3. Other commentators suggested that the Department establish a de minimis level of pollutant emissions to determine whether water and wastewater treatment systems would require an air permit. In response to the comments, the Department has revised N.J.A.C. 7:27-8.2(a)15 to add de minimis levels for concentrations of individual toxic volatile organic substances and total concentration of volatile organic substances. Water treatment equipment which treats water having contaminant concentrations less than those specified will not be required to obtain an air pollution control permit.

4. A fourth area of concern was related to setting requirements during permit review which are more stringent than requirements in a rule dealing with the specific type of emission source or pollutant. The requirement for incorporation of advances in the art of air pollution control when new equipment is installed is a requirement of N.J.S.A. 26:2C-9.2 and is applied as a standard during permit processing to minimize air contaminant emissions from new and altered sources in the State.

5. Finally, some commentators raised questions about the effect of the increased fees and whether the new fees were related to only permitting activities. Prior to proposing the revised fee schedule, the air program performed a statistical analysis of the permit applications submitted during 1983 to ascertain the effect of the proposed fee schedule on the regulated community. Discussion of this analysis was contained in the basis and background document which accompanied the proposal. The Department determined that the new fee schedule is low to moderate in cost compared to fee schedules in the nation. Also, the Department documented that the service fee schedule was directly related to the costs of the activities associated with the permitting process.

SUMMARY OF REVISIONS TO PROPOSAL

N.J.A.C. 7:27-2.1: Definitions

A definition of "air stripping equipment" was added in order to clarify N.J.A.C. 7:27-8.2(a)15. The definition of "alteration" clarified when a replacement will be considered an alteration, and the definition of "amendment" clarified when a replacement of equipment will be considered an "amendment"; the definition was further revised so that changing the content in any storage tank is an "amendment," and not an "alteration". At the definitions for "domestic treatment works", "dump" publicly owned treatment works "and solid waste facility" actual definitions were incorporated. The definitions of "indirect emissions" and "storage treatment tanks" were clarified, and the definition of "uncontaminated water" was deleted.

N.J.A.C. 7:27-8.2: Permits and certificates required the changes clarified that the provisions address only new or

altered pollution control apparatus or equipment, N.J.A.C. 7:27-8.2(a); technical revisions were made at 7:27-8.2(a)8 and 9, and N.J.A.C. 7:27-8.2(a)15 added a de minimis level for toxic volatile organic substances of 100 parts per billion by weight and a total volatile organic substance concentration of 3500 parts per billion by weight; and other technical changes were made.

N.J.A.C. 7:27-8.3: General provisions

It was clarified that the Department would not accept modelling when an operating certificate was renewed, but could request modelling during a permit review, at N.J.A.C. 7:27-8.3(c).

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

CHAPTER 27 BUREAU OF AIR POLLUTION CONTROL

SUBCHAPTER 8. PERMITS AND CERTIFICATES

7:27-8.1 Definitions

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

“Air contaminant” means solid particles, liquid particles, vapors or gases which are discharged into the outdoor atmosphere.

“**Air stripping equipment**” means equipment used to transfer volatile organic substances from water into the atmosphere, including, but not limited to, packed columns and water spray equipment.*

“Alteration” means any change made to equipment or control apparatus or the use thereof, or in a process; including but not limited to any physical change, change in material being processed or a change in the rate of production except where such a production rate change does not increase the quantity of air contaminant emitted or does not change the quality or nature of the air contaminant emitted. ***This term shall include replacement of the equipment or control apparatus if the replacement is not equivalent for the purpose of air pollution control to that which is being replaced or does not continue to represent advances in the art of air pollution control developed for the kind and amount of air contaminant emitted.***

“Amendment” means any revision to a permit or operating certificate which does not reflect a change in the quality, nature, or quantity of emissions to the outdoor atmosphere or a change in the effect of the emissions on ambient air quality. The term shall not include alteration.

1. The term shall ***[not]*** include replacement of the equipment or the control apparatus ***[unless]*** ***if*** the replacement is ***[identical]*** ***equivalent for the purposes of air pollution control*** to that which is being replaced and continues to represent advances in the art of air pollution control developed for the kind and amount of air contaminant emitted.

2. A revision to a permit or operating certificate for the sole purpose of registering a change in the contents of a storage tank ***[at a public storage terminal]***, which change does not require any physical or mechanical alteration of the equipment or additional air pollution control requirements, shall be considered an amendment.

“Banking” means reserving approved emission reductions for future use as emission offsets.

“Certificate” means either an operating certificate or a temporary operating certificate.

“Commercial fuel” means solid, liquid, or gaseous fuel normally produced or manufactured, and sold for the purpose of creating useful heat.

“Control apparatus” means any device which prevents or controls the emission of any air contaminant.

“Conveyorized surface cleaner” means a surface cleaner through which the parts to be cleaned are moved by means of a continuous, automatic system.

“Department” means the New Jersey Department of Environmental Protection.

“Distillates of air” means helium (He), nitrogen (N₂), oxygen (O₂), neon (Ne), argon (Ar), krypton (Kr), xenon (Xe), and carbon dioxide (CO₂).

“Domestic treatment works”***[**: See N.J.A.C. 7:14A.]*** means a publicly or privately owned treatment works and shall include a treatment works processing domestic wastes together with any ground water, surface water, storm water or industrial process wastewater that may be present.***

“Dump”***[**: See N.J.A.C. 7:26-1.4.]*** means a land site at which solid waste is disposed of in a manner which does not protect the environment, is susceptible to open burning, or is exposed to the elements, vectors and scavengers.***

“Equipment” means any device capable of causing the emission of an air contaminant into the open air, and any stack, chimney, conduit, flue, duct, vent, or similar device connected or attached to, or serving the equipment. This shall include equipment in which the preponderance of the air contaminants emitted is caused by the manufacturing process.

“Incinerator” means any device, apparatus, equipment, or structure used for destroying, reducing or salvaging by fire any material or substance including but not limited to refuse, rubbish, garbage, trade waste, debris or scrap, or a facility for cremating human or animal remains.

“Indirect emissions” means a discharge of air contaminants through openings ***not necessarily designed for that purpose***, including but not limited to doors, windows, exhaust fans, ventilators, and roof monitors^{*}, rather than directly to the atmosphere through a stack or chimney^{*}.

“Liquid particles” means particles which have volume but are not of rigid shape and which upon collection tend to coalesce and create uniform homogeneous films upon the surface of the collecting media.

“Manufacturing process” means any action, operation or treatment embracing chemical, industrial, manufacturing, or processing factors, methods or forms including, but not limited to, furnaces, kettles, ovens, converters, cupolas, kilns, crucibles, stills, dryers, roasters, crushers, grinders, mixers, reactors, regenerators, separators, filters, reboilers, columns, classifiers, screens, quenchers, cookers, digesters, towers, washers, scrubbers, mills, condensers or absorbers.

“Mathematical combination” means the summation of the emissions from two or more stacks or chimneys and the regulation of those emissions as if they came from the same sources venting through a single stack.

“Non-commercial fuel” means solid, liquid or gaseous fuel not normally produced or manufactured, and sold for the purpose of creating useful heat.

“Operating certificate” means a “Certificate to Operate Control Apparatus or Equipment” issued by the Department pursuant to Section 13 of the Air Pollution Control Act of 1954, as amended, P.L. 1967, c. 106 (N.J.S.A. 26:2C-9.2), which is valid for a period of five years from the date of issuance, unless sooner revoked by the Department.

"Particles" means any material, except uncombined water, which exists as liquid particles or solid particles at standard conditions.

"Permit" means a "Permit to Construct, Install or Alter Control Apparatus or Equipment" issued by the Department pursuant to Section 13 of the Air Pollution Control Act of 1954, as amended, of P.L. 1967, c. 106 (N.J.S.A. 26:2C-9.2).

"Person" includes corporations, companies, associations, societies, firms, partnerships and joint stock companies, as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

"Prevention of significant deterioration" or PSD means a permitting process as defined in Title 40, Part 52 of the Code of Federal Regulations which is applicable to new or modified major emitting sources locating in areas attaining the national ambient air quality standards for at least one air contaminant.

"***Publicly* *[Publicly]* owned treatment works**"*: See N.J.A.C. 7:14A.* ***(POTW) means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a "State" or "municipality". This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.***

"Solid particles" means particles of rigid shape and definite volume.

"Solid ***waste facility*** *[Waste Facility: See N.J.A.C. 7:26-1.4.]* ***means any system, site, equipment or building which is utilized for the storage, collection, processing, transfer, transportation, separation, recycling, recovering or disposal of solid waste.***

"Source operation" means any manufacturing process or any identifiable part thereof emitting an air contaminant into the outdoor atmosphere.

"Stack or chimney" means a flue, conduit or opening designed, constructed, and/or utilized for the purpose of emitting air contaminants into the outdoor atmosphere.

"Standard conditions" means 70 degrees Fahrenheit and one atmosphere pressure (14.7 psia or 760 mm Hg).

"Storage tank" means any tank, reservoir, or vessel which is a container for liquids or gases, wherein no manufacturing process, or part thereof, ***other than filling or emptying*** takes place.

"Surface cleaner" means a device to remove unwanted foreign matter from the surfaces of non-porous or non-absorbent materials by using VOS in the liquid or vapor state.

"Temporary operating certificate" means a "Certificate to Operate Control Apparatus or Equipment" issued by the Department pursuant to Section 13 of the Air Pollution Control Act of 1954, as amended, of P.L. 1967, c. 106 (N.J.S.A. 26:2C-9.2), which is valid for a period not to exceed 90 days.

["Uncontaminated water," for the purpose of N.J.A.C. 7:27-8, means water which meets the provisions of the Safe Drinking Water Act (N.J.S.A. 58:12A-1), and in which the concentration of total volatile organic substances is less than 100 micrograms per liter.]

"Volatile Organic Substances," or VOS, means any organic substances, mixture of organic substances, or mixture of organic and inorganic substances including, but not limited to, petroleum crudes, petroleum fractions, petrochemicals, solvents, diluents, and thinners which have vapor pressures or sums of partial pressures of organic substances of 0.02 pounds per square inch (1 millimeter of mercury) absolute or greater measured at standard conditions; and, in the case of surface coating formulations, includes any coalescing or other agent, regardless of vapor pressure, which evaporates from

the coating during the drying phase; but does not include methane, trichlorofluoromethane, dichlorodifluoromethane, chlorodifluoromethane, trifluoromethane, 1, 1, 2 trichloro-1, 2, 2 trifluoroethane, 1, 2 dichloro-1, 1, 2, 2 tetrafluoroethane, and chloropentafluoroethane.

7:27-8.2 Permits and certificates required

(a) ***New or altered control* *[Control]* apparatus and equipment for which a permit and an operating certificate are required*, pursuant to the provisions of N.J.A.C. 7:27-8.3,* include:**

1. All control apparatus;
2. Equipment used in a manufacturing process involving surface coating including, but not limited to, spray and dip painting, roller coating, electrostatic depositing or spray cleaning, from which direct or indirect emissions of air contaminants occur and in which the quantity of material used in any source operation is equal to or greater than one gallon in any one hour;
3. All unheated open top surface cleaners having a top opening of greater than six square feet (0.56 square meters);
4. All heated open top surface cleaners;
5. All conveyORIZED surface cleaners;
6. Equipment, in addition to that set forth in (a)3, (a)4, and (a)5 above, used in a manufacturing process involving surface cleaning or preparation including, but not limited to, degreasing, etching, pickling, or plating, from which direct or indirect emissions of air contaminants occur from a tank or vessel, the capacity of which is in excess of 100 gallons;
7. Equipment, used in a manufacturing process, other than as set forth in (a)2, (a)3, (a)4, (a)5, and (a)6 above, from which direct or indirect emissions of air contaminants occur and in which the combined weight of all materials, excluding air and water, introduced into any one source operation is in excess of 50 pounds in any one hour;
8. Stationary storage tanks which have a capacity in excess of 10,000 gallons and which are used for the storage of liquids, except ***[uncontaminated]* water or distillates of air. A storage tank maintained under a pressure greater than one atmosphere *[gauge]* is exempt from the provisions of N.J.A.C. 7:27-8 provided that any vent serving such storage tank has the sole function of relieving pressure under emergency conditions;**
9. Stationary storage tanks which have a capacity of 2000 gallons or greater and which are used for the storage of volatile organic substances. A storage tank maintained under a pressure greater than one atmosphere ***[gauge]* is exempt from the provisions of N.J.A.C. 7:27-8 provided that any vent serving such storage tank has the sole function of relieving pressure under emergency conditions;**
10. Tanks, reservoirs, containers and bins which have a capacity in excess of 2,000 cubic feet and which are used for the storage of solid particles;
11. Stationary material handling equipment using pneumatic, bucket or belt conveying systems from which direct or indirect emissions of air contaminants occur;
12. Commercial fuel burning equipment having a heat input rate of 1,000,000 BTU per hour or greater to the burning chamber;
13. Any equipment used for the burning of noncommercial fuel, crude oil or process by-products in any form;
14. Any incinerator, except incinerators constructed, installed or used in one or two-family dwellings or in multi-occupied dwellings containing six or less family units, one of which is owner occupied.

15. Waste or water treatment equipment which emits air contaminants, including, but not limited to, air stripping [columns] *equipment*, aeration [ponds] *basins*, and lagoons*.* *[*]; but not including] *An air pollution control permit is not required for:

i. Any water treatment equipment if the concentration of each toxic volatile organic substance included in N.J.A.C. 7:27-17 does not exceed 100 parts per billion by weight and the total concentration of VOS does not exceed 3,500 parts per billion by weight; or

ii. Potable water treatment equipment, except air stripping equipment with a capacity greater than 100,000 gallons per day; or

iii. Aeration * [aeration] * basins *and lagoons* at * [publicly-] *publicly* owned treatment works*;* or

iv. Aeration basins and lagoons at domestic treatment works*.*

[of any size, or potable water treatment equipment with a capacity of less than 100,000 gallons per day.]

16. Equipment used for the purpose of venting a closed or operating dump or solid waste facility directly or indirectly into the outdoor atmosphere.

7:27-8.3 General provisions

(a) No person shall construct, install or alter any equipment or control apparatus without first having obtained a permit. Such permit may be cancelled if construction, installation or alteration is not begun within one year from the date of issuance.

(b) No person shall use or cause to be used any new or altered equipment or control apparatus without first having obtained a certificate. In order to insure timely renewal of an operating certificate, an application for renewal of an operating certificate shall be made to the Department not less than 90 days prior to the expiration date of the operating certificate.

(c) Upon request of the Department, the applicant *for a permit* shall demonstrate by air quality simulation modeling acceptable to the Department that the maximum controlled emissions stated on the permit application will not cause a violation of any ambient air quality standard as defined in N.J.A.C. 7:27-13, prevention of significant deterioration increment as defined in Title 40, Part 52 of the Code of Federal Regulations, or other criteria established by the Department to protect the public health and welfare from air pollution.

(d) Any person in possession of a permit or certificate shall make said permit and certificate readily available for inspection on the operating premises.

(e) No person shall use or cause to be used any equipment or control apparatus unless:

1. All conditions and provisions of the permit and certificate are fulfilled; and

2. All components connected or attached to, or serving the equipment and/or control apparatus are functioning properly and are in use in accordance with the permit and certificate.

(f) A permit or certificate shall not be transferable either from one location to another or from one piece of control apparatus or equipment to another. A transfer of a permit and certificate from one person to another is permissible provided a request for such transfer is made to the Department within 90 days of a change in ownership.

(g) The possession of a permit or certificate does not relieve any person from the obligation to comply with all other provisions of N.J.A.C. 7:27.

(h) Permits and certificates issued under N.J.A.C. 7:27-8 are based on emissions of air contaminants only and do not in

any way relieve the applicant from the obligation to obtain necessary permits from other governmental agencies.

(i) The provisions of (a) and (b) above shall not apply to structural changes, repairs or maintenance to control apparatus or equipment, if such changes, repairs or maintenance will not change the quality, nature or quantity of the air contaminants emitted.

7:27-8.4 Applications for permits and certificates

(a) Applications for a permit or a certificate shall be made to the Department on forms provided by the Department.

(b) The Department may require such details regarding the equipment or control apparatus as it considers necessary to determine that the equipment or control apparatus is designed to operate without causing a violation of any provisions of relevant State or Federal laws or regulations and that the equipment or control apparatus incorporates advances in the art of air pollution control developed for the kind and amount of air contaminant emitted by the applicant's equipment. Such information may include description of processes, raw materials used, operating procedures, physical and chemical nature of air contaminants, volume of gas discharged, and such other information as the Department considers necessary. All such information shall be public except that which is designated confidential in accordance with N.J.S.A. 26:2C-9.2.

(c) Before an operating certificate or any renewal thereof is issued, the Department may require the applicant to conduct such tests as are necessary at the discretion of the Department to determine the kind and amount of air contaminants emitted from the equipment or control apparatus. Such tests shall be conducted in a manner approved by the Department and shall be made at the expense of the applicant. The applicant shall give the Department no less than 48 hours advance notice of the time of the start of the test. The test results shall be reviewed and certified by a New Jersey licensed Professional Engineer, or by an industrial hygienist who has been certified by the American Board of Industrial Hygiene.

(d) Any person applying for a certificate or a renewal thereof, or to whom such certificate has been issued shall, when requested by the Department, provide such sampling facilities exclusive of instrumentation and sensing devices as may be necessary for the Department to determine the kind and amount of air contaminants emitted from the equipment or control apparatus. During such testing by the Department, the equipment and control apparatus shall be operated under such conditions within their capacities as may be requested by the Department. The facilities may be either permanent or temporary, at the discretion of the person responsible for their provision, and shall conform to all applicable laws and regulations concerning safe construction and safe practice.

7:27-8.5 Denials and conditional approvals

(a) The Department shall deny an application for a permit or certificate if construction or operation of control apparatus or equipment pursuant to the application would result in a violation of any provision of N.J.A.C. 7:27 or an exceedance of:

1. Any ambient air quality standard established in N.J.A.C. 7:27-13; or

2. Any national ambient air quality standard established in Title 40, Part 50 of the Code of Federal Regulations; or

3. Any applicable prevention of significant deterioration increment as defined in Title 40, Part 52 of the Code of Federal Regulations; or

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4. Other criteria established by the Department to protect the public health and welfare from air pollution.

(b) The Department shall deny an application for a permit unless the applicant shows, to the satisfaction of the Department, that the equipment incorporates advances in the art of air pollution control developed for the kind and amount of air contaminant emitted by the applicant's equipment.

(c) The Department may include, as a condition of approval of an application for a certificate, the requirement that an applicant perform any of the following:

1. Conduct periodic sampling and analysis of fuels or other feed material to equipment;
2. Provide instrumentation and sensing devices to determine the kind and amount of air contaminants emitted;
3. Provide instrumentation and sensing devices to demonstrate that operating parameters affecting air contaminant emissions are maintained within limits specified by the Department; and
4. Submit reports of such analysis and monitoring results in accordance with a format and schedule approved by the Department.

7:27-8.6 Service Fees

(a) Any person subject to the provisions of N.J.A.C. 7:27-8 shall submit with each application for a permit, a certificate, an amendment, a mathematical combination, or banking, as an integral part thereof, a non-refundable service fee in accordance with the following schedule:

SERVICE FEE SCHEDULE

ACTIVITY	BASIS	AMOUNT
Base Fee	Per New or Altered Source Operation	\$250.00
Amendments	Per Permit	50.00
Renewals	Per Operating Certificate	75.00
Banking		
Application	Per Source Operation	100.00
Verification	Per Source Operation	100.00
Use	Per Source Operation	100.00
Prevention of Significant Deterioration	Per Application	500.00
Mathematical		
Combination	Per Application	500.00
(Bubble)	Per Source Operation	250.00
Modeling Analysis		
Evaluation	Per Evaluation	500.00

(b) An additional service fee will not be assessed solely for the failure by the applicant to submit a complete application, pursuant to N.J.A.C. 7:27-8, provided that the applicant, within 90 days of the written request from the Department, submits, in writing, the requested supplementary information to the Department.

HEALTH

(a)

PARENTAL AND CHILD HEALTH SERVICES

Birth Defects Registry: Live Births

Adopted New Rule: N.J.A.C. 8:20-1

Proposed: November 19, 1984 at 16 N.J.R. 3118(a).
Adopted: February 8, 1985 by J. Richard Goldstein, M.D., Commissioner, Department of Health.
Filed: February 11, 1985 as R.1985 d.92, **without change.**

Authority: N.J.S.A. 26:8-40.20 et seq., specifically 26:8-40.26.

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): March 4, 1990.

Summary of Public Comments and Agency Responses:

COMMENTS: One comment was received, which expressed concern regarding responsibility for obtaining informed consent 8:20-1.2(j). The opinion expressed was that the State Department of Health should be responsible for obtaining informed consent for release of information for research studies, rather than the health care facility or independent laboratory.

RESPONSE: There is no requirement for the hospital to obtain consent. All studies requiring collection of identifying data will have prior approval from the Department to assure protection of human subjects. The initial step in any research study involving contact with parents will be to obtain informed consent from the parents to proceed with the study.

Full text of the adoption follows:

CHAPTER 20 BIRTH DEFECTS REGISTRY

SUBCHAPTER 1. LIVE BIRTHS

8:20-1.1 Definitions

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

"Birth defect" means an abnormality of the body's structure or inherent function which is present at birth, whether such abnormality is manifest at the time of delivery or becomes apparent later in life.

"Infant" means a child from birth to one year of age.

8:20-1.2 Reporting requirement

(a) Any infant who is born to a resident of the State of New Jersey, or who becomes a resident of the State before one year of age, and who shows evidence of a birth defect either at birth or any time during the first year of life shall be reported to the State Department of Health, Special Child Health Services Program.

1. For reporting purposes, the conditions listed as Congenital Anomalies (Diagnostic Codes 740.00 through 759.90) in the most recent revision of the International Classification of Diseases, Clinical Modification, and other congenital defects specified by the Commissioner of Health shall constitute reportable defects. The Commissioner of Health shall promulgate a list of required reporting defects.

(b) Any live born infant with a birth defect and who subsequently expires shall be reported. Such reports shall indicate the infant has expired.

(c) The administrative officer of every health care facility shall be responsible for establishing the reporting procedures for that facility. The reporting procedures must insure that

every infant who is initially diagnosed as having a birth defect shall be reported to the Department. If an infant is transported from one health care facility to another, the health care facilities at which the diagnosis is made shall be responsible for reporting.

(d) Every physician, dentist and certified nurse midwife shall report to the Department on initial diagnosis, each infant diagnosed as having a birth defect, not known to be previously reported.

(e) The director of every clinical laboratory shall report to the Department results of postmortem examination from any infant indicating the existence of a birth defect, not known to be previously reported.

(f) The information to be reported shall be provided upon forms supplied by the State Department of Health:

Special Child Health Services Program
CN 364
Trenton, New Jersey 08625

(g) The reports made pursuant to these rules are to be used only by the Department of Health and other agencies that may be designated by the Commissioner of Health and shall not otherwise be divulged or made public so as to disclose the identity of any person; and such reports shall not be included under materials available to public inspection pursuant to P.L. 1963, c.73 (C.47:1A-1 et seq.).

(h) All registrations shall be made within 30 days of the date when the birth defect was diagnosed.

(i) When a live infant is registered, the Department shall inform the parent or legal guardian of the registration.

(j) Every health care facility and independent clinical laboratory shall allow access to, or provide necessary information on infants with birth defects and other patients specified by characteristics for research studies related to birth defects conducted by the State Department of Health and which have been approved by the State Commissioner of Health after appropriate review for assuring protection of human subjects. This shall include patients who came under the care of the Health care facility prior to the effective date of the regulations.

(a)

CONSUMER HEALTH SERVICES

**Controlled Dangerous Substances
Rescheduling of Sufentanil to Schedule II**

**Adopted Amendment: N.J.A.C. 8:65-10.1
and 10.2**

Proposed: November 5, 1984 at 16 N.J.R. 2900(a).
Adopted: January 30, 1985 by J. Richard Goldstein,
M.D., Commissioner, Department of Health.
Filed: February 1, 1985 as R.1985 d.83, **without
change.**

Authority: N.J.S.A. 24:21-3.

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): Exempt under N.J.S.A. 24:21-3.

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

Full text of the adoption follows.

8:65-10.1 Controlled dangerous substances: Schedule I

(a) (No change.)

(b) Opiates: (No change.)

1. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation (listed by generic/established or chemical name with CDS code):

...	
Racemoramide	9645
Tilidine	9750
Trimeperidine	9646

2.-6. (No change.)

8:65-10.2 Controlled dangerous substances: Schedule II

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

2. Opiates: Unless specifically excepted or unless in another schedule any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextorphan and levoproxyphene excepted, (listed by generic/established or chemical name with CDS code):

...	
Racemorphan	9733
Sufentanil	9740

3.-6. (No change.)

(b)

CONSUMER HEALTH SERVICES

**Controlled Dangerous Substances
Exempt Chemicals**

Adopted Amendment: N.J.A.C. 8:65-10.8

Proposed: December 3, 1984 at 16 N.J.R. 3280(a).
Adopted: January 30, 1985 by J. Richard Goldstein,
M.D., Commissioner, Department of Health.
Filed: February 1, 1985 as R.1985 d.84, **without
change.**

Authority: N.J.S.A. 24:21-3.

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): Exempt under N.J.S.A. 24:21-3.

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

Full text of the adoption follows.

8:65-10.8 Exempt chemical preparations

(a) A list of preparations and mixtures in 21 C.F.R. 1308.24(i) as amended through Volume 48, No. 199, of the Federal Register dated October 13, 1983, which in the form and quantity listed in the application (indicated as the "date of application") are designated exempt chemical preparations and are not subject to the provisions of the New Jersey Controlled Dangerous Substances Act.

(b) A complete listing of these preparations and mixtures subject to the proposal may be reviewed in the Office of Drug Control, Consumer Health Services, CN 362 129 E. Hanover St., Trenton, NJ 08625 (609-984-1308).

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Hospital and Special Hospital Services Manual Covered and Non-Covered Inpatient Hospital Services

Adopted Amendments: N.J.A.C. 10:52-1.2, 1.3; 10:53-1.2, 1.3

Proposed: March 19, 1984 at 16 N.J.R. 483(a).
Adopted: February 7, 1985 by George J. Albanese,
Commissioner, Department of Human Services.
Filed: February 7, 1985 as R.1985 d.87, **with substantive
and technical changes** not requiring additional public
notice and comment (N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 30:4D-6(a)(1), 7 and 7b.

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): N.J.A.C. 10:52-1 Manual for Hospital
Services, February 9, 1989; N.J.A.C. 10:53-1 Manual
for Special Hospital Services, June 13, 1989.

Summary of Public Comments and Agency Responses:

There was one comment submitted by Arthur T. Dunn, President, Hospital Center at Orange. Mr. Dunn objected to social necessity days being reimbursed at a nursing home rate, especially in those cases involving child abuse because the cost of care provided these patients would be higher than the nursing home rate.

The Division's position is that both federal law (1861(v)(1)(G) can be cited as 42 U.S.C. 1395x) and regulations (42 CFR 447.253(b)(1)(B)) require that the rate of reimbursement reflect the level of care actually received. The Division was also required to give an assurance that accompanied the state plan amendment on the DRG (Diagnosis Related Group) reimbursement methodology for inpatient hospitalization that the rate of reimbursement would reflect the level of care actually received. In New Jersey, the PRO (Peer Review Organization) is currently determining level of care for hospitalized patients.

Summary of Changes Between Proposal and Adoption:

The Division is revising the text of N.J.A.C. 10:52-1.2(a) 19iv (Manual for Hospital Services) and 10:53-1.2(a)19iii (Manual for Special Hospital Services) to indicate that payment will be made at the statewide weighted average skilled or intermediate care rate. The Division is using a statewide weighted average rate for both skilled and intermediate nursing level care to comply with the federal law and regulations

cited in the summary of public comments. Since the New Jersey Medicaid Program includes both skilled and intermediate nursing level care, then a separate rate must be developed for each level of care.

The Division is deleting two subparagraphs (10:52-1.2(a)19v and 10:53-1.2(a)19iv) because the language is redundant with respect to skilled nursing facilities. The preceding subparagraphs (10:52-1.2(a)19iv and 10:53-1.2(a)19iii), as amended in this adoption, contain the language required by federal law and regulations.

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

10:52-1.2 Covered inpatient hospital services

(a) Subject to the general limitations and exclusions and those hereinafter specified, hospital care and services shall include:

1. through 18. (No change.)

19. Inpatient hospital services rendered after the day it is medically necessary only under the following conditions:

i. For patients awaiting discharge or transfer to other than a long-term care facility, a hospital may be reimbursed for up to 12 calendar days following the period established as being medically necessary for acute care if special circumstances (social necessity) prevent the discharge or transfer of the patient and the hospital has taken effective actions to stimulate discharge of the patient.

(1) Effective action is defined as telephone notification to the county welfare agency, Division of Youth and Family Services district office or other responsible officials, as may be designated, within 48 hours of the time that the stay has been determined to be no longer medically necessary. This telephone contact must be then confirmed in writing within three working days. A copy of the written notification must be submitted with all claims for which reimbursement is claimed for special circumstances (social necessity).

ii. Payment for social necessity days will be made to hospitals participating in the Diagnosis Related Group (DRG) Program according to regulations promulgated under the Department of Health N.J.A.C. 8:31B-3.79(b)ii (Hospital Rate Setting) as currently exists or may be amended hereafter.

iii. For patients awaiting placement in a long-term care facility (Skilled Nursing Facility, Intermediate Care Facility A or B) if the hospital can demonstrate that:

(1) All possible third party liability, including Medicare benefits, have been utilized;

(2) The care and services provided are medically necessary, i.e., the patient requires skilled nursing or intermediate levels A or B care in a long-term care facility; the inpatient hospital form (MC-1) was submitted to the appropriate Medicaid District Office upon admission;

(3) Discharge planning was initiated upon admission of the patient to the hospital, reviewed, and updated regularly;

(4) The attending physician has written a discharge order from acute care; or made a written entry in the Medical Record that the patient can be transferred to a long-term care facility;

(5) Placement could not be made in a long-term care facility as substantiated by documentation of timely and continuous contact with family members, long-term care facilities and placement agencies;

(6) Notification that the patient requires placement in a long-term care facility is to be made to the appropriate county

welfare agency (CWA). Verbal notifications must take place within two working days of the time that acute inpatient care is no longer medically necessary, to be followed by a written notification within 72 hours.

iv. Upon satisfaction of all the conditions set forth in iii(1) thru (6), payment will be made at the rate of the appropriate level of care of Medicaid participating long-term care facilities as determined on January 1, of each year. Payment will be made at the *[average skilled of IVA]* ***statewide weighted average skilled or intermediate care*** rate determined by the patient's level of care as assessed by the Division of Medical Assistance and Health Services or its authorized agents.

[v. Payment to hospitals participating in the Diagnosis Related Group (DRG) Program will be reimbursed according to regulations promulgated under the Department of Health N.J.A.C. 8:31B-3.79(b)ii (Hospital Rate Setting) as currently exists or as may be amended hereafter.]

10:52-1.3 Noncovered inpatient hospital services

(a) Benefits are not payable for any services rendered or items dispensed or furnished in connection with:

- 1. through 8. (No change.)
- 9. Inpatient hospital services rendered after the day it is medically necessary, except when special circumstances (social necessity) prevent the discharge or transfer of the patient. (See 10:52-1.2(a)19. for special circumstances.)
- 10. through 15. (No change.)
- 16. Patients for whom the entire inpatient hospital claim has been denied for lack of any medical necessity.
- 17. (No change in text.)

10:53-1.2 Covered inpatient hospital services

(a) Subject to the general limitations and exclusions and those hereinafter specified, hospital care and services shall include:

- 1. through 18. (No change.)
- 19. Inpatient hospital service rendered after the day it is medically necessary only under the following conditions:
 - i. For patients awaiting discharge or transfer to other than a long-term care facility, a hospital may be reimbursed for up to 12 calendar days following the period established as being medically necessary for acute care, if special circumstances (social necessity) prevent the discharge or transfer of the patient and the hospital has taken effective action to stimulate discharge of the patient.

(1) Effective action is defined as telephone notification to the county welfare agency, Division of Youth and Family Services district office or other responsible officials, as may be designated, within 48 hours of the time that the stay has been determined to be no longer medically necessary. This telephone contact must be then confirmed in writing within three working days. A copy of the written notification must be submitted with all claims for which reimbursement is claimed for special circumstances (social necessity).

ii. For patients awaiting placement in a long-term care facility (Skilled Nursing Facility, Intermediate Care Facility A or B) if the hospital can demonstrate that:

- (1) All possible third party liability, including Medicare benefits, have been utilized;
- (2) The care and services provided are medically necessary, i.e., the patient requires skilled nursing or intermediate levels A or B care in a long-term care facility; the Inpatient Hospital Form (MC-1) was submitted to the appropriate Medicaid District Office upon admission;
- (3) Discharge planning was initiated upon admission of the patient to the hospital, reviewed, and updated regularly;

(4) The attending physician has written a discharge order from acute care; or made a written entry in the Medical Record that the patient can be transferred to a long-term care facility;

(5) Placement could not be made in a long-term care facility as substantiated by documentation of timely and continuous contact with family members, long-term care facilities and placement agencies;

(6) Notification that the patient requires placement in a long-term care facility is to be made to the Medicaid District Office in the hospital area. Verbal notifications must take place within two working days of the time that acute inpatient care is no longer medically necessary, to be followed by a written notification within 72 hours.

iii. Upon satisfaction of all the conditions set forth in ii(1) through (6) payment will be made at the rate of the appropriate level of care of Medicaid participating long-term care facilities as determined on January 1, of each year. Payment will be made at the *[average skilled or IVA]* ***statewide weighted average skilled or intermediate care*** rate determined by the patient's level of care as assessed by the Division of Medical Assistance and Health Services or its authorized agents.

[iv. Payment to hospitals participating in the Diagnosis Related Group (DRG) Program will be reimbursed according to regulations promulgated under the Department of Health N.J.A.C. 8:31B-3.79(b)ii. (Hospital Rate Setting) as currently exists or as may be amended hereafter.]

10:53-1.3 Noncovered inpatient special hospital services.

(a) Benefits are not payable for any services rendered or items dispensed or furnished in connection with:

- 1. through 8. (No change.)
- 9. Inpatient hospital services rendered after the day it is medically necessary, except when special circumstances prevent the discharge or transfer of the patient. (See 10:53-1.2(a) 19. for special circumstances.)
- 10. through 15. (No change.)
- 16. Patients for whom the entire inpatient hospital claim has been denied for lack of any medical necessity.

(a)

DIVISION OF PUBLIC WELFARE

Public Assistance Manual

Assignment of Support Rights; Continued Absence

Adopted Amendment: N.J.A.C. 10:81-3.9, 3.17, and 3.40

Proposed: December 3, 1984 at 16 N.J.R. 3282(a).
 Adopted: February 7, 1985 by George J. Albanese, Commissioner, Department of Human Services.
 Filed: February 11, 1985 as R.1985 d.99, **with technical change** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 2A:4-3.1 et al. 44:7-6, 44:10-2, and 44:10-3; 45 CFR 232.11, 45 CFR 302.50 and 45 CFR 303.20(c)(3).

Effective Date: March 4, 1985.
 Expiration Date pursuant to Executive Order No. 66(1978): July 20, 1988.

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

Summary of Changes Subsequent to Proposal:

Due to publication error, the reference at N.J.A.C. 10:81-3.40(d)3 is being changed from "N.J.A.C. 10:81-11.49(d)1" to "N.J.A.C. 10:81-11.4(d)1".

Full text of adoption follows (additions upon adoption indicated in boldface with asterisks ***thus***; deletions upon adoption indicated with brackets and asterisks ***[thus]***).

10:81-3.9 Applicant in AFDC-C and -F

(a) AFDC-C: The term applicant in AFDC-C refers to the parent(s) or parent-person(s) who makes an affirmative decision to apply for financial assistance or, when the applicant is incapacitated or alleged incompetent, someone acting responsibly for him or her (see N.J.A.C. 10:81-2.3(b)1) in order to maintain and provide for one or more dependent children of eligible age who are in his or her care and custody. It shall also include the stepparent when the natural or adoptive parent designates the stepparent as an individual whose presence in the home is essential to his or her well being and elects that such person shall be included (see N.J.A.C. 10:82-2.9).

1.-4. (No change.)

5. Application during pregnancy (all segments): Upon presentation of documented medical evidence of pregnancy, which shall include the estimated date of conception and delivery, a pregnant woman may make application for medical assistance on behalf of her unborn child and for AFDC following the child's birth. One application form will be prepared to cover both requests.

i. (No change.)

ii. The regulations below extend medical assistance (Medicaid Special) on behalf of the unborn child to women age 21 and over and to expectant mothers under age 21 who are not eligible in their own right for Medicaid Special (see N.J.A.C. 10:81-8.23(e)). Persons in either age group may make application for AFDC pending the anticipated birth of the child.

(1) (No change.)

(2) Within 30 days prior to the expected delivery date, the CWA will make a determination regarding eligibility for AFDC, including the evaluation of LRRs. If eligibility is established, money payments will begin following the birth of the child provided the client affirms that she desires assistance and intends to retain care and custody of the child. (See N.J.A.C. 10:82-2.3 regarding initial grants.)

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

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

10:81-3.17 Continued absence of parent from the home

(a) The county welfare agency will make every reasonable effort to locate an absent parent in order to obtain support payments. An absent parent will be given the opportunity to voluntarily support his or her child, but it must be explained to both parents that the extent of support will be established by the court.

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

(d) Eligibility of child born out-of-wedlock:

1.-2. (No change.)

3. Court action may be necessary to establish paternity or to obtain support; in the absence of the mother's willingness to initiate such proceedings, the county welfare agency cannot refuse to grant assistance but may initiate proceedings (see N.J.A.C. 10:81-11.9(d)). This provision must be fully explained to each applicant mother of an out-of-wedlock child.

4. By law, the county welfare agencies are authorized to initiate proceedings to establish paternity and responsibility for support of a child born out-of-wedlock who is a recipient of AFDC-C (see N.J.A.C. 10:81-11.9). This authority should be used only when neither parent is willing to initiate proceedings. Filiation proceedings should be initiated in the Family Division of Superior Court.

(e) Desertion: A parent may be considered "continuously absent from the home" when a condition of desertion is established. A desertion may already be a matter of public record, or may be alleged or assumed.

1.-2. (No change.)

(f) (No change.)

(g) Requesting information regarding deserting parents: The CWA is charged with the general responsibility of reducing the extent of the recipient family's reliance on public assistance payments. In striving for this objective, the CWA shall attempt to effect a resumption of or increase in financial support provided the recipient AFDC-C family by the absent parent within the ability of such parent. In cases of absent parent(s) whose whereabouts are unknown, the CWA will forward Form PA-450 to the State Parent Locator Service (see N.J.A.C. 10:81-11.9).

This is a service to aid and supplement local efforts; the basic obligation for locating parents rests with the county's parent locator service.

10:81-3.40 Repayment

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

(d) Rules when Agreement to Repay is not required:

1.-2. (No change.)

3. Assignment of Support: Upon signing an application for AFDC (PA-1J), the applicant or recipient automatically assigns all support rights (whether for past due or future support) to the CWA. The signing of an Agreement to Repay is therefore not required when the pending payment arises from potential entitlement to payment of support from a relative. The IM worker shall, at the time of application for AFDC-C, complete the appropriate parts of the CSP referral document and forward the document to the CWA/CSP unit (see N.J.A.C. *[10:81-11.49(d)1].)* ***10:81-11.4(d)1.***

(e) (No change.)

(a)

DIVISION OF PUBLIC WELFARE

**General Assistance Manual
Medical Care; Income Levels**

**Adopted Amendment: N.J.A.C. 10:85-3.3
Adopted Repeal: N.J.A.C. 10:85-12**

Proposed: November 19, 1984 at 16 N.J.R. 3165(a).
Adopted: January 30, 1985 by George J. Albanese,
Commissioner, Department of Human Services.
Filed: January 30, 1985 as R.1985 d.81, **without change.**

Authority: N.J.S.A. 44:8-111(d).

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): July 25, 1988.

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

Full text of the adoption follows:

10:85-3.3 Financial eligibility
 (a)-(f) (No change.)
 (g) Medical care: Persons found eligible for General Assistance maintenance payments in accordance with the procedures and standards established in this subchapter (N.J.A.C. 10:85-3) are likewise eligible for medical care (see N.J.A.C. 10:85-5 regarding provision of medical care). In addition, certain other individuals and families are eligible for medical assistance from the MWD or for referral to the county welfare agency.

1. Medically needy: Individuals and families who are ineligible for public assistance (General Assistance, AFDC, Cuban/Haitian Entrant Program or Refugee Resettlement Program) or for SSI payments because their income exceeds the standards established for the applicable program may apply to MWD on a monthly basis for assistance in paying excessive medical costs. The provisions of this subsection are not applicable to the payment of bills for in-patient hospitalization or for medical services rendered to an in-patient.

- i. (No change.)
- ii. Income levels: For the purpose of determining excessive medical costs, the total available monthly income (see (G)liii below) of individuals, couples, or families with children is measured against the appropriate allowance standard. (See N.J.A.C. 10:85-3.1(b) regarding eligible unit concept.) For elderly, blind, or disabled persons, the SSI standard applies. For families with children, the AFDC (C and F) standard applies. (See N.J.A.C. 10:82-1.2 for current AFDC standard.) For all others, the General Assistance standard (Schedule I or II as appropriate) applies. When the AFDC or SSI standards are increased, a Public Notice to that effect will be published in the New Jersey Register. Information about the current standards may also be obtained by contacting the Division of Public Welfare.
- iii.-v. (No change.)
- 2.-4. (No change.)

(a)

DIVISION OF PUBLIC WELFARE

**General Assistance Manual
 Other Programs**

**Readoption: N.J.A.C. 10:85-8
 Adopted Amendments: N.J.A.C. 10:85-8.2,
 8.4 and 8.6**

Proposed: November 19, 1984 at 16 N.J.R. 3166(a).
 Adopted: January 30, 1985 by George J. Albanese, Commissioner, Department of Human Services.
 Filed: January 30, 1985 as R.1985 d.80, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 44:8-111(d).

Effective Date: January 30, 1985.
 Expiration Date pursuant to Executive Order No. 66(1978): January 30, 1990.

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

Summary of Changes Subsequent to Proposal:

- 10:85-8.2(c)4 Since the Medical Assistance to the Aged program only serves ongoing cases, no new referrals can be made; thus, this material has been deleted.
- 8.4(e)lii Correction of address.
- 8.4(f)2 Corrected publication errors of DYFS Central Region telephone numbers.
- 8.4(g)2i-ii The acronyms "CRA and IRP", which refer to obsolete programs, have been replaced with "RRP and CHEP"; and reference to the "local medical assistance units" has been changed to "Medicaid District Offices".
- 8.4(i) Correction of title.
- 8.4(i)3 Correction of address.
- 8.6(c)li Grammatical correction.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 10:85-8.

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

- 10:85-8.2 Referral to county welfare agency
 (a)-(b) (No change.)
 (c) County welfare agency programs: Programs administered by the county welfare agency include the following:
 1.-3. (No change.)
 *4. Medical assistance to the aged: This State program provides payment for hospitalization, care in long term-care facilities, or home health care to certain persons age 65 or over who do not qualify for participation in the SSI or AFDC program.
 i. Eligibility requirements: Eligibility requirements for this program are available from the Division of Public Welfare; however, income standards are generally lower than those for the Medicaid Only program (see (c)2 above).]*
 Renumber 5.-7. as 4.-6. (No change.)
 6. Home Energy Assistance: This Federal/State program offers payment to assist eligible households to meet the cost of home energy used to heat or cool residential dwellings.
 i. Eligibility requirements: Eligibility requirements for the Home Energy Assistance program are available from the county welfare agency.

- 10:85-8.4 Referral to State agencies
 (a)-(d) (No change.)
 (e) Division of Unemployment and Disability Insurance: This State agency, which is a division of the New Jersey Department of Labor and Industry, administers the following programs:
 1. New Jersey temporary disability insurance program: This program pays cash benefits to a person who cannot work because of sickness or injury not caused by his or her job.
 i. Eligibility requirements: A person must have at least 20 base weeks of employment in the 52 weeks immediately preceding the week in which he or she became disabled, in order to have a valid claim. (A base week is one in which a person earned at least \$41.00 working for a New Jersey covered employer.) In addition, a physician, dentist, osteopath, chiropractor, or chiropractor must certify that the claimant is too disabled, to continuously do the regular work which he or she was doing immediately before becoming disabled.

ADOPTIONS

ii. How to apply for benefits: Workers covered by a private plan who became disabled should advise their employers as soon as possible and ask for the necessary form to claim benefits. To claim benefits under the State plan (workers who are not covered under a private plan are automatically covered under the State plan), a person must obtain Form DS-1 (Claim for State disability benefits) from *[his/her]* ***his or her*** employer, union, or nearest office of the State Employment Service. This may be done by telephone or letter. Mail the completed claim immediately to the Disability Insurance Service, *[P.O. Box 825]* ***CN 387***, Trenton, New Jersey 08625. (A person may lose some or all of *[his/her]* ***his or her*** benefits if a claim is filed more than 30 days after the start of the disability.)

iii. (No change.)

2. State unemployment insurance: This program pays cash benefits to covered workers who have lost their jobs through circumstances beyond their control, or who are working less than full-time because of a lack of full-time work.

i. Eligibility requirements: A person must have wages of at least \$51.00 in each of 20 weeks, or have earned \$4,100 or more during the base year in employment covered by the unemployment compensation law of New Jersey. (A base year is the first 52 of the 53 weeks preceding the date of the filing of the claim). In addition, the claimant must register for work with the New Jersey State Training and Employment Service, be able and available for work at all times, make an active search for work, and report to the unemployment office as directed.

ii.-iii. (No change.)

(f) Division of Youth and Family Services (DYFS): This State agency, which is a division of the New Jersey Department of Human Services, administers foster care, homemaker services, adoption, counseling, residential placement, parole supervision, and child abuse services.

1. (No change.)

2. How to apply for services: Information and application for adoption services may be made at one of the division's four regional offices. The DYFS regional offices are listed below:

Northern Regional Office 100 Hamilton Plaza Paterson, N.J. 07505 201-977-4000	Central Regional Office 719 Alexander Rd. Princeton, N.J. 08540 609-452-7728
Metropolitan Regional Office 1180 Raymond Blvd. 18th Floor Newark, N.J. 07102 201-648-4100	Southern Regional Office 302 North White Horse Pike P.O. Box 594 Hammonton, N.J. 08037 609-567-0010

Information and application for all other services may be made at the division's district office serving the area in which the MWD is located. The DYFS district offices are listed below:

**DIVISION OF YOUTH AND FAMILY SERVICES
DISTRICT OFFICES**

Northern Region

Bergen District Office 190 Main Street Hackensack, NJ 07601 201-487-5380	Morris District Office 121 Center Grove Road Randolph, NJ 07869 201-361-8400
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HUMAN SERVICES

Bayonne District Office (Southern Jersey City & Bayonne) 5 West 22nd Street Bayonne, NJ 07002 201-823-5000	Paterson District Office 2 Market Street Paterson, NJ 07501 201-977-4525
Jersey City District Office (Northern Jersey City) 550 Summit Avenue Jersey City, NJ 07306 201-653-5750	Sussex District Office 200 Woodport Road Sparta, NJ 07871 201-729-9163
North Hudson District Office (Municipalities North of Jersey City) 6033-6045 Kennedy Blvd. North Bergen, NJ 07047 201-854-7100	Warren District Office 323 Front Street P.O. Box 126 Belvidere, NJ 08723 201-475-3903

Metropolitan Region

Suburban Essex District Office 123 Cleveland Street Orange, NJ 07050 201-648-3100	Newark District Office III 1100 Raymond Blvd., Room 101-C Newark, NJ 07102 201-648-2669
Newark District Office I 1100 Raymond Blvd., Room 305 Newark, NJ 07102 201-648-4200	Union District Office 208 Commerce Place, 2nd Floor P.O. Box 602 Elizabeth, NJ 07201 201-648-4777
Newark District Office II 1180 Raymond Blvd., 9th Floor Newark, NJ 07102 201-648-6150	Plainfield District Office 700 Park Avenue, 3rd Floor Plainfield, NJ 07060 201-499-5825

Southern Region

Atlantic District Office 26 S. Pennsylvania Avenue Atlantic City, NJ 08401 609-441-3232	Cumberland District Office 1368 S. Delsea Drive Vineland, NJ 08360 609-696-6590
Burlington District Office 50 Rancocas Road Mount Holly, NJ 08060 609-267-7550	Gloucester District Office 251 N. Delsea Drive Suite 100 Deptford, NJ 08096 609-848-6604
Camden District Office 808 Market Street P. O. Box 738 Camden, NJ 08101 609-757-2700	Salem District Office New Market Street Salem, NJ 08079 609-935-6350
Cape May District Office Routes 47 & 9 Social Services Building P.O. Box 222 Rio Grande, NJ 08242 609-866-1105	

Central Region

Hunterdon District Office 84 Park Avenue, 2nd Floor Flemington, NJ 08822 201-782-8784	Monmouth Family Center Kozloski Road P.O. Box 3000 Freehold, NJ 07728 201-431-6222
Mercer District Office 1901 N. Olden Avenue Trenton, NJ 08618 609-984-6300	Middletown (Monmouth Family Ctr.) 1 Main Street, 5th Floor Eatontown, NJ 07724 201-957-0020

Middlesex District Office
(New Brunswick)
78 New Street, 2nd Floor
New Brunswick, NJ 08901
201-249-4880
[201-431-6060]

Middlesex District Office
(Perth Amboy)
275 Hobart Street
Perth Amboy, NJ 08861
201-342-1700

Long Branch (Monmouth
Family Ctr.)
1 Main Street, 1st Floor
Eatontown, NJ 07724
201-389-2700

Asbury Park (Monmouth
Family Ctr.)
1200 Memorial Drive
Asbury Park, NJ 07712
201-988-4300

Freehold (Monmouth
Family Center)
Kozloski Road
P.O. Box 3000
Freehold, NJ 07728
201-431-6060

Ocean District Office
954 Lakewood Road
Toms River, NJ 08753
201-244-4300
[201-342-1700]

Somerset District Office
78 E. High Street
Somerville, NJ 08876
201-722-2224

(g) ***Division of Medical Assistance and Health Services:***
The Division of Medical Assistance and Health Services,
which is a division of the New Jersey Department of Human
Services, administers the following programs:

1. (No change.)
2. Medicaid program: This program provides purchase of
medical care and services rendered to eligible persons.

i. Eligibility requirements: To be eligible for Medicaid, an
individual must qualify for SSI (see section 2 of this subchap-
ter) or for the *[AFDS, CRA, IRP]* ***AFDC, RRP, CHEP,***
or Medicaid Only program. Children under the care of the
Division of Youth and Family Services are also eligible for
Medicaid benefits.

ii. How to apply: Application and inquiry for the AFDC,
[CRA, IRP] ***RRP, CHEP,*** or Medicaid Only programs
should be directed to the county welfare agency. Information
regarding SSI program may be obtained from the SSA district
office. General information about the Medicaid program is
available from the *[local medical assistance units]* ***Medi-
caid District Offices*.**

(h) (No change.)

(i) ***New Jersey Commission for the Blind and Visually
Impaired:*** The New Jersey Commission for the Blind and
Visually Impaired, which is a component of the New Jersey
Department of *[Institutions and Agencies]* ***Human Serv-
ices*.** administers the programs and services described in par-
agraph 2 of this subsection.

1.-2. (No change.)

3. How to apply: Write or call the nearest district office of
the New Jersey Commission for the Blind and Visually Im-
paired. The main office is located at *[110]* ***1100*** Raymond
Boulevard, Newark, New Jersey 07102.

(j) (No change.)

10:85-8.6 Referral to Veterans Administration

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

(c) ***Description of program:*** The Veterans Administra-
tion operates the Federal program of benefit payments and
health and welfare services to veterans and certain of their
dependents or survivors. The details of all benefits and ser-
vices are clearly outlined in a fact sheet entitled "Federal Ben-
efits for Veterans and Dependents", which is issued by the
Veterans Administration.

1. Eligibility requirements: To be eligible for these benefits
and services, a veteran of either war or peacetime service,
must have been released with other than a dishonorable dis-
charge.

i. How to apply for benefits: The New Jersey Bureau of
Veterans Services, Department of Human Services, maintains
service offices to which persons seeking information or wish-
ing to file *[the]* ***for*** Veterans benefits or services may be
referred.

CORRECTIONS

(a)

DEPARTMENT OF CORRECTIONS DIVISION OF JUVENILE SERVICES

Standards for County Juvenile Detention Centers

Adopted New Rule: N.J.A.C. 10A:32

Proposed: January 7, 1985 at 17 N.J.R. 40(a).

Adopted: February 7, 1985 by William H. Fauver,
Commissioner, Department of Corrections.

Filed: February 11, 1985 as R.1985 d.97, **without
change.**

Authority: N.J.S.A. 2A:4A-37 and 30:1B-10.

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): March 4, 1990.

Summary of Public Comment and Agency Responses:

Full text of the adoption appears in the New Jersey Admin-
istrative Code at N.J.A.C. 10A:32.

INSURANCE

(b)

DIVISION OF ACTUARIAL SERVICES

Charitable Annuities

Adopted Amendments: N.J.A.C. 11:4-8

Proposed: November 19, 1984 at 16 N.J.R. 3172(a).

Adopted: February 11, 1985 by Jasper J. Jackson, Act-
ing Commissioner, Department of Insurance.

Filed: February 11, 1985 as R.1985 d.94, **without
change.**

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17B:17-13.1.

Effective: March 4, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): March 4, 1990.

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

Full text of the adoption follows.

SUBCHAPTER 8. CHARITABLE ANNUITIES

11:4-8.1 Purpose

(a) N.J.S.A. 17B:17-13.1 provides that qualified organizations as defined therein may enter into annuity agreements under conditions which are different from those which are applicable to organizations which are deemed to be insurers. This subchapter protects the interest of individual holders of annuities and their beneficiaries by requiring:

1. The use of forms which clearly set forth the conditions of the agreement being entered into;

2. The maintenance of segregated assets in such form and such amount as will protect the interest of the annuitants; and

3. The submission to the Commissioner, by the issuers of charitable annuities, of periodic reports which will enable the Commissioner to determine that the requirements of law and of this subchapter are being met.

(b) Charitable annuities are different from other annuities in that a significant part of the consideration paid for the annuity represents a gift to the issuing organization. In order to assure that such a gift results, this subchapter specifies maximum rates of income to annuitants for charitable annuities.

11:4-8.3 Annuity rates

(a) The original consideration for periodic payments payable to the holder of a charitable annuity may not be less than the net single premium, computed according to interest and mortality assumptions permitted by N.J.S.A. 17B:19 for guaranteed periodic payments, plus a life insurance net single premium, computed according to the same assumptions for an amount of death benefit equal to one-half of such original consideration. For this purpose the original consideration shall include the gross amount paid by the annuitant to the special permit holder in order to provide the annuity payments and the residue.

1. A special permit holder, proposing to use the rates adopted by the Conference on Gift Annuities, must demonstrate to the Commissioner that these rates meet the above requirements.

(b) An applicant for a special permit shall submit, with his application to the Commissioner, a schedule of its annuity rates for each form of annuity that it proposes to issue.

(c) A special permit holder which adopts rates for a proposed new form of annuity or which proposes to change the rates on its existing annuities shall submit such rates to the Commissioner for his approval before they become effective.

11:4-8.4 Surplus and reserves

(a) Each special permit holder shall have and maintain segregated assets at least equal to the sum of:

1. The reserves on its outstanding agreements calculated in accordance with the provisions of N.J.S.A. 17B:19; and

2. A surplus equal to \$100,000 or to ten per cent of the amount in paragraph 1 above, whichever is greater.

(b) In determining the reserves of any special permit holder, a deduction shall be made for all or any portion of an annuity risk which is lawfully reinsured by an authorized insurer, but such reinsurance shall not relieve a special permit holder from the requirement that the surplus shall be at least \$100,000.

(c) The Commissioner may consider that each corporation or association in a group of two or more corporations and/or associations which has met all other requirements of this section has met the requirements as to the amount of segregated annuity fund assets, provided:

1. The segregated assets of each such organization shall equal at least 110 per cent of the sum of the reserves on its outstanding agreements calculated in accordance with the provisions of N.J.S.A. 17B:19;

2. The combined segregated assets of all such organizations, when considered as a unit, meet the requirements of this section concerning the amount of segregated assets;

3. The organizations enter into an agreement by which each organization pledges the full amount of its segregated annuity assets as liable for the payment of each annuity and all annuities issued under the agreement by each organization and all organizations in the group;

4. Such agreement shall be determined by the Commissioner to protect the public at least to the same extent as though all annuities were issued by a single organization;

5. No change may be made in such agreement and no organization may be added to or released from such agreement without the prior approval of the Commissioner; and

6. The Commissioner may require that, in addition to any other reports that he shall normally require from permit holders, the group of organizations file annually a consolidated report in order to demonstrate that the requirements of this section are met on a consolidated basis.

(d) Each member organization within the group will be subject to all requirements of the law and of this subchapter other than the requirement of \$100,000 minimum surplus; this minimum must be satisfied by the group, however.

11:4-8.5 Compliance with investment requirements

The segregated assets held by a special permit holder shall be invested in the same manner and subject to the same restrictions as provided in N.J.S.A. 17B:20 for domestic insurers, unless more restrictive provisions are contained in applicable statutes regulating any such special permit holder.

11:4-8.6 Annual report

(a) As of December 31 of the calendar year in which a special permit is issued, and as of December 31 of each succeeding calendar year, the holder of a special permit shall submit a report to the Commissioner. Such report shall be submitted to the Commissioner within 120 days following the end of the calendar year to which the report applies. The annual report shall be in such form as the Commissioner shall prescribe within three months prior to the end of each preceding calendar year.

(b) Each special permit holder shall submit, as part of the annual report, a statement by a qualified actuary setting forth his or her opinion as to the adequacy of reserves. A qualified actuary for the purpose of this subsection means a member in good standing of the American Academy of Actuaries, or a person who has otherwise demonstrated his or her actuarial competence to the satisfaction of the insurance regulatory official of the domiciliary state.

(c) Each domestic special permit holder shall submit, as part of the statement by the qualified actuary, a copy of the workpapers used by the actuary to calculate the required reserves.

(d) Each special permit holder shall respond on a timely basis to any inquiry of the Commissioner, or his designee, regarding the annual report.

11:4-8.7 Special permit

Anything in this subchapter to the contrary notwithstanding, no organization referred to by N.J.S.A. 17B:17-13.1 may enter into annuity agreements with donors until it has satisfied the Commissioner of Insurance that it satisfies all of the requisite provisions of the law and has received from the Commissioner a special permit authorizing it to do such business.

11:4-8.8 Separability of provisions

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect the provisions or applications of this subchapter which can be given effect without the invalid provision or application, and for this purpose the provisions of the subchapter are separable.

11:4-8.9 Penalties

Failure to comply with the provisions of this subchapter will subject any special permit holder to the penalties provided by N.J.S.A. 17B:17-13.1d. and any other penalties available to the Commissioner of Insurance.

(a)

DIVISION OF THE REAL ESTATE COMMISSION

Residential Rental Referral Agencies

Adopted Amendment: N.J.A.C. 11:5-1.32

Proposed: November 5, 1984 at 16 N.J.R. 2952(a).

Adopted: February 11, 1985 by Jasper J. Jackson, Acting Commissioner, Department of Insurance.

Filed: February 11, 1985 as R.1985 d.93, without change.

Authority: N.J.S.A. 45:15-6.

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

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

Full text of the adoption follows.

11:5-1.32 Residential rental referral agencies

(a) Every person engaged in the business of referring, for a fee, prospective residential tenants to possible rental units shall be licensed in accordance with the New Jersey Real Estate License Act, N.J.S.A. 45:15-1 et seq., and shall comply with the provisions of this section in addition to the obligations imposed by the Act, and other rules contained in this chapter.

(b) Every licensee subject to this section shall enter into a written contract with the prospective tenant and give such person a copy of the contract. The contract shall accurately state;

1. The services to be performed by the agency;
2. The fee charged;
3. The date and duration of the contract;

4. The affirmative actions required of the prospective tenant to utilize the service;

5. The refund policy; and

6. A statement that the business is licensed by the New Jersey Real Estate Commission, 201 East State Street, Trenton, New Jersey 08625.

(c) No licensee shall advertise or refer a prospective residential tenant to:

1. A non-existent address;

2. A property not verified as available as provided in (e) below;

3. A possible rental unit or location for which the licensee does not have the lessor's, or the duly authorized agent of the lessor's, oral or written consent to refer prospective tenants.

(d) Oral consent of the lessor or his duly authorized agent to refer prospective tenants to a possible rental unit or location shall be confirmed by the licensee in writing within 24 hours of the licensee's receipt of such consent.

(e) Every licensee subject to this section shall verify the continuing availability of the rental unit with the lessor or agent as follows:

1. All units advertised in media shall be verified each day the advertisement appears; and

2. All units to which prospective tenants are referred shall be verified as available every three working days.

(f) In the event a diligent effort by the licensee to verify availability of the rental unit is unsuccessful because of a failure of a lessor or agent to respond, the prospective tenant shall be specifically advised of the date and time the unit was last verified as available.

1. Every prospective tenant shall upon request be advised of the date and time any particular unit was last verified as available.

2. No licensee subject to this section shall refer a prospective tenant to any rental unit not verified as available within the previous seven calendar days.

(g) Every licensee subject to this section shall maintain sufficient telephone lines and staff to receive and answer inquiries from contract consumers.

(h) Prior to the prospective tenant obtaining rental property through the services of the licensee, no licensee shall charge or accept a fee in excess of \$25.00 unless:

1. Any fee charged, collected or received in excess of \$25.00 is deposited promptly in the broker's escrow account until the services described by the contract are fully performed; or

2. The licensee posts with an approved escrow agent cash security in an amount approved by the Commission, based upon the following criteria:

i. The rental referral fee;

ii. The volume of rental referral business of the licensee;

iii. The duration of the rental referral contract; and

iv. The prior performance of the licensee or its principals in the rental referral business.

(i) Any licensee subject to this section shall maintain for one year the following records:

1. Written consent or written confirmation of oral consent of a lessor or agent to refer prospective tenants;

2. Records of the verification of availability of rental units as set forth in (e) above; and

3. Copies of contracts with prospective tenants.

(j) Every licensee subject to this section shall prominently post a copy of this regulation in its office for the information of its customers, and provide customers a copy upon request.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF MOTOR VEHICLES

Enforcement Service Identifying Marks

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

Proposed: October 15, 1984 at 16 N.J.R. 2743(a).

Adopted: January 31, 1985, by Clifford W. Snedeker,
Director of the Division of Motor Vehicles.

Filed: February 11, 1985 as R.1985 d.101, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:3-3.5).

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

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): May 7, 1989.

Summary of Public Comments and Agency Responses:

Written comments were received from the American Radio Relay League, Inc.

The League recommended the exception provision in N.J.A.C. 13:20-34.2(a)19 which has been adopted by the Division of Motor Vehicles. The substantive change provides that combinations beginning with the letters A, K, N and W which are reserved for amateur radio call letter registrations are exempted from the county officer plate series.

Full text of the adoption follows (additions to proposal shown in boldface with asterisks ***thus***).

13:20-34.1 Definitions

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

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

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

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

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

13:20-34.2 Registration numbers reserved

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

1. Registration number comprised of two alphabetic characters only and registration numbers comprised of one alpha-

thetic character and a single digit for vehicles owned or leased by members of the Senate of the State of New Jersey;

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

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

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

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

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

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

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

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

10. DAV 1 through DAV 999, 1 DAV through 999 DAV, DV 1 through DV 9999 and 1 DV through 9999 DV for vehicles owned by members of "Disabled American Veterans" of New Jersey;

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

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

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

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

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

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

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

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

19. A 1 AA through Z 9 ZZ *, **except for those combinations beginning with the letters A, K, N or W which are reserved for amateur radio call letter registrations,*** for vehicles owned or leased by a County Office of New Jersey. The first letter will designate the county code. Freeholder, Surro-

gate, County Clerk, and Sheriff will be assigned numbers one through three. All other plates will bear the title County Officer with assigned numbers four through nine;

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

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

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

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

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

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

13:20-34.3 Registration numbers excluded

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

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

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

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

4. Any combination consisting of more than six characters;

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

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

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

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

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

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

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

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

13. "MV 1" through "MV 10 and "1 MV" through "10 MV". Designated for State vehicles assigned to Division of Motor Vehicles personnel";

14. "O" as a single character;

15. "Q" through "QQQQQQ";

16. "S1100A" through "S1999Z", "100AS1" through "999ZS1" for School Vehicle Type I and "S2100A" through "S2999Z", "100AS2" through "999ZS2" for School Vehicle Type II;

17. "TA 100" through "TZ 9999" "Taa 100" through "TZZ 999", "TA100A" through "TZ999Z", and "100 TAA" through "999 TZZ" for commercial trailers and semi-trailers;

18. "XA 100" through "XZ 9999", "XAA 100" through "XZZ 999", "XA1000" through "XZ9999", "X10000" through "X99999", "X1A100" through "X9Z999", "XAA10A through "XZ99Z", and "XX10AA" through "XX99ZZ" for commercial motor vehicles;

19. SGA 1 through SGZ 999 and 1 SGA through 999 SGZ for State-owned vehicles; CGA 1 through CGZ 999, 1 CGA through 999 CGZ and CG 100A through CG 999Z for county-owned vehicles; MGA 1 through MGZ 999, 1 MGA through 999 MGZ and MG 10AA through MG 99ZZ for municipal-owned vehicles; TD 1000 through TD 9999 and 100 TD through 9999 TD for State-owned vehicles assigned to the Department of Transportation;

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

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

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

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

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

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

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

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

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

29. 1A1A1 through 9Y9Y9 for motorized bicycles;

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

(a)

DIVISION OF MOTOR VEHICLES

**Enforcement Service
Standards for Motor Vehicles with Modified
Chassis Height**

Adopted New Rule: N.J.A.C. 13:20-37

Proposed: October 1, 1984 at 16 N.J.R. 2501(a).
Adopted: January 28, 1985 by Clifford W. Snedeker,
Director of the Division of Motor Vehicles.
Filed: February 11, 1985 as R.1985 d.100, **without
change.**

Authority: N.J.S.A. 39:3-43, 39:8-2 and 39:10-4.

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No.
66(1978): March 4, 1990.

Summary of Public Comments and Agency Responses:

Written comments were received from Peter J. McDonough on behalf of the "Concerned 4 Wheelers" and Don Raleigh, owner of Dons Speed Shop, Inc.

Both commentators request that maximum bumper height and fuel tank encasement standards be established by separate administrative proposals. The Division of Motor Vehicles accedes to this request. Administrative proposals are forthcoming on these subjects.

Both commentators also request that the Division of Motor Vehicles refrain from establishing motor vehicle stability test standards until the tests conducted by the Specialty Equipment Manufacturers' Association are completed. The Division of Motor Vehicles rejects this position as it is of the opinion that the "Geometric Stability" test established by the present proposal is scientifically reliable.

Full text of the adoption follows.

SUBCHAPTER 37. STANDARDS FOR MOTOR VEHICLES WITH MODIFIED CHASSIS HEIGHT

13:20-37.1 Modification of height of motor vehicle restricted; approval of the director

(a) No person shall operate on any highway of this State any motor vehicle whose height has been altered, modified or changed by elevating or lowering the chassis or body from the manufacturer's specifications by use of "shackle lift kits" for leaf springs or by use of lift kits for coil springs or blocks or any other device without the prior written approval of the director.

13:20-37.2 Requirements for motor vehicle approval

(a) To be approved, a vehicle shall meet the following standards:

1. The suspension system shall consist of the basic elements originally provided by the manufacturer and be geometrically arranged in accordance with the manufacturer's specifications. No suspension system component shall be replaced unless the replacement component meets or exceeds the quality and performance standards established by the vehicle manufacturer. The vehicle shall have a suspension system that allows movement between the unsprung axles and wheels and

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

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

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

13:20-34.4 Denials, suspension or revocation

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

1. Has been convicted of a violation of N.J.S.A. 2C:11-5.
2. Has been convicted of a violation of either N.J.S.A. 39:4-50, or N.J.S.A. 39:4-96;
3. Has had a suspension or revocation of driving privileges in effect at any time with the two-year period next preceding the date of application for such marks.

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

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

(d) Any person to whom particular identifying marks have been issued which identify that person as a United States Senator or Congressman, State Senator or Assemblyman, member of the "Press" accredited in New Jersey or New York City, Officer of the New Jersey State Patrolmen's Benevolent Association, Inc., first aid or squad member, firefighter member, or county officer shall surrender said plates to the Division together with the corresponding motor vehicle registration certificate immediately upon the termination of said office or accreditation unless otherwise provided by law. The failure to so surrender said plates shall be cause for the revocation of the particular identifying marks.

13:20-34.5 Fees

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

1. "Courtesy Marks": \$15.00;
2. "Personalized marks": \$50.00;
3. Replacement of lost, stolen or obliterated "particular identifying marks": \$10.00.

13:20-34.6 Transfers to survivor

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

13:20-34.7 Reissue

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

the chassis body and shall be equipped with a shock-absorbing device at each wheel location. The suspension system shall be capable of providing a minimum relative motion of plus and minus two inches. When any corner of the vehicle is depressed and released, the damping device shall stop vertical body motion within two cycles. The use of spacer blocks between the front axle and leaf springs is prohibited.

2. The steering wheel shall move not less than two turns nor more than six turns, and shall remain unobstructed when turning from stop to stop. The number of turns to right stop shall be equal to the number of turns to left stop. A tolerance of one-quarter turn is permitted.

3. Headlights shall be no lower than 24 inches nor higher than 54 inches from the ground to the center of the lamp. Taillights shall be no lower than 15 inches nor more than 72 inches from the ground to the center line of the lamp. All lighting equipment must meet the standards of the Society of Automotive Engineers.

4. License plates shall be no lower than 12 inches nor higher than 48 inches from the ground. N.J.S.A. 39:3-33.

5. Brake lines and hoses shall conform to 49 C.F.R. 571.106 and shall be protected from excessive heat and vibration and be installed so as to prevent chafing.

6. Where the vehicle was originally equipped by the manufacturer with bumpers, all bumpers must be securely mounted, extend across the full width of the vehicle and be horizontal load bearing bumpers attached to the vehicle frame to effectively transfer impact when engaged. Bumpers shall not have sharp edges or dangerous configurations. Bumpers shall be mounted to be no lower than 16 inches from the ground to the bottom of the bumper.

7. All tires on the same axle or on axles less than six feet apart shall be of the same tire size with respect to diameter and width. Each tire shall have a load carrying capacity specified by the tire manufacturer in excess of the intended maximum axle load divided by the number of tires on the axle. Each front tire shall measure a minimum of 60 percent of the tread width of the rear tires. Tires shall have a minimum four inch vertical clearance and two inch horizontal clearance so as not to rub on the chassis, body, suspension or other part of the vehicle while being operated.

8. Fenders shall extend the full width of the tires or the vehicle must be equipped with suitable metal protectors or substantial flexible flaps so as to prevent the throwing of dirt, water or other debris on following vehicles. The metal protectors or flexible flaps shall be of such standard type or design and installed in such manner as shall be approved by the director and shall conform substantially to any requirement of the Interstate Commerce Commission governing similar subject matter.

9. Fuel tanks which have become exposed as a result of raising the vehicle shall be protected against damage from collision by some means of encasement.

10. All moving parts or exhaust system components which have become exposed as a result of raising the vehicle shall be shielded to prevent injury to persons making contact with these parts.

11. Any ballast material used for the purpose of adding weight to the vehicle must be permanently attached to the vehicle must be permanently attached to the vehicle structure. No liquid or loose ballast is permitted.

12. Release of the steering wheel while the vehicle is in a sharp turn at a speed of between five to ten miles per hour will result in a distinct tendency for the vehicle to increase its turning radius.

13. The weight distribution between the two sides of an empty vehicle on level ground shall not exceed 45 percent/55 percent.

13:20-37.3 Standards for vehicles with modified height

(a) If a motor vehicle has been raised more than four inches beyond the manufacturer's specifications, it must be tested to verify that it can withstand the lateral standard established by the Director of the Division of Motor Vehicles.

(b) For testing passenger or utility type vehicles the standard is 1.1 gravitational force or more.

(c) For testing pickup trucks the standard is 1.1 gravitational force or more.

(d) Vehicles that have not been raised more than four inches may be approved provided they comply with the standards set forth at N.J.A.C. 13:20-37.2.

13:20-37.4 Testing

Tests shall be conducted by the Division of Motor Vehicles at sites to be designated by the Director using the procedures and equation set forth at N.J.A.C. 13:20-37.5.

13:20-37.5 Procedure for testing modified vehicles

(a) The track width of the front and rear axles shall be measured from the centers of the tread of the outermost tires on the same axle. The front track width shall be added to the rear track width and the sum shall be divided by two to give the average track width.

(b) The side to side weight distribution shall be calculated with the vehicle empty on level ground. The distribution shall not exceed 45 percent/55 percent as set forth in N.J.A.C. 13:20-37.2.

(c) One side of the vehicle should be raised to a static relative angle of 15 degrees ± ½ degrees from horizontal.

(d) The weight of the vehicle shall be measured on the unraised side.

(e) The maximum permissible weight on the unraised side is 62.4 percent of the total vehicle weight multiplied by twice the unraised side's weight percentage as determined in (b) above.

13:20-37.6 Certificate of approval

The director may issue a certificate of approval upon the motor vehicle's compliance with the requirements set forth in this subchapter.

13:20-37.7 Denied or revocation of approval

Upon notice and an opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq., the director shall deny any application for a certificate of approval or revoke or suspend any certificate of approval issued under this subchapter for any failure to comply with or failure to continuously remain in compliance with any of the standards or requirements set forth in this subchapter.

(a)

ACCOUNTANCY
DIVISION OF CONSUMER AFFAIRS

Professional Misconduct

Readoption with Amendments: N.J.A.C.
13:29-3.1 through 3.16

Proposed: December 17, 1984 at 16 N.J.R. 3418(a).
 Adopted: January 28, 1985 by Paul M. Kurisko, President, New Jersey State Board of Accountancy.
 Filed: February 11, 1985 as R.1985 d.104, **without change.**

Authority: N.J.S.A. 45:2B-6(g) and 45:1-21(e).

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): March 4, 1990.

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

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 13:29-3.

Full text of the amendment to the readoption follows.

13:29-3.1 Independence

(a) A licensee or a firm of which he is a partner or a shareholder shall not express an opinion on financial statements of an enterprise in such a manner as to imply that he is acting as an independent Public Accountant with respect thereto unless he or his firm is independent with respect to such enterprise. Independence will be considered to be impaired if, for example:

1. During the period covered by the financial statements, during the period of the professional engagement, or at the time of expressing an opinion, the licensee or his firm:

- i. Was associated with the enterprise as a promoter, underwriter or voting trustee, a director or officer or in any capacity equivalent to that of a member of management or of an employee; or
 - ii. (No change.)
2. (No change.)

(a)

**BOARD OF MEDICAL EXAMINERS
 DIVISION OF CONSUMER AFFAIRS**

**Requirements For Approval of Colleges of
 Chiropractic**

Adopted Amendment: N.J.A.C. 13:35-2.4

Proposed: November 19, 1984 at 16 N.J.R. 3177(a).
 Adopted: January 9, 1985 by State Board of Medical Examiners, Edward W. Luka, M.D., President.
 Filed: February 11, 1985 as R.1985 d.102, **without change.**

Authority: N.J.S.A. 45:9-2.

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): August 1, 1988.

Summary of Public Comments and Agency Response:

The adopted amendment requires that, to be considered an approved school of chiropractic, the school shall first have been evaluated and accredited by an educational accrediting

agency approved by the Board, such as the Council on Chiropractic Education (CCE). Two hundred forty-five comments were received respecting this proposal, only two of which were in favor. One comment was from the president of Sherman College of Straight Chiropractic, who stated his opposition by claiming the proposal would have a profound effect upon his college, upon the practice of chiropractic in New Jersey, and upon students and prospective students and patients. He offered no explanation of this statement, and instead simply requested a public hearing. A separate letter circulated by that school requesting other persons to write to the Board, has also been received; that letter makes specific suggestions of contentions to press. Almost all of the other letters received by the Board contain the specific comments of the private Sherman letter including the same (mis)spellings. These uniform letters object to the rule proposal on the ground that the proposal would prevent graduates of non-CCE-accredited colleges from seeking licensure in New Jersey; those writers failed to consider the specific reference in the proposal which makes approval available to other suitable accrediting agencies. The writers made reference to their belief that patients and students of chiropractic have an "inalienable right" to decide what type of care they wish the Board to consider as chiropractic care, and their insistence that it must be made available in this State. Some of the writers acknowledge being non-residents of the State and nevertheless object to this Board setting the standards for chiropractic care here. The tone of many of the letters is demonstrated by one writer who suggested that adoption of the proposal would constitute a "catastrophic moral injustice". Most of the writers identified themselves with Sherman College. Two letters were received from Pennsylvania College of Straight Chiropractic (until recently known as Adio). The president of the Garden State Chiropractic Society also objected, contending that CCE espoused inappropriate educational standards for chiropractors and further objecting to the "grandfathering" provision being available until September 1, 1987 and not thereafter for students presently attending schools which might not be approved in the future. An attorney representing Sherman College raised the same questions and further criticized the naming of any specific accrediting agency in the rule. Finally, two writers—although objecting to the proposal, did recognize that the proposal makes accommodation for accrediting agencies other than CCE, and two colleges of chiropractic wrote in favor of the rule.

Nearly all the writers made a rote request for a public hearing, but even those few who stated why they wanted a hearing failed to indicate how their proposed statements of satisfaction with a "straight chiropractic" education (one that does not emphasize training in differential diagnosis) would shed any light on the merits or the availability of some "other accrediting agency" which the proposal holds out to the public and to interested schools. In short, no factual question which addresses the substance of the proposed amendment has been raised.

After careful review of all the comments, the Board concludes that the proposal appears to be the fairest way to screen and evaluate the professional education which should be possessed by chiropractors practicing in this State. If there are any states in this country which have lesser requirements than this proposal establishes for New Jersey, then those persons choosing to practice with a lower level of preparation are free to seek licensure in those states; that opportunity has long been considered one of the advantages of our Federal system of health care professional licensure. The New Jersey

Board is satisfied that the practice of chiropractic in this State requires not only the ability to ascertain and to adjust misalignments of the spinal column but also the knowledge that there are major contraindications to administration of chiropractic adjustments, and that a practicing chiropractor must have the ability to recognize those contraindications and make appropriate referral to other types of health care providers. Complaints of lower back pain, for example, may be the result of a spinal misalignment amenable to chiropractic care, but may also be a symptom of kidney problems or even a tumor. While chiropractors are not expected—or even permitted—to make medical determinations or to perform medical treatments, they must acquire sufficient education to know when a patient's complaint may be amenable to their special discipline, and when referral or consultation is essential in the patient's best interest, in order to avoid possibly irremediable injury. CCE-accredited schools are expected to provide this kind of problem-sensitive training and that is why the name of that agency is specifically set forth in the rule—to indicate the quality of the standard that an "other accrediting agency" will be expected to meet.

The cut-off date of September 1, 1987 has been chosen to more narrowly accommodate the expectations of a bona fide current student who started chiropractic education at a school which may not ultimately be deemed acceptable; any later date would simply encourage students to commence studies at a school known in advance to be inadequate to satisfy the eligibility criteria of the New Jersey Board; licensure of such an individual would not be in the public interest.

Fourteen schools of chiropractic are now approved by CCE and also by this Board. A fifteenth school has hitherto been approved by this Board but not by CCE. A sixteenth school has never been approved by either the Board or CCE. It should be noted that the Board's interpretation of minimum health care education in the field of chiropractic has been made known for many years. The very subsections (k) and (l), in their now superseded form, gave notice to schools as early as 1980 that those schools would not be deemed acceptable here in the near future. From the tenor of the public comments, it appears that despite being on such early notice, those two schools without CCE approval have determined not to upgrade their facilities. The opportunity for future approval by this Board nevertheless remains open, and at such time as those schools establish educational systems which satisfy appropriate minimum standards comparable to those of CCE, either through that agency or another receiving the prior approval of this Board, the graduates of those schools may be eligible for licensure in this State.

Full text of the adoption follows:

13:35-2.4 Requirements for Approval of Colleges of Chiropractic

(a)-(j) (No change.)

(k) The requirement of N.J.S.A. 45:9-41.5 that an applicant for chiropractic licensure shall have graduated from an approved school(s), institution(s) or college(s) of chiropractic shall mean that the school was approved during the entire course of the applicant's training by the Council on Chiropractic Education or other accrediting agency having prior approval of the Board. Board approval of a college's accreditation shall be effective for a period not to exceed five years. Renewed approval may be sought prior to the end of that period. The Board may also inspect the school prior to determining its approval. However, any graduate of a chiropractic college who was a bona fide student in good standing enrolled

at a school which, prior to the effective date of this rule, was approved by the Board, shall upon proof of satisfaction of all other statutory prerequisites, be deemed eligible to sit for the licensure examination in this State until August 1, 1987, and not thereafter.

(a)

BOARD OF MEDICAL EXAMINERS DIVISION OF CONSUMER AFFAIRS

Practice Identification

Adopted Repeal: N.J.A.C. 13:35-6.1

Adopted New Rule: N.J.A.C. 13:35-6.1

Proposed: November 19, 1984 at 16 N.J.R. 3178(a).

Adopted: January 9, 1985 by State Board of Medical Examiners, Edward W. Luka, M.D., President.

Filed: February 11, 1985 as R.1985 d.103, **with substantive changes** not requiring additional notice and comment.

Authority: N.J.S.A. 45:9-2.

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): August 1, 1988.

Summary of Public Comments and Agency Responses:

This rule replaces a former rule which required licensed physicians to identify themselves to the public using the degree designation which the Board formerly imprinted on their licenses. This imprinting is no longer done, by virtue of *Eatough v. Bd. of Med. Ex.*, 191 N.J. Super. 166 (App. Div. 1983) finding that the Board could not require doctors to identify themselves in that manner. The suit had been brought at the instance of certain osteopathic physicians who did not wish to use their D.O. degrees and, moreover, were holding themselves out to the public as M.D.s—a circumstance forbidden by the Board as a misrepresentation and conduct which the court agreed would warrant disciplinary action. Forty-five comments were received on this proposal. The writers included individuals and association members of American students at one Mexican medical school, an association of parents of American students studying medicine abroad, some individual physicians, a clinical instructor at UMDNJ, and one from the New Jersey Attorney General. All opposed that portion of the proposal which would have prohibited physicians from identifying themselves as "M.D." if they had not actually received a degree of Doctor of Medicine as conferred by their medical school. Some of the writers suggested that "M.D." is a generic term and should be treated as such by this Board. Others felt the Board should give more consideration to the fact that some of the foreign medical schools which have given this Board most concern—as to whether their programs are adequate—actually do confer M.D. degrees on their graduates, thus not really protecting the public to the extent this Board had desired to do. Others felt the proposal would generate more confusion for the public than would be offset by the addition of information about the educational background of the physician. Some erroneously

thought the proposal required a physician who elects not to do surgery to use the phrase "physician and surgeon," but a reading of the proposal shows this not to be so; the proposal provides physicians with a choice of accurate and descriptive terms to inform the public of their services.

The Attorney General recognized that this Board was primarily concerned with the variations in medical education and training provided by the multiplicity of medical institutions and systems in place throughout the world, and with how much they vary from the systems accredited in the U.S. and Canada by the nationally-respected accrediting agency Liaison Committee on Medical Education (LCME). The Attorney General suggested that the Board may well have already addressed the problem sufficiently by having adopted N.J.A.C. 13:35-3.11, which requires that all persons graduating after July 1, 1985 from non-LCME-accredited medical schools complete three years of approved postgraduate training before being deemed eligible for licensure in New Jersey; that requirement does not distinguish among holders of various degree-denominations and instead concentrates on the additional training which this Board believes is likely to bring graduates of foreign schools up to the minimum competency equivalent to LCME training, and thence for adequate practice skills.

The Board has carefully reviewed the comments and suggestions, and agrees that the primary problem may well have been sufficiently addressed by adoption of N.J.A.C. 13:35-3.11. Therefore, the countervailing considerations so ably presented by the Attorney General and the public would seem to outweigh the ends originally anticipated for parts of the rule amendment. However, it is also necessary to remember that the initial impetus for amendment and revision of the Board's former rule was the demand by some osteopathic physicians to have a means other than degree designation for identifying themselves to the public as physicians. The final version of the Board rule must therefore take that problem into account as well as the concerns of the foreign-trained physicians.

The Board therefore concludes that subsections (a), (b) and (c) of the proposal shall be modified, deleted or rearranged so that physicians shall be offered a choice of permissible descriptive titles including the traditional use, if desired, of D.O. for graduates of schools of osteopathic medicine and of M.D. for graduates of all allopathic schools whether domestic or foreign.

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

13:35-6.1 Practice identification

(a) A physician with a plenary license to practice medicine and surgery in the State of New Jersey shall make representation for professional purposes (office identification, stationery, professional cards, signature on insurance claim forms, education, etc.) in a manner clearly indicating such plenary licensure and/or practice specialty; for example: Dr. John Doe, physician and surgeon; or Dr. Jane Smith, physician; or Dr. John Doe, surgeon; or Dr. Jane Smith, licensed to practice medicine and surgery; or Dr. Jane Doe, physician, practice limited to (name of specialty); or similar accurate descriptive terms. ***In addition to or as an alternative to these titles, a licensee may use the standard and accepted abbreviation of professional degree conferred by the medical school; that is, John Smith, M.D.; Jane Smith, D.O., as the case may be.***

[(b) A graduate of an accredited professional medical school located outside the United States or Canada who receives a plenary license to practice medicine and surgery in New Jersey shall make public representation for professional purposes only as permitted in (a) above, and/or may use the degree or degrees actually granted by the medical school or the standard and accepted abbreviation of that degree. This section shall apply prospectively to persons licensed in New Jersey after the effective date of this rule.]

[(c) A graduate of an accredited professional medical school located within the United States or Canada who receives a plenary license to practice medicine and surgery in New Jersey and who elects to use an abbreviation of title, shall use the standard and accepted abbreviation of professional degree conferred by the medical school; this is, John Smith, M.D.; Jane Smith, D.O., as the case may be. One]

***(b) An applicant or current licensee* who is a graduate of both an A.M.A.-accredited allopathic professional school and an A.O.A.-accredited osteopathic professional school may elect to use either M.D. or D.O. as the primary abbreviation following the name and shall notify the Board of such election.**

[(d)](c)* A license with a limited license issued by the board shall identify himself or herself for professional purposes in a manner clearly indicating the licensed profession by name or by using the recognized and accepted abbreviation of the degree actually conferred by the professional college; for example: John Doe, Chiropractor or John Doe, D.C.; Jane Smith, Podiatrist or Jane Smith, D.P.M.; John Doe, Bioanalytical Laboratory Director or John Doe, B.L.D. or John Doe, Specialty Bioanalytical Laboratory Director in Chemistry, etc.; Jane Smith, Certified Nurse Midwife or C.N.M.**

[(e)](d)* The use of any letters in immediate conjunction with the name of a licensee shall be deemed a representation of earned academic professional degree. Any such degree shall have been conferred by an educational institution authorized by the appropriate higher education authorities in its state of domicile to do so. The licensee may also list abbreviations of membership in non-profit incorporated professional societies.**

[(f)](e)* All representations by licensees of degree abbreviations or of professional society affiliations shall comply with this rule, and any use of an academic degree or professional or membership abbreviation not in accordance with these standards shall be deemed a misrepresentation and professional misconduct.**

(a)

NURSING DIVISION OF CONSUMER AFFAIRS

Licensure by Examination and Endorsement; Foreign Nurses; Nursing Procedures

Readoption: N.J.A.C. 13:37-2 through 6

Proposed: November 19, 1984 at 16 N.J.R. 3179(a).

Adopted: February 1, 1985 by Kathleen M. Dirschel, R.N., Ph.D., President, New Jersey State Board of Nursing.

Filed: February 11, 1985 as R.1985 d.105, **without change.**

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Authority: N.J.S.A. 45:11-23, 45:11-24(d) (8) and (19), 45:11-26 and 45:11-27.

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): February 11, 1990.

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

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 13:37-2 through 6.

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Route U.S. 46 in Bergen County

Adopted Amendment: N.J.A.C. 16:28A-1.32

Proposed: December 17, 1984 at 16 N.J.R. 3419(b).
Adopted: January 31, 1984 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.
Filed: February 7, 1985 as R.1985 d.89, **without change.**

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

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

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

Full text of the adoption follows.

16:28A-1.32 Route U.S. 46

(a) (No change.)

(b) The certain parts of State highway Route U.S. 46 described in this section are 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.-7. (No change.)

8. In Elmwood Park Borough, Bergen County.

i. Along the eastbound (southerly) side:

(1) Far side bus stop:

(A) Boulevard—Beginning at the easterly curb line of Boulevard, and extending 157 feet easterly therefrom.

9. In Lodi Borough, Bergen County:

i. Along the eastbound (southerly) side:

(1) Mid-block bus stop:

(A) Westminster Place—Beginning 102 feet east of the easterly curb line of Westminster Place, and extending 130 feet easterly therefrom.

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- (2) Near side bus stop:
(A) Christopher Street—Beginning at the westerly curb line of Christopher Street and extending 105 feet westerly therefrom.
ii. Along the westbound (northerly) side:
(1) Far side bus stop:
(A) Christopher Street—Beginning at the prolongation of the westerly curb line of Christopher Street and extending 175 feet westerly therefrom.
(B) Kimmig Street—Beginning at the westerly curb line of Kimmig Street and extending 100 feet westerly therefrom.

(b)

TRANSPORTATION OPERATIONS

Miscellaneous Traffic Rules Route 23 in Passaic County

Adopted Amendment: N.J.A.C. 16:30-2.8

Proposed: December 17, 1984 at 16 N.J.R. 3420(a).
Adopted: January 31, 1985 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.
Filed: February 7, 1985 as R.1985 d.90, **without change.**

Authority: N.J.S.A. 27:1A-5, 27A:1A-6, 39:4-140.

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

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

Full text of the adoption follows:

16:30-2.8 Route 23 Southbound ramp and Newark Pompton Turnpike

(a) The certain parts of Route 23 situated in the Township of Wayne, County of Passaic and described in this section shall be designated a Stop Intersection.

i. Newark Pompton Turnpike and Route 23 southbound ramp: A STOP sign shall be installed on the Route 23 southbound ramp.

(c)

CONSTRUCTION AND MAINTENANCE UNIT

Newspaper Dispensers on State Highway Right-of-Way

Adopted New Rule: N.J.A.C. 16:41B

Proposed: February 6, 1984 at 16 N.J.R. 225(a), 1957(a).

Adopted: December 20, 1984 by Jack Freidenrich, Assistant Commissioner for Engineering and Operations, Department of Transportation.

ADOPTIONS

Filed: January 29, 1985 as R.1985 d.73, with **substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:1A-52, 27:7-21 and 27:7-44.1.

Effective Date: March 4, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): March 4, 1990

Summary of Public Comments and Agency Responses:

The Department under authority of N.J.S.A. 27:1A-1.1 et seq., 27:7-1.1 et seq., and the applicable provisions of the Administrative Procedure Act, proposed to adopt New Rule to be cited as N.J.A.C. 16:41B concerning Newspaper Dispensers on State Highway Right-of-Way as proposed in the Notice published February 6, 1984 at 16 N.J.R. 225(a). There were eight comments received. Comments were from the following:

Archer & Greiner, Counsellors at Law
One Centennial Square
Haddonfield, NJ 08033-0968

The New York Times Company
Legal Department
229 West 43 Street
New York, NY 10036

New Jersey Press Association
206 West State Street
Trenton, NJ 08608

McGimpsey & Cafferty, Counsellors at Law
1445 US Route 130
North Brunswick, NJ 08902

Atlantic Electric
PO Box 1264
Pleasantville, NJ 08232

New Jersey Utilities Association
130 West State Street
Trenton, NJ 08608

Public Service Electric & Gas Company
Richard L. Skinner, Mayor
City of Woodbury
Woodbury, NJ 08096

As a result of the comments received a public hearing was held on July 25, 1984 at 10:00 A.M. in the Department's Hearing Room #140, 1035 Parkway Avenue, Trenton, New Jersey 08625.

The principal objections relevant to the proposed rule were as follows:

COMMENT:

Archer & Greiner, the New York Times Company, New Jersey Press Association and McGimpsey & Cafferty felt that "newspaper dispensers," or "honor boxes", have been found to be worthy of full constitutional protection because of their unique role in enhancing the First Amendment freedoms of speech and press; the fee of \$25.00 per news dispensers per year is considered exorbitant and the requirement for a detailed sketch site plan is not necessary.

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RESPONSE:

The Department does not refute the constitutionality of newspaper dispensers nor their unique role in enhancing the First Amendment freedoms of speech and press. However, the Department is concerned with the potential traffic safety problems imposed by the placement of news dispensers along the highway system and to effect reasonable regulations for their compliance.

In response to the comments, the proposal was changed to provide for a permit valid for as long as all the conditions prescribed in the regulation are maintained, rather than the proposed \$25.00 fee per news dispenser per year for renewal. The requirement that a *detailed* sketch be submitted was also deleted, and the language simply requires that a sketch be submitted, see N.J.A.C. 16:41B-2.1(c)3, and (f).

COMMENT:

Atlantic Electric, New Jersey Bell, New Jersey Utilities Association and Public Service Electric & Gas Company objected to the chaining of news dispensers to utility facilities which impedes access to those facilities and creates a difficult or even dangerous situation for utility employees who must work on those facilities. Photographs were submitted by Public Service Electric and Gas Company to substantiate the conditions.

RESPONSE:

The proposed rule addresses this concern at N.J.A.C. 16:41B-5.1(a), because a utility pole is considered a "public fixture".

COMMENT:

The City of Woodbury endorses the adoption of guidelines and cited potential safety problems, potential traffic tie-ups and considered honor boxes at best unsightly on the main thoroughfares.

COMMENT:

New Jersey Transit objected to the news dispensers being located in proximity or within the confines of bus stops where they impede entrance and egress to buses. Photographs were submitted substantiating their objections.

RESPONSE:

In response to the commenter's concern, bus shelters were added to the facilities enumerated at N.J.A.C. 16:41B-5.1(a).

A complete transcript of the public hearing to include photographs is made a part hereof and is available for review in the Department of Transportation, 1035 Parkway Avenue, ATTN: Administrative Practice Officer, Trenton, New Jersey 08625.

Subsequent to the public hearing and upon review and consideration of the comments received, the text of the proposed rule was modified to incorporate suggested changes as deemed appropriate by the Department. The absence of any further response by the official published deadline nullifies the Department's responsibility to examine all submissions and to render due consideration to their merits prior to adoption of this proposal.

In view of the above the Department therefore proposes to adopt the rule with inconsequential changes not in violation of N.J.A.C. 1:30-3.5.

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

CHAPTER 41B
NEWSPAPER BOXES ON
STATE HIGHWAY RIGHT-OF-WAY

SUBCHAPTER 1. DEFINITIONS

16:41B-1.1 Definitions

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

“Clear zone” means that roadside border area, starting at the edge of travelled way, available for safe use by errant vehicles. For the purpose of this chapter, the clear zone shall be as follows:

Posted	Clear
Speed Limit	Zone
35 mph or less	10 ft.
40 mph	15 ft.
45 mph	17.5 ft.
50 mph	20 ft.
55 mph	25 ft.

“Gutterline” means line of demarcation delineated by the presence of a physical curb, a raised berm or a change in surface such as pavement to grass.

“News dispenser” means any self-service or coin operated box, storage unit, or other dispenser installed, used or maintained for the display and sale of newspapers or other news periodicals.

“Right of way” means the entire width of State highway property. This includes the travelled way and all land on both sides of the travelled way extending to the abutting owners’ property lines.

“Travelled way” means that portion of the highway provided for the movement of vehicles, exclusive of shoulders, acceleration or deceleration lanes.

SUBCHAPTER 2. PERMIT PROVISIONS

16:41B-2.1 General provisions

(a) It shall be unlawful for any person to operate, erect, place or maintain, on any State highway right-of-way, any news dispenser without obtaining a permit from the Department of Transportation.

(b) Applications for permits may be obtained from the regional maintenance offices or from the Department’s principal office, Bureau of Maintenance, Construction and Maintenance Unit, 1035 Parkway Avenue, Trenton, New Jersey 08625. Completed applications along with the required fee are to be forwarded to the regional office having jurisdiction over the area in which the news dispenser is to be located. The regional offices and their jurisdiction are set forth in N.J.A.C. 16:41-1.1(b).

(c) Applications for the placement of news dispensers shall include the following information:

1. Name of applicant;
2. Address of applicant;
3. **[Detailed]** **[s]** **S** **ketch** showing the location of the news dispenser **[,]** **;** distances from shoulder, **[curb lines,]** ***gutterline,** ***[property lines,]** and structures shall be clearly set forth on the sketch;
4. **[Detailed]** **[d]** **D** **escription** of news dispensers, including height, width, **and** depth **[color, material of which it is constructed, and construction design; and]** **of the dispenser; and**
5. **[Detailed description of]** **[m]** **M** **ethod** of installation, including proposed attachment to any other structure.

(d) The applicant shall include with the application **[an application]** *** a** fee in the amount of \$25.00 per news dispenser. Fees must be in the form of a check or money order made payable to the New Jersey Department of Transportation. Cash will not be accepted.

(e) Within 30 days after receipt of a completed application **[and application fee,]** a permit shall be issued if the applicant has complied with all of the conditions of this chapter, and if the location, installation, design and condition of the news dispenser meets with the specifications set forth in this chapter.

[(f)] Prior to issuance of a permit, the permittee shall remit a permit fee in the amount of \$25.00 in the form of a check or money order payable to the Department of Transportation.] **[(g)]** **[(f)]** Permits shall be valid for **[a period of one year. If]** **as long as** all of the conditions of this chapter have been observed **[,]** **;** **[the permit shall be renewed annually upon payment of a \$25.00 annual renewal fee.]** If there is a change in conditions such that the location, design, installation or condition of the news dispenser does not comply with the specifications set forth in this chapter, **[the permit shall not be renewed.]** *** a new application shall be processed and an application fee in the amount of \$25.00 provided.***

[(f)] Prior to issuance of a permit, the permittee shall remit a permit fee in the amount of \$25.00 in the form of a check or money order payable to the Department of Transportation.] **[(g)]** **[(f)]** Permits shall be valid for **[a period of one year. If]** **as long as** all of the conditions of this chapter have been observed **[,]** **;** **[the permit shall be renewed annually upon payment of a \$25.00 annual renewal fee.]** If there is a change in conditions such that the location, design, installation or condition of the news dispenser does not comply with the specifications set forth in this chapter, **[the permit shall not be renewed.]** *** a new application shall be processed and an application fee in the amount of \$25.00 provided.***

SUBCHAPTER 3. INDEMNIFICATION

16:41B-3.1 General requirements

The permittee, as an express condition of the permit, shall agree to defend, indemnify, protect, and save harmless the State, its agents, servants and employees from and against any and all claims, suits, demands and damages, including but not limited to expenditures for any costs of investigation, hiring of expert witnesses, court costs, counsel fees and judgments, arising out of or claimed to arise out of the installation, use or maintenance of any news dispensers located on State highway right-of-way.

SUBCHAPTER 4. LOCATION OF NEWS DISPENSERS

16:41B-4.1 General requirements

(a) Placement of news dispensers within State highway right-of-way is prohibited in the following locations:

1. Within two feet from the edge of gutterline or within the clear zone area as defined in N.J.A.C. 16:41B-1 whichever distance is greater;
2. Adjacent to areas where parking is prohibited by statute or regulation;
3. Adjacent to areas where stopping or standing is prohibited by regulation;
4. Within medians, jughandles, channelizing islands, and ramps;
5. In any area where the news dispenser interferes with or impedes the flow of pedestrian traffic, motor vehicles, bicycles, or wheelchairs, ingress or egress to or from any place of business, or interferes with the use of poles, posts, traffic signals, hydrants, mail boxes or other objects permitted within the right-of-way **[;]** **;**
- [6.]** In any area where the placement of the news dispenser is prohibited by local zoning ordinance **;**
- [7.]** ***6.*** In any ***residentially zoned*** area where the adjacent property owner objects to the placement of the news dispenser; and
- [8.]** ***7.*** In any other area where the placement of the news dispenser is determined by the Department to be unsafe.

(b) News dispensers otherwise prohibited by (a)1, 2, or 3 above may be permitted if they are placed flush against a building and the owner of the building has given written

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permission for the placement of the news dispenser in that location.

SUBCHAPTER 5. INSTALLATION

16:41B-5.1 General requirements

(a) No news dispenser shall be chained, bolted or otherwise attached to any public fixture located within the State highway right-of-way, including but not limited to official signs, sign supports, guide rails, traffic signal supports, highway lighting supports, controller boxes, mail boxes, *[and]* fire hydrants *[,] *or bus shelters.*

(b) News dispensers shall be securely installed so as to prevent personal injury or property damage from tilting, tipping or overturning.

(c) News dispensers shall not exceed five feet in height, three feet in width or 30 inches in depth unless approved by the Department.

(d) No permit shall be issued unless the applicant has received written permission from the owner of the structure to which the dispenser is to be affixed. If the dispenser is to be bolted to the sidewalk, permission must be received from the municipality in which the news dispenser is located and from the adjacent property owner.

(e) The name and address of the owner of the news dispenser shall be clearly set forth on the dispenser.

SUBCHAPTER 6. MAINTENANCE STANDARDS

16:41B-6.1 Requirements

(a) No news dispenser shall be used for advertising signs or publicity purposes other than the display of information dealing with the sale or distribution of the newspaper contained therein.

(b) Every news dispenser shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each news dispenser shall be serviced and maintained so that:

1. It is free of dirt and grease;
2. It is free of chipped, faded, peeling and cracked paint;
3. It is free of rust and corrosion; and
4. The structural parts thereof are intact.

SUBCHAPTER 7. REVOCATION OF PERMITS

16:41B-7.1 Conditions

(a) The continued installation, use and maintenance of news dispensers is conditioned upon compliance with all of the provisions of this chapter. If any of the provisions of this chapter are violated or if the location, installation, design, or condition of the news dispenser no longer meets with the specifications of this chapter and any amendments thereto, the permittee shall be notified of the non-compliance by registered mail.

(b) If, within 30 days after mailing the notice of non-compliance, the permittee has failed to remove the news dispenser or otherwise correct the violation or reason for non-compliance, the permit shall be revoked and the permittee shall be notified by registered mail that the permit has been revoked.

SUBCHAPTER 8. APPEALS

16:41B-8.1 General requirements

A person may appeal from a decision to revoke a permit, or decision not to grant *[or renew]* a permit. Within 15 days of

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the date of mailing of such a decision, the permittee or applicant shall file an appeal from the decision and request a hearing in accordance with Department procedures. *[(See Operations Bulletin No. 1732).]* Failure to appeal within the 15-day period shall bar the appeal.

SUBCHAPTER 9. REMOVAL

16:41B-9.1 No valid permit

Any news dispenser located on State highway right-of-way without the benefit of a permit is an illegal use and shall be promptly removed. If a news dispenser is located on State highway right-of-way without the benefit of a permit, the Department of Transportation shall notify, by registered mail, the person or company whose name is displayed on the news dispenser that the news dispenser is maintained in violation of this chapter. If the news dispenser is not removed within 15 days from the date of the mailing of the letter, the news dispenser shall be removed by the Department of Transportation maintenance forces and stored at a Department of Transportation maintenance yard. The person or company shall be notified by registered mail of the location of the news dispenser and the hours when it may be obtained. The Department of Transportation shall not be liable for any damage to the news dispenser, to any materials or equipment *[appurtenance]* ***appurtenant*** to the news dispenser, or to any material contained therein, or for any lost sales caused by the removal, transportation or storage of the news dispenser. A charge of \$50.00 *[or double the cost of removal whichever is greater,]* shall be levied by the Department.

16:41B-9.2 Revocation *[and non-renewal]*

If the permittee fails to appeal from the revocation *[or non-renewal]* of a permit within the 15 day period set forth in N.J.A.C. 16:41B-7.1, the news dispenser shall be removed by the Department of Transportation in accordance with the procedures set forth in N.J.A.C. 16:41B-9.1.

16:41B-9.3 Appeals

If a permittee is unsuccessful on appeal from a revocation*,* *[or non-renewal of a permit,]* the permittee shall have 15 days within which to remove the news dispenser. If the news dispenser is not removed within 15 days, the Department of Transportation shall remove it in accordance with the procedure set forth in N.J.A.C. 16:41B-9.1.

16:41B-9.4 Stays

Unless an emergency exists, as determined by the Department, an appeal from a decision to revoke *[or not renew]* a permit shall stay the requirement for removal of the news dispenser. Otherwise, there shall be no stay of the removal of any news dispenser which is maintained, operated, placed or erected in violation of this chapter.

*SUBCHAPTER 10. SEVERABILITY

16:41B-10.1 General requirements

If any provision of this chapter is held invalid, the remainder of the chapter shall not be affected thereby, and shall remain in full force and effect.*

OTHER AGENCIES

(a)

DELAWARE RIVER BASIN COMMISSION

Ground Water Protected Area Regulations Comprehensive Plan and Basin Regulations

Adopted: January 30, 1985 by Delaware River Basin Commission, Susan M. Weisman, Secretary.

Filed: February 6, 1985 as R.1985 d.86 (Exempt, from Administrative Procedure Act as "Exempt Agency", see N.J.S.A. 52:14B-2(a)).

Effective Date: January 30, 1985.

Full text of the adoption follows.

NO. 85-1

A RESOLUTION amending the Ground Water Protected Area Regulations to exempt from regulation certain ground water withdrawals for space heating and cooling purposes—ground water heat pumps—and to establish minimum well construction standards for all wells exempted by this amendment.

WHEREAS, the Commission adopted Ground Water Protected Area Regulations for Southeastern Pennsylvania in October 1980; and

WHEREAS, use of ground water heat pump systems can offer energy and water conservation benefits by reducing fossil fuel-derived energy requirements and consumptive water losses; and

WHEREAS, properly installed ground water heat pump systems that employ injection wells or other means to return withdrawn ground water locally, and to the same ground water basin and aquifer system, do not adversely impact water resources availability; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission:

1. The Ground Water Protected Area Regulations for Southeastern Pennsylvania are hereby amended by the addition of new subsection 6.e. and 6.f., to read as follows:

6.e. Ground water withdrawals for space heating or cooling purposes that are less than 100,000 gallons per day shall be exempt from obtaining a protected area permit provided that the water withdrawn is returned locally, and to the same ground water basin and aquifer system from which it is withdrawn, undiminished in quantity and quality (except temperature). Ground water withdrawals for space heating or cooling that are subsequently used for commercial or industrial water supply purposes are subject to Commission withdrawal and wastewater discharge regulations. Ground water withdrawals exempted pursuant to this subsection shall be subject to the registration requirements of subsection 8.

6.f. All ground water withdrawal projects exempted by subsection "e" above shall be constructed in conformance with accepted industry practice and as a minimum shall comply with the following standards:

—All wells shall be drilled by a Pennsylvania licensed well driller and a Water Well Inventory Report shall be completed and filed with the Pennsylvania Department of Environmental Resources (PADER);

- No wells shall be located within a 100-year floodway;
 - All wells shall have top of casing extended a minimum of one foot above the 100-year flood elevation;
 - All wells shall have the casing protruding a minimum of six inches above the immediate surrounding grade;
 - The area around all wells or well pits shall be constructed and/or graded to prevent the entrance of surface waters;
 - All wells shall be accessible for inspection and shall have an access hole for water level measurements;
 - In order to protect against significant leaks of refrigerant, all ground water heat pump systems shall be equipped with an automatic shutdown device that senses abnormally low or abnormally high refrigerant pressures;
 - Any drilled well holes that are abandoned shall be sealed with a minimum of ten feet of cement grout. Additional seals may be required to separate different water-bearing zones.
2. Existing subsection 6.e. of the Ground Water Protected Area Regulations is hereby renumbered as subsection 6.g. to reflect the addition of the foregoing new subsections.
3. This resolution shall take effect immediately.

NO. 85-3

A RESOLUTION amending the Comprehensive Plan and Basin Regulations—Water Code and Water Quality Standards in relation to standards for the discharge of oil and grease.

WHEREAS, standards relating to the discharge of oil and grease were included in Interpretive Guideline No. 1, adopted by the Commission in 1972, and have not heretofore been included in the Commission's water quality standards; and

WHEREAS, the addition of limitations on the discharge of oil and grease to the Commission's water quality standards will strengthen basin water quality management programs; and

WHEREAS, public hearings on proposed standards relating to oil and grease were held by the Commission in July and November 1980, and testimony has been received and considered by the Commission; and

WHEREAS, Commission action was deferred pending adoption of revised oil and grease standards by the New Jersey Department of Environmental Protection; and

WHEREAS, the New Jersey Department of Environmental Protection did promulgate an oil and grease effluent standard effective; July 2, 1984; now therefore

BE IT RESOLVED by the Delaware River Basin Commission:

1. The Comprehensive Plan and Section 3.10.4.D.1 of the Basin Regulations—Water Code and Water Quality Standards are hereby amended by the addition of a new subsection b. to read as follows:

- b. Oil and Grease
 - 1. Oil Storage Terminal Runoff
 - a) Oil storage terminal runoff shall not exhibit readily visible oil.
 - b) Control facilities shall be designed and operated such that the concentration of oil and grease in the effluent shall not exceed 15 mg/l as the average of samples taken during any single storm event during which:
 - (i) precipitation is not greater than two inches per hour or four and one-half inches in 24 hours; or
 - (ii) a maximum runoff of 80 gallons per minute per acre over a 24 hour period occurs.
 - c) In implementing this standard, signatory parties may adopt and apply either effluent and monitoring standards, or best management practices for design, operation and maintenance.

ADOPTIONS

nance of control facilities, provided that the Commission reserves the power to monitor discharges and enforce the 15 mg/1 oil and grease standard in section 1.(b) above as an effluent limit.

d) The average oil and grease concentration for any storm discharge event shall be determined from samples collected in such manner and such location as to be representative of the actual discharge.

2. Industrial Wastewater Discharges

Shall not exceed the limits as prescribed in the U.S. Environmental Protection Agency's promulgated effluent standards for the industrial category in question.

2. Section 4.30.8E. of the **Basin Regulations—Water Code and Water Quality Standards** is hereby amended by the addition of a new subsection 1. to read as follows:

1. In the analysis of oil and grease samples from oil storage terminal runoff the liquid-liquid extraction with trichlorotrifluoro-ethane gravimetric method shall be used.

3. Interpretive Guideline No. 1, is amended by deleting Section B(2)a. Oil therefrom, renumbering the remaining sections as appropriate.

4. This resolution shall take effect immediately.

OFFICE OF ADMINISTRATIVE LAW NOTE: These rules are not subject to codification and will not appear in the New Jersey Administrative Code. A notice of adoption concerning these regulations is published in the February 13, 1985 Federal Register.

(a)

PORT AUTHORITY OF NEW YORK AND NEW JERSEY

**Schedule of Charges
Public Vehicular Parking Fees
Peak Hour Flight Fee**

**Adopted: December 13, 1984 by the Port Authority of New York and New Jersey,
Doris E. Landre, Secretary.**

Filed: January 23, 1985 as R.1985 d.45 (**Exempt from Administrative Procedure Act** as "Exempt Agency", see N.J.S.A. 52:14B-2(a)).

Effective Date: January 12, 1985, Public Vehicular Parking Fees; February 1, 1985, Peak Hour Flight Fee.

Full text of the adoption follows.

Kennedy International, LaGuardia and Newark International Airports—Revision to Schedule of Charges

RESOLVED, that the resolution establishing fees for parking vehicles on Public Vehicular Parking Areas at Port Authority Air Terminals, adopted by the Board at its meeting on March 11, 1948, as subsequently amended, be and the same is hereby amended, effective midnight, January 12, 1985 as follows:

OTHER AGENCIES

Kennedy International Airport

1. By revising the rates relative to Kennedy International Airport as follows:

	Proposed Rates
Premium Parking—Lot 6 (Pan Am Rooftop)	\$ 2.00 for first 2 hours or part thereof 1.00 per hour or part after first 2 hours (\$24.00 maximum each 24 hours)
Intermediate Parking— Central Terminal Area (Except Lot 6)	\$ 2.00 for first 2 hours or part thereof 1.00 per hour or part third to fifth hour 1.00 per two hours or part sixth to 24th hour 11.00 maximum to 24 hours 1.00 per hour or part after first 24 hours 11.00 maximum each 24 hours
Remote Long Term Park- ing Reduced Rate Lots 8 & 9	\$ 2.00 for first 12 hours or part thereof 1.00 per six hours or part after first 12 hours (\$ 4.00 maximum each 24 hours)

LaGuardia Airport

2. By revising the rates relative to LaGuardia Airport as follows:

	Proposed Rates
All Lots Except Premium Metered Areas	\$ 2.00 for first 2 hours or part thereof 1.00 per hour or part third to fifth hours 1.00 per two hours or part sixth to 24th hour 14.00 maximum to 24 hours 1.00 per hour or part after 24 hours 14.00 maximum each 24 hours

Newark International Airport

3. By revising the rates relative to Newark International Airport as follows:

	Proposed Rates
Premium Parking (Current "Hourly" Lots A, B and C (Proposed "Hourly" Lots A, B, C and 1)	\$ 2.00 for first 2 hours or part thereof 2.00 for first 2 hours or part thereof 1.00 per hour or part third to 24th hour 24.00 maximum to 24 hours

OTHER AGENCIES

ADOPTIONS

Proposed Rates

	2.00 per hour or part after 24 hours (\$24.00 maximum each 24 hours)
Intermediate Parking	\$ 2.00 for first 2 hours or part thereof
(Current "Daily" Lots A, B and C and Lot 1)	1.00 to 2 hours or part after first half hour 1.00 per half hour or part third to fifth hour
(Proposed "Daily" Lots A, B, C and 2)	1.00 per two hours or part sixth to 24th hour 11.00 maximum to 24 hours
	1.00 per hour or part after first 24 hours 11.00 maximum each 24 hours

RESOLVED, that the Committee hereby approves the action of the Chairman of the Committee, authorizing a change in designation of Parking Lot 1 at Newark International Airport's North Terminal from an Intermediate to a Premium Rate schedule and a change in Parking Lot 2 from a Reduced Rate long-term rate schedule to an Intermediate Rate schedule before the peak holiday season; and it is further

RESOLVED, that the Executive Director be and he hereby is authorized, in his discretion, to change rate classifications of any parking lots, or part thereof, employee or public.

Kennedy International, Newark International and LaGuardia Airports—Revision to Schedule of Charges—Peak Hour Surcharge

RESOLVED, that the Committee hereby authorizes an increase in the present \$50 peak-period flight fee surcharge for General Aviation aircraft operating at Kennedy International Airport between 3:00 p.m.-10:00 p.m. and at LaGuardia Airport between 8:00 a.m.-9:00 p.m., to \$100, and establish, a \$100 peak-period flight fee surcharge for General Aviation aircraft at Newark International Airport between the hours of 8:00 a.m.-10:00 a.m. and 5:00 p.m.-8:00 p.m., the proposed action to be effective February 1, 1985; and it is further

RESOLVED, that the Committee hereby authorizes a suspension of \$50 of the \$100 peak-period flight fee surcharge at Newark International Airport until October 1, 1985, the Executive Director to continue the suspension if, in his judgment, the full surcharge is not required to alleviate congestion and delays; and it is further

RESOLVED, that the existing authority to the Executive Director to revise from time to time the Schedule of Charges at Kennedy International, Newark International and LaGuardia Airports in respect to the hours during which the peak hour flight fee is in force, which was granted to him by the Board, at its meeting on May 10, 1979 be reaffirmed.

MISCELLANEOUS NOTICES

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF ENVIRONMENTAL QUALITY BUREAU OF PESTICIDE CONTROL

Petition for Rulemaking

Petitioner: Dow Chemical, USA
 Authority: N.J.S.A. 52:14B-(4)f and N.J.A.C. 1:30-3.6, and N.J.A.C. 7:30-2.4(c).

Take notice that the Department of Environmental Protection has received a petition for rulemaking from Dow Chemical, USA, Midland, Michigan ("petitioner"), dated February 21, 1984. Pursuant to N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6, notice is hereby given of that petition and that the petition is denied. The text of the petition and the Department's findings are on file at the Office of Administrative Law and available for public inspection at the office of:

Ray Ferrarin
 Bureau of Pesticide Control
 380 Scotch Road
 Trenton, New Jersey

The petitioner requests that the Department amend N.J.A.C. 7:30-2.3(a)5 which lists restricted use pesticides. The Department regulates the purchase and use of restricted use pesticides. Chlorpyrifos, in concentrations above 15 percent (number 454), is included on the list of restricted use pesticides. Specifically, the petitioner requests that the Department delete "chlorpyrifos" from N.J.A.C. 7:30-2.3(a)5.

The petitioner states that LORSBAN and DURSBAN are registered trademarks of the Dow Chemical Company for insecticidal formulations containing 0,0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothioate as the active ingredient, hereafter designated chlorpyrifos, the common name approved by the American National Standards Institute.

The petitioner asserted that comparable pesticides of chlorpyrifos were not listed as restricted use pesticides by the Department or the United States Environmental Protection Agency (USEPA) and, therefore chlorpyrifos should be deleted from N.J.A.C. 7:30-2.3(a)5.

Take further notice that the Department has reviewed the petition and finds that the underlying reasons for listing chlorpyrifos above 15 percent concentration still exist, specifically, that the pesticide is moderately toxic and falls within the acute oral LD₅₀ characteristic of category 2 (a dose range of 50-500 milligrams of pesticide for each kilogram of animal weight would be lethal in 50 percent of the cases), and is intended for use by professional applicators. The Department finds, contrary to petitioner's assertion, that the use of substances claimed by the petitioner as comparable to chlorpyrifos is restricted by the USEPA or that such substances are listed in N.J.A.C. 7:30-2.3(a)5. Additionally, the Department records show that chlorpyrifos frequently has been misapplied throughout the State. The Department finds that the petitioner has not demonstrated that the requested modification

of the restricted use pesticide list is necessary and, therefore, the Department denies the petition.

(b)

DIVISION OF WATER RESOURCES

Transfer of Water Should Drought Occur

Public Notice and Hearing

The transfer of water between supply systems and the temporary lowering of minimum stream flow requirements during drought periods will be discussed at two public hearings scheduled by the State Department of Environmental Protection (DEP) for Monday, March 11, 1985.

Due to below-normal precipitation in the State since August 1984, a number of the northeast New Jersey reservoirs are approaching a drought warning status.

The reservoir systems impacted by the decreased rainfall are the Hackensack Water Company, the North Jersey District Water Supply Commission and the City of Newark Water Department.

Discussions with the major water purveyors have been held by the DEP Division of Water Resources and centered on what steps should be taken to avoid the declaration of a drought emergency as happened in September of 1980.

Announcement of a drought emergency could mean the implementation of substantial water use restrictions on residential, commercial and industrial users.

Both of the **public hearings** will be held on Monday, March 11, 1985. The first hearing is scheduled for 10:00 A.M. in the Council Chambers of the Wayne Township Municipal Building, 475 Valley Road, Wayne, New Jersey. The second hearing is scheduled for 6:00 P.M. at the New Jersey State Library, 185 West State Street, Trenton, New Jersey.

The Department is holding these hearings pursuant to provisions of the Water Supply Management Act which allows the DEP to order the transfer of water between supply systems and to lower stream passing flow requirements, if needed.

HUMAN SERVICES

(c)

DIVISION OF MENTAL RETARDATION

Petition for Rulemaking

Use of Psychotropic Medication in DMR Residential Facilities

Petitioner: Department of the Public Advocate, Linda Robinson, Assistant Deputy Public Advocate.
 Authority: N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6.

Take notice that on December 27, 1984, Ms. Linda Robinson, Assistant Deputy Public Advocate, filed a petition on behalf of the Department of the Public Advocate requesting that the Division of Mental Retardation adopt a new rule concerning the use of psychotropic medication in DMR residential facilities. Petitioner alleges that there is excessive use of psychotropic medication in State developmental centers for mentally retarded persons. Petitioner requests that the Department of Human Services promulgate regulations which will uniformly protect residents of DMR facilities from the inappropriate use of psychotropic drugs. Petitioner submitted proposed regulations which she suggests the Department propose as a new rule.

Department of Human Services Response:

The Department of Human Services has responded to the petitioner advising that it agrees that there is a need to develop further procedural safeguards to protect residents of DMR facilities from the inappropriate use of psychotropic medication. Additionally, the Department has advised that further safeguards for the administration of psychotropic medication need to be issued for the protection of **all** clients served by the Department and that such safeguards should be published as rules. The potential problems associated with the use of psychotropic medications have long been a concern of the Department. Because of such concerns, the Department issued an internal procedure in 1978 (Administrative Order 2:13, "Guidelines for Psychotropic Medication"). In addition, approximately one year ago, the Department through its Office of Planning and Policy established a Task Force charged with developing an Administrative Order and/or regulation detailing procedural safeguards for the use of psychotropic medications, beginning with procedures regarding children in institutional settings. A number of the policies and procedures included in the Public Advocate's proposed rule are also included in the proposed Administrative Order being developed by the Task Force.

The Department is of the position that a rule should be proposed to establish procedural safeguards for the use of psychotropic medication for **all** the clients it serves, not only for residents of DMR facilities. The role of the aforementioned Department Task Force has been expanded to develop a Department rule, first addressing the institutional setting, and thereafter regarding the community setting. In formulating a Department rule, the Task Force will give careful consideration to the rule suggested by the Public Advocate. As a supplement to the Department rule, the Department will ensure that its Divisions have regulations or non-regulatory internal procedures that detail how the Department's rule will be implemented in each Division. In the interim, the Divisions will continue to follow the procedures outlined in the Department's Administrative Order 2:13.

For further information concerning this petition for rule-making, interested persons may contact:

E. John Walzer Jr., Esq.
 Department of Human Services
 Office of Intergovernmental Relations
 222 S. Warren Street
 Trenton, New Jersey 08625

(a)

DIVISION OF PUBLIC WELFARE

**General Assistance Manual
 N.J.A.C. 10:85, Appendix A (List of Forms)**

Public Notice

Take notice that the Department of Human Services, in accordance with the sunset and other provisions of Executive Order No. 66(1978), conducted review of N.J.A.C. 10:85, Appendix A, and determined that that rule was obsolete and the absence of a readoption was not detrimental to the public. Therefore, the expiration of N.J.A.C. 10:85, Appendix A on February 1, 1985, was appropriate.

INSURANCE

(b)

THE COMMISSIONER

**Listing of New Jersey Municipalities that
 Have Adopted Ordinances Pursuant to
 P.L. 1978, C.184, as amended by P.L.
 1979, C.369**

Take notice that on January 25, 1985, Jasper J. Jackson, Acting Commissioner of Insurance, in accordance with the provisions of N.J.S.A. 17:36-9, announces the publication of New Jersey municipalities that have adopted ordinances pursuant to the aforementioned statute.

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

**LIST OF MUNICIPALITIES REQUIRING PAYMENT OF
 LIENS BY COMPANIES WRITING FIRE INSURANCE**

The following is a list of municipalities that have passed an ordinance requiring insurance companies writing fire insurance on risks located in that municipality to pay unpaid liens out of any claimed payments in excess of \$2,500.

	Date Filed With The Department of Insurance
1. City of Paterson 07505 (Passaic County)	February 16, 1979
2. City of East Orange 07019 (Essex County)	February 20, 1979
3. City of Jersey City 07302 (Hudson County)	February 23, 1979
4. Town of West Orange 07052 (Essex County)	February 26, 1979
5. Township of Jackson 08527 (Ocean County)	March 7, 1979
6. City of Bayonne 07002 (Hudson County)	March 12, 1979
7. Township of Washington 08215 (Burlington County)	March 12, 1979
8. Town of West New York 07093 (Hudson County)	March 16, 1979
9. Borough of South River 08882 (Middlesex County)	March 16, 1979
10. City of Newark 07102 (Essex County)	March 16, 1979
11. City of Atlantic City 08401 (Atlantic County)	March 19, 1979
12. Town of Irvington 07111 (Essex County)	March 20, 1979
13. Township of Howell 07731 (Monmouth County)	March 20, 1979
14. Borough of Eatontown 07724 (Monmouth County)	March 23, 1979
15. Borough of Somerville 08876 (Somerset County)	March 23, 1979
16. Town of Bloomfield 07003 (Essex County)	March 27, 1979

MISCELLANEOUS NOTICES

- 17. Township of Maplewood 07040 (Essex County) April 4, 1979
- 18. Town of Montclair 07042 (Essex County) April 5, 1979
- 19. City of Plainfield 07061 (Union County) April 5, 1979
- 20. Borough of Sea Bright 07760 (Monmouth County) April 10, 1979
- 21. City of Millville 08332 (Cumberland County) April 10, 1979
- 22. City of Union City 07087 (Hudson County) April 23, 1979
- 23. Township of Lawrence 08648 (Mercer County) April 24, 1979
- 24. Borough of Florham Park 07932 (Morris County) April 25, 1979
- 25. City of Elizabeth 07201 (Union County) April 30, 1979
- 26. City of Bridgeton 08302 (Cumberland County) April 30, 1979
- 27. City of Camden 08101 (Camden County) May 4, 1979
- 28. Township of Randolph 07801 (Morris County) May 10, 1979
- 29. Township of Riverside 08705 (Burlington County) May 10, 1979
- 30. Township of Mannington 08079 (Salem County) May 17, 1979
- 31. Township of Berkeley 08721 (Ocean County) May 22, 1979
- 32. City of Cape May 08204 (Cape May County) May 22, 1979
- 33. City of Asbury Park 07712 (Monmouth County) May 25, 1979
- 34. Township of Washington 07853 (Morris County) May 30, 1979
- 35. Township of Westampton 08060 (Burlington County) June 4, 1979
- 36. Township of Hillside 07205 (Union County) June 4, 1979
- 37. City of Salem 08079 (Salem County) June 20, 1979
- 38. Township of Lower 08204 (Cape May County) June 25, 1979
- 39. Borough of Fanwood 07023 (Union County) June 29, 1979
- 40. City of Orange 07050 (Essex County) July 2, 1979
- 41. Township of Carneys Point 08069 (Salem County) July 2, 1979
- 42. City of Vineland 08360 (Cumberland County) July 6, 1979
- 43. Borough of Penns Grove 08069 (Salem County) July 9, 1979
- 44. Town of Phillipsburg 08865 (Warren County) July 13, 1979
- 45. Borough of Westwood 07675 (Bergen County) July 13, 1979
- 46. Township of Pohatcong 08865 (Warren County) July 20, 1979
- 47. Township of Edgewater Park 08010 (Burlington County) July 24, 1979
- 48. Town of Hammonton 08037 (Atlantic County) August 3, 1979
- 49. Borough of Roselle 07203 (Union County) August 8, 1979
- 50. Township of Cedar Grove 07009 (Essex County) August 10, 1979
- 51. Borough of Keyport 07735 (Monmouth County) August 15, 1979
- 52. Borough of Victory Gardens 07801 (Morris County) August 15, 1979
- 53. Township of Scotch Plains 07076 (Union County) August 22, 1979
- 54. City of North Wildwood 08260 (Cape May County) August 24, 1979
- 55. Borough of Fort Lee 07024 (Bergen County) August 27, 1979
- 56. Township of Cinnaminson 08077 (Burlington County) August 30, 1979
- 57. Township of Delran 08075 (Burlington County) August 30, 1979
- 58. Township of Lopatcong 08865 (Warren County) August 30, 1979
- 59. Borough of Fair View 07022 (Bergen County) September 5, 1979
- 60. Borough of Sayreville 08872 (Middlesex County) September 19, 1979
- 61. Township of Egg Harbor 08221 (Atlantic County) September 24, 1979
- 62. Township of Hopewell 08302 (Cumberland County) September 26, 1979
- 63. Township of Dover 08753 (Ocean County) September 26, 1979
- 64. City of Hoboken 07030 (Hudson County) October 15, 1979
- 65. Township of Upper Pittsgrove 08318 (Salem County) October 15, 1979
- 66. Borough of Berlin 08009 (Camden County) October 18, 1979
- 67. The Borough of Sussex 07461 (Sussex County) October 24, 1979
- 68. The Township of Ocean 07755 (Monmouth County) November 27, 1979
- 69. Borough of Lavallette 08735 (Ocean County) December 11, 1979
- 70. City of Rahway 07065 (Union County) December 18, 1979
- 71. City of Pleasantville 08232 (Atlantic County) December 27, 1979
- 72. Township of Mount Holly 08060 (Burlington County) January 29, 1980
- 73. Town of Secaucus 07094 (Hudson County) March 5, 1980
- 74. Township of Berlin 08091 (Camden County) March 20, 1980
- 75. City of Asbury Park 07712 (Monmouth County) April 1, 1980
- 76. Town of Dover 07801 (Morris County) April 16, 1980
- 77. Township of Willingboro 08046 (Burlington County) April 17, 1980
- 78. City of Hackensack 07602 (Bergen County) April 22, 1980
- 79. Township of Brick 08723 (Ocean County) May 2, 1980
- 80. Township of Mount Laurel 08054 (Burlington County) May 27, 1980
- 81. City of Trenton 08608 (Mercer County) June 12, 1980
- 82. Borough of Tenafly 07670 (Bergen County) June 17, 1980
- 83. Township of Franklin 08873 (Somerset County) June 20, 1980
- 84. Borough of Tinton Falls 07724 (Monmouth County) June 20, 1980
- 85. Township of Readington 08889 (Hunterdon County) June 23, 1980
- 86. Borough of Princeton 08540 (Mercer County) July 16, 1980
- 87. Township of Maple Shade 08052 (Burlington County) July 18, 1980
- 88. Township of South Orange Village 07079 (Essex County) August 19, 1980
- 89. Township of Fairfield 07006 (Essex County) August 21, 1980
- 90. Town of Kearny 07032 (Hudson County) August 26, 1980
- 91. Borough of Hightstown 08520 (Mercer County) September 3, 1980
- 92. City of Passaic 07055 (Passaic County) September 4, 1980
- 93. Township of Aberdeen 07747 (Monmouth County) September 8, 1980
- 94. Borough of Red Bank 07701 (Monmouth County) September 9, 1980
- 95. Township of Princeton 08540 (Mercer County) September 25, 1980
- 96. Borough of South Plainfield 07080 (Middlesex County) September 26, 1980
- 97. Township of Maurice River 08332 (Cumberland County) September 26, 1980
- 98. Township of Byram 07860 (Sussex County) October 9, 1980
- 99. Township of Fredon 07860 (Sussex County) October 28, 1980
- 100. Township of Winslow 08037 (Camden County) November 13, 1980
- 101. Borough of Butler 07405 (Morris County) November 14, 1980
- 102. Borough of Roselle Park 07204 (Union County) March 5, 1981
- 103. Township of Piscataway 08854 (Middlesex County) March 20, 1981
- 104. Borough of Paulsboro 08066 (Gloucester County) May 7, 1981
- 105. Borough of Farmingdale 07727 (Monmouth County) May 18, 1981

TREASURY-GENERAL

- 106. Township of Millburn 07041 (Essex County) May 19, 1981
- 107. City of Egg Harbor 08215 (Atlantic County) May 21, 1981
- 108. Borough of Spotswood 08884 (Middlesex County) June 19, 1981
- 109. Borough of Matawan 07747 (Monmouth County) June 19, 1981
- 110. Township of Lacey 08731 (Ocean County) August 18, 1981
- 111. Township of Ewing 08618 (Mercer County) November 10, 1981
- 112. Township of Clinton 08801 (Hunterdon County) December 10, 1981
- 113. Borough of Eatontown 07724 (Monmouth County) December 15, 1981
- 114. Township of Neptune 07753 (Monmouth County) January 4, 1982
- 115. Borough of Pine Hill 08021 (Camden County) March 2, 1982
- 116. Borough of Belmar 07719 (Monmouth County) March 5, 1982
- 117. City of Ventnor City 08401 (Atlantic County) March 30, 1982
- 118. Borough of Runnemede 08078 (Camden County) May 6, 1982
- 119. Borough of Woodlynne 08107 (Camden County) June 7, 1982
- 120. Township of Green 07821 (Sussex County) July 20, 1982
- 121. Borough of Somerdale 08083 (Camden County) July 28, 1982
- 122. Borough of Barrington 08007 (Camden County) September 17, 1982
- 123. Township of Manchester 08733 (Ocean County) September 21, 1982
- 124. City of Brigantine 08203 (Atlantic County) October 14, 1982
- 125. Borough of Buena 08341 (Atlantic County) November 1, 1982
- 126. Township of Hamilton 08330 (Atlantic County) November 18, 1982
- 127. Borough of Neptune City 07712 (Monmouth County) December 2, 1982
- 128. Borough of Jamesburg 08831 (Middlesex County) March 2, 1983
- 129. Township of Jefferson 07849 (Morris County) April 19, 1983
- 130. Borough of Woodstown 08079 (Salem County) September 8, 1983
- 131. City of Absecon City 08201 (Atlantic County) July 5, 1983
- 132. Township of the Borough of Verona 07044 (Essex) February 23, 1984
- 133. Borough of Keansburg 07734 (Monmouth County) April 5, 1984
- 134. Borough of Little Silver 07739 (Monmouth County) April 5, 1984
- 135. Borough of Wood-Ridge 07075 (Bergen County) July 9, 1984
- 136. Township of Waterford 08004 (Camden County) July 9, 1984
- 137. City of South Amboy 08879 (Middlesex County) July 12, 1984
- 138. City of Wildwood 08260 (Cape May County) December 5, 1984
- 139. Township of Alloway 08079 (Salem County) December 20, 1984
- 140. Township of Mendham 07949 (Morris County) January 16, 1985

This list is filed as R.1985 d.82 and is not subject to codification, but will appear in Title 11 for informational purposes.

TREASURY-GENERAL

(a)

DIVISION OF BUILDING AND CONSTRUCTION

Architect-Engineer Selection Notice of Assignments: February 14, 1985

Solicitations of design services for major projects are made by notices published in construction trade publications and newspapers and by direct notification of professional associations/societies and listed, prequalified New Jersey consulting firms. For information on DBC's prequalification and assignment procedures, call (609) 984-6979.

Last list dated January 16, 1985.

The following assignments have been made:

DBC No.	PROJECT	A/E	CCE
S178 (Reassignment)	Installation of Radio Tower Communications Center Division of State Police	Pennonni Associates	\$ 50,000
H782	Replacement of Central Chilling Unit Life Hall Montclair State College Upper Montclair, NJ	Jansen & Rogan Engineers, PA	\$ 89,000

TREASURY-GENERAL

MISCELLANEOUS NOTICES

DBC No.	PROJECT	A/E	CCE
M613	Life Safety Renovations Occupational Therapy Building Greystone Park Psychiatric Hospital Greystone Park, NJ	Paulsen Associates	\$ 76,000
C272	Feasibility Study Additional 500 Bedspaces Newark State Prison Newark, NJ	Geddes Brecher Qualls & Cunningham	\$ 58,923 Services
M616	Survey of Electrical Systems 11 Cottages—2 Campuses Vineland Developmental Center Vineland, NJ	Borda Engineers & Energy Consultants	\$ 2,500 Services
C277	Roof Replacement Leesburg Spruce Hall Ancora Psychiatric Hospital Hammonton, NJ	Glen A. Kahley, AIA	\$ 60,000
E148	Renovation of High School Gymnasium Marie Katzenbach School for the Deaf West Trenton, NJ	Malloy & Duffe, AIA	\$ 125,000
H766	New Elevator Installation Green Hall Trenton State College Trenton, NJ	Matthew L. Rue, AIA	\$ 100,000
H767	Upgrade Fire & Safety Systems Bray Hall Trenton State College Trenton, NJ	M. Benton & Associates	\$ 50,000
H768	New Secondary Electrical System Kendall Hall Trenton State College Trenton, NJ	H. V. Weeks, Inc.	\$ 175,000
M603	New Fire Protection System Various Maintenance Buildings Trenton Psychiatric Hospital Trenton, NJ	J. M. DiGiacinto & Associates	\$ 66,000
M617	Roof Repair/Replacement Various Buildings North Princeton Developmental Center Skillman, NJ	Eugene F. O'Connor, AIA	\$ 173,000
S189	New Seawall Marine Police Station Lake Hopatcong, NJ	VEP Associates, Inc.	\$ 40,000
M601	Modification of Emergency Reception Center Lincoln Building Trenton Psychiatric Hospital Trenton, NJ	Joseph N. Wirth, AIA	\$ 24,000
H786	Installation of Door Security Systems Centennial & Norsworthy Halls Trenton State College Trenton, NJ	Matthew L. Rue, AIA	\$ 11,000
M622	Roof Replacement—Cottage 9 Woodbine Developmental Center Woodbine, NJ	Glen A. Kahley, AIA	\$ 80,000
M623	Exhaust Fans—Bathrooms Long Term Care Facility Vineland Developmental Center Vineland, NJ	Kolbe & Poponi, PA	\$ 5,000
M600	Phase II—100 Bed Addition Veterans Nursing Facility Paramus, NJ	CUH2A	\$6,300,000

T167	Roof Replacement—Two Buildings DOT Regional Office Cherry Hill, NJ	Harry A. DiFazio, RA, PA	\$ 60,000
H788	Road & Sidewalk Repairs Montclair State College Upper Montclair, NJ	Keller & Kirkpatrick, PA	\$ 85,000
H923	Exterior Floodlighting & Interior Lighting Montclair State College Upper Montclair, NJ	Jansen & Rogan Engineers	\$ 80,000
M621	Replacement of Fuel Oil Storage Tanks North Princeton Developmental Center North Princeton, NJ	M. Benton & Associates	\$ 152,000
H765	Study—Tideland Athletic Field Layout Jersey City State College Jersey City, NJ	VEP Associates, Inc.	\$ 2,500 Services
M620	Steam Line Replacement New Lisbon Developmental Center New Lisbon, NJ	Borda Engineers & Energy Consultants	\$ 175,000
H751	Upgrade Fire/Safety Systems Phases III & IV Glassboro State College Glassboro, NJ	John C. Morris Associates	\$ 350,000
Competitive Proposals			
	John C. Morris Associates, Inc.	=	7.78%
	Frank R. Holtaway & Son	=	8.00%
	Borda Engineers & Energy Consultants	=	10.00%
T165	New Region II Headquarters Complex Department of Transportation Freehold, NJ	Scrimeti/Shive/Spinelli Perantoni, Architects	\$3,500,000
Competitive Proposals			
	Scrimeti/Shive/Spinelli/Perantoni, Architects	=	4.57%
	Vitetta Group	=	5.98%
	Haines Lundberg Waehler	=	7.955%
M596	Replace Water Tower/Water Main/Fire Hydrants Glen Gardner Center for Geriatrics Glen Gardner, NJ	Van Note-Harvey Associates	\$ 383,000
Competitive Proposals			
	Van Note-Harvey Associates	=	4.89%
	Robert C. Bogart & Associates	=	12.00%
	Kupper Associates	=	20.80%
S183	Conversion of Barracks to Lab Little Falls State Police Station Little Falls, NJ	Haines Lundberg Waehler	\$ 450,000
Competitive Proposals			
	Haines Lundberg Waehler	=	6.55%
	Zywotow & Eckert, AIA	=	10.50%
	Scrimeti/Shive/Spinelli/Perantoni Architects	=	11.00%
M597	Electrical Distribution System Glen Gardner Center for Geriatrics Glen Gardner, NJ	Frank R. Holtaway & Son, Inc.	\$ 250,000
Competitive Proposals			
	Frank R. Holtaway & Son, Inc.	=	4.85%
	Brownworth Mosher & Doran	=	6.84%
	Wagner Associates, Inc.	=	11.00%

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Petition for Rulemaking

Casino License Fees

N.J.A.C. 19:41-9.4(f)

Petitioner: Claridge at Park Place, Inc.

Authority: N.J.S.A. 5:12-69(c), 5:12-70(e), 5:12-139, N.J.A.C. 19:42-8 and N.J.S.A. 52:14B-4(f).

Take notice that on January 23, 1985, the Casino Control Commission denied the petition of Claridge at Park Place, Inc. requesting an amendment to N.J.A.C. 19:41-9.4(f). The Claridge proposal would amend the method by which any liability existing in the Casino Control Fund as of the end of each fiscal year is apportioned among casino licensees. In brief, Claridge contended that the fee apportionment should be based upon the value of the license and the licensee's ability to pay the fee. Additionally, Claridge argued that the number of gaming units at a facility would be a truer measure of the regulatory expenses incurred.

The Commission found that the present allocation formula, equally assessing casino licensees for the unattributable regulatory expenses which comprise the annual deficiency assessment, is a fair and reasonable method. The Commission also found that the method described in the amendment proposed by Claridge would be unreasonable.

ENERGY

(b)

Draft Energy Master Plan

Public Notice

Take Notice that the Draft Energy Master Plan is available for public comment. Copies of the Master Plan are available for inspection by the Public at each County Library and the State Library.

Copies of the Draft Energy Master Plan may be obtained by forwarding a written request to:

Office of Community and Educational Services
Department of Energy
101 Commerce Street
Newark, N.J. 07102

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 changes proposed in this issue will be entered in the Index of the next Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule 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 date of the latest update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the January 7, 1985 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to timely adopt a proposed rule requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(d).

Terms and abbreviations used in this Index:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1984 d.300 means the three hundredth rule adopted in 1984.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A number and date verifying the currency of rules found in each Title of the New Jersey Administrative Code: rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to quickly find the issue of publication of a rule proposal or adoption.

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
16 N.J.R. 293 and 404	February 21, 1984	16 N.J.R. 2319 and 2390	September 4, 1984
16 N.J.R. 405 and 470	March 5, 1984	16 N.J.R. 2391 and 2474	September 17, 1984
16 N.J.R. 471 and 576	March 19, 1984	16 N.J.R. 2475 and 2708	October 1, 1984
16 N.J.R. 577 and 778	April 2, 1984	16 N.J.R. 2709 and 2864	October 15, 1984
16 N.J.R. 779 and 940	April 16, 1984	16 N.J.R. 2865 and 3066	November 5, 1984
16 N.J.R. 941 and 1130	May 7, 1984	16 N.J.R. 3067 and 3240	November 19, 1984
16 N.J.R. 1131 and 1294	May 21, 1984	16 N.J.R. 3241 and 3336	December 3, 1984
16 N.J.R. 1295 and 1406	June 4, 1984	16 N.J.R. 3337 and 3518	December 17, 1984
16 N.J.R. 1407 and 1634	June 18, 1984	17 N.J.R. 1 and 140	January 7, 1985
16 N.J.R. 1635 and 1832	July 2, 1984	17 N.J.R. 141 and 236	January 21, 1985
16 N.J.R. 1833 and 2026	July 16, 1984	17 N.J.R. 237 and 338	February 4, 1985
16 N.J.R. 2027 and 2184	August 6, 1984	17 N.J.R. 339 and 502	February 19, 1985
16 N.J.R. 2185 and 2318	August 20, 1984	17 N.J.R. 503 and 634	March 4, 1985

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:1, 1:2	Readopt General Hearing and Summary Proceedings rules	17 N.J.R. 2(a)		
1:2-2	Civil Service cases: readopt conference hearings	16 N.J.R. 3338(a)	R.1985 d.77	17 N.J.R. 569(a)
1:2-3	Motor Vehicle cases: readopt hearings on the papers	16 N.J.R. 3339(a)	R.1985 d.78	17 N.J.R. 569(b)
1:10	Public welfare hearings	16 N.J.R. 3068(a)	R.1985 d.79	17 N.J.R. 569(c)
1:10-17.1	Division of Public Welfare cases	16 N.J.R. 945(a)		
1:11-1.1, 15.1	Insurance filing cases	16 N.J.R. 2866(a)	R.1985 d.76	17 N.J.R. 572(a)
(TRANSMITTAL 10, dated December 17, 1984)				
AGRICULTURE—TITLE 2				
2:24-1.1, 1.2	Bee diseases: acarine mite quarantine	17 N.J.R. 118(a)	R.1985 d.107	17 N.J.R. 573(a)
2:32-2	Sire Stakes Program	17 N.J.R. 3(a)	R.1985 d.108	17 N.J.R. 573(b)
2:52-2.1, 3.1	Notice of intent to change milk supplier	16 N.J.R. 3071(a)	R.1985 d.75	17 N.J.R. 576(a)
2:53-4.1	Notice of intent to change milk supplier	16 N.J.R. 3071(a)	R.1985 d.75	17 N.J.R. 576(a)
2:76-3.12	Farmland preservation: deed restrictions	16 N.J.R. 2867(a)	R.1984 d.596	17 N.J.R. 63(a)
2:76-4.11	Municipally-approved farmland preservation	16 N.J.R. 2869(a)	R.1984 d.597	17 N.J.R. 64(a)
2:76-6.15	Acquisition of development easements	16 N.J.R. 2871(a)	R.1984 d.595	17 N.J.R. 65(a)
2:90-3	Water conservation project cost sharing	17 N.J.R. 7(a)		
(TRANSMITTAL 27, dated December 17, 1984)				
BANKING—TITLE 3				
3:1-9.2-9.5	Home mortgage disclosure	16 N.J.R. 2872(a)	R.1985 d.98	17 N.J.R. 577(a)
3:2-1	Readopt rules on Advertising by Financial Institutions	17 N.J.R. 238(a)		
3:30-2.1	Savings associations and Federal reserve requirements	17 N.J.R. 142(a)		
(TRANSMITTAL 25, dated December 17, 1984)				
CIVIL SERVICE—TITLE 4				
4:1-1.1-1.10	Purpose and application of rules	16 N.J.R. 1132(a)	R.1984 d.603	17 N.J.R. 66(a)
4:1-2.1	Words and phrases defined	16 N.J.R. 2187(a)	R.1984 d.604	17 N.J.R. 67(a)
4:1-9	Readopt Examination Scoring	16 N.J.R. 2873(a)	R.1985 d.63	17 N.J.R. 387(a)
4:1-12.15	Appointment of eligible certified	17 N.J.R. 10(a)		
4:1-14.6	Interim appointments and return to permanent titles	16 N.J.R. 1134(a)	R.1984 d.605	17 N.J.R. 69(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
4:1-14.7	Emergency appointments	16 N.J.R. 2191(a)		
4:1-18.3	Compensation for holidays	16 N.J.R. 1421(a)		
4:1-20	Readopt Performance Evaluation and Employee Training	16 N.J.R. 2877(a)	R.1985 d.61	17 N.J.R. 389(a)
4:1-20.2	Certified Public Manager Program	16 N.J.R. 3072(a)	R.1985 d.62	17 N.J.R. 392(a)
4:2-9	Readopt Examination Scoring	16 N.J.R. 2873(a)	R.1985 d.63	17 N.J.R. 393(a)
4:2-14.1	Interim appointments and return to permanent titles	16 N.J.R. 1134(a)	R.1984 d.605	17 N.J.R. 69(a)
4:2-17.10	Correction: Administrative leave			17 N.J.R. 393(a)
4:2-18.1, 18.2, 18.3	Compensation for holidays	16 N.J.R. 1421(a)		
4:2-20	Readopt Performance Evaluation and Employee Training	16 N.J.R. 2877(a)	R.1985 d.61	17 N.J.R. 389(a)
4:2-20.7	Certified Public Manager Program	16 N.J.R. 3072(a)	R.1985 d.62	17 N.J.R. 389(a)
4:3-9	Readopt Examination Scoring	16 N.J.R. 2873(a)	R.1985 d.63	17 N.J.R. 387(a)
4:3-14.2	Interim appointments and return to permanent titles	16 N.J.R. 1134(a)	R.1984 d.605	17 N.J.R. 69(a)
4:3-15.1	Repeal rule concerning transfer of county caseworkers	16 N.J.R. 3073(a)		
4:3-20	Readopt Performance Evaluation and Employee Training	16 N.J.R. 2877(a)	R.1985 d.61	17 N.J.R. 389(a)

(TRANSMITTAL 21, dated October 15, 1984)

COMMUNITY AFFAIRS—TITLE 5

5:12	Homelessness Prevention Program	16 N.J.R. 3497(a)	R.1985 d.74	17 N.J.R. 577(b)
5:18, 18A, 18B	Uniform Fire Code; Fire Code Enforcement; High Level Alarms	16 N.J.R. 3339(b)	R.1985 d.66	17 N.J.R. 394(a)
5:22	Readopt tax exemption rules for improvements to residential dwellings	16 N.J.R. 2191(b)	R.1984 d.590	17 N.J.R. 71(a)
5:23-2.4, 2.6, 2.17A	UCC: rooming and boarding houses	16 N.J.R. 3073(b)	R.1985 d.16	17 N.J.R. 275(a)
5:23-3.8A	UCC: products in violation	16 N.J.R. 3074(a)	R.1985 d.38	17 N.J.R. 421(a)
5:23-3.14, 3.20	Building and mechanical subcodes	17 N.J.R. 239(a)		
5:23-4.5	UCC: duties of construction officials	17 N.J.R. 340(a)		
5:23-5.4	UCC: trainee suspension, fire protection trainees	16 N.J.R. 3372(a)	R.1985 d.85	17 N.J.R. 579(a)
5:23-5.4	UCC: private enforcing agencies and trainee positions	17 N.J.R. 341(a)		
5:27	Readopt rules on Rooming and Boarding Houses	17 N.J.R. 341(b)		
5:27-1.5	UCC: rooming and boarding houses	16 N.J.R. 3073(b)	R.1985 d.16	17 N.J.R. 275(a)
5:27-5.1	Fire safety in rooming and boarding houses	16 N.J.R. 3242(a)	R.1985 d.39	17 N.J.R. 421(b)
5:27-5.3	Fire safety in rooming and boarding houses	16 N.J.R. 299(a)		
5:31	Local Finance Board: local authorities	16 N.J.R. 1835(a)	R.1984 d.601	17 N.J.R. 72(a)
5:71	Readopt County Offices on Aging rules	17 N.J.R. 342(a)		
5:80-7	Housing and Mortgage Finance Agency projects: Tenant Selection Standards	16 N.J.R. 954(a)	R.1985 d.106	17 N.J.R. 580(a)

(TRANSMITTAL 25, dated December 17, 1984)

EDUCATION—TITLE 6

6:3-1.2	Board of school estimate	17 N.J.R. 143(a)		
6:8-6.2	Evaluation and certification of school districts	17 N.J.R. 143(b)		
6:11-4.3	Emergency certification	16 N.J.R. 3075(a)	R.1985 d.49	17 N.J.R. 422(a)
6:20-3	Readopt rules on Tuition Public Schools	17 N.J.R. 144(a)		
6:20-3.1	Tuition public schools: determining rates	17 N.J.R. 119(a)	R.1985 d.91	17 N.J.R. 583(a)
6:20-5.3, 5.4	State facility pupil assignments: district of residence	17 N.J.R. 344(a)		
6:20-6	Readopt rules on Purchase and Loan of Textbooks	17 N.J.R. 148(a)		
6:20-8	Readopt rules on Public School Contracts	16 N.J.R. 3372(b)	R.1985 d.88	17 N.J.R. 584(a)
6:26-3	Readopt rules on Elementary School Summer Sessions	16 N.J.R. 2715(a)	R.1985 d.47	17 N.J.R. 422(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
6:27-3	Readopt rules on Secondary School Summer Sessions	16 N.J.R. 2717(a)	R.1985 d.48	17 N.J.R. 423(a)
6:28-3.2, 3.6, 6.1, 6.3, 8.3	Special Education	17 N.J.R. 345(a)		
6:29-7.1	Readopt Family Life Education Programs	16 N.J.R. 3377(a)		
6:30-2.5	Adult high school graduation requirements	16 N.J.R. 2719(a)	R.1984 d.614	17 N.J.R. 188(a)
6:31	Readopt Bilingual Education rules	16 N.J.R. 2721(a)	R.1985 d.46	17 N.J.R. 425(a)
6:68-2	Library assistance: readopt Incentive Grant Program rules	17 N.J.R. 346(a)		
6:70	Library network services	16 N.J.R. 3076(a)	R.1985 d.53	17 N.J.R. 428(a)

(TRANSMITTAL 26, dated December 17, 1984)

ENVIRONMENTAL PROTECTION—TITLE 7

7:1C-1	90-day construction permits	16 N.J.R. 3243(a)		
7:7F-1, 3	Shore Protection Program; local government grants	16 N.J.R. 2881(a)		
7:9-4, 5	Surface water quality and treatment of wastewater discharges	16 N.J.R. 3080(a)		
7:11-2.3, 2.5, 2.8-2.12	Delaware and Raritan Canal water supply system	17 N.J.R. 11(a)		
7:12	Shellfish-growing water classification	16 N.J.R. 3112(a)	R.1985 d.64	17 N.J.R. 433(a)
7:12-2.1, 2.2, 2, 3, 2.4	Correction: Shellfish-growing water classification	16 N.J.R. 3379(a)	R.1985 d.64	17 N.J.R. 433(a)
7:13-1.4, 4.7, 5.2, 5.4	Flood hazard area control	16 N.J.R. 2193(a)	R.1985 d.24	17 N.J.R. 275(b)
7:13-1.11(c)27	Floodways along Pequest River in Sussex and Warren counties	16 N.J.R. 1306(a)		
7:13-1.11(d)49	Floodway delineations in Union County	16 N.J.R. 1146(a)		
7:13-1.11(d)51	Floodways along North Branch Raritan (Project U)	16 N.J.R. 1307(a)		
7:13-7.1(c)17	Redelineation of Delaware River in Harmony Township, Warren County	17 N.J.R. 151(a)		
7:13-7.1(c)30	Floodway delineation along Paulins Kill	16 N.J.R. 2397(a)		
7:13-7.1	Paulins kill floodway delineation: public hearing	16 N.J.R. 2885(a)		
7:13-7.1(d)50	Floodway delineation along North Branch Foulerton's Brook	16 N.J.R. 2398(a)		
7:13-7.1(d)52	Supplemental Project I floodway delineations in the Passaic River Basin	16 N.J.R. 1865(b)		
7:14A-1.8	Fee schedule for NJPDES permits and applicants	17 N.J.R. 13(a)		
7:19-5	Small water company takeover	16 N.J.R. 3380(a)		
7:19-6	Water Supply Management Act Rules	16 N.J.R. 2399(a)		
7:19A	Emergency Water Supply Allocation Plan rules	16 N.J.R. 308(a)	R.1985 d.67	17 N.J.R. 438(a)
7:19B	Emergency Water Surcharge Schedule	16 N.J.R. 314(a)	R.1985 d.67	17 N.J.R. 438(a)
7:20	Dam Safety Standards	16 N.J.R. 790(a)		
7:25-2	Readopt rules on Use of Land and Water Areas under DEP control	16 N.J.R. 1309(a)		
7:25-4.13, 4.17	Status of the osprey	17 N.J.R. 350(a)		
7:25-7.10, 7.11	Taking of oysters and mussels	16 N.J.R. 3385(a)		
7:25-12.1	Preservation of sea clams	16 N.J.R. 2885(b)		
7:25-16.1	Readopt freshwater fishing license lines	16 N.J.R. 2044(a)		
7:25-18.4	Spearfishing in marine waters	16 N.J.R. 2478(a)	R.1984 d.609	17 N.J.R. 79(a)
7:25-22.2	Purse seine fishing of menhaden	16 N.J.R. 1668(a)		
7:25-23	Permit to kill wild deer	17 N.J.R. 350(b)		
7:25A	Oyster management	17 N.J.R. 352(a)		
7:26	Solid and hazardous waste collector-haulers: Disclosure Statement Forms	16 N.J.R. 1425(a)		
7:26-1.4, 2.6, 2.10, 2.13, 3.5	Disposal of asbestos waste	16 N.J.R. 440(a)	R.1985 d.65	17 N.J.R. 446(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:26-8.13, 8.16	Hazardous waste from non-specific sources; hazardous constituents	17 N.J.R. 354(a)		
7:26-8.15	Hazardous waste management: warfarin and zinc phosphide	17 N.J.R. 356(a)		
7:26-9.10, 9.11, App. A.	Hazardous waste facilities: closure letters of credit	17 N.J.R. 241(a)		
7:26-10.5	Tank storage containment requirements	17 N.J.R. 152(a)		
7:26-14	Resource Recovery grants and loans	16 N.J.R. 3385(b)		
7:26-14	Resource recovery grants and loans: extension of comment period	17 N.J.R. 242(a)		
7:27	Air quality standards: State Implementation Plan for lead	16 N.J.R. 1669(a)		
7:27-8	Air pollution control: permits and certificates	16 N.J.R. 1671(a)	R.1985 d.96	17 N.J.R. 587(a)
7:27-13.1, 13.2, 13.5-13.8	Ambient air quality standards	16 N.J.R. 1676(a)		
7:27-14	Diesel-powered motor vehicles: air pollution control	16 N.J.R. 2887	R.1985 d.1	17 N.J.R. 188(b)
7:27-14.3	Diesel-powered motor vehicles: idle standard	16 N.J.R. 2887		
7:27-15	Gas-fueled motor vehicles: air pollution control	16 N.J.R. 2889	R.1985 d.2	17 N.J.R. 190(a)
7:27-15.6	Gas-fueled motor vehicle: idle standard	16 N.J.R. 2889		
7:27-18.1, 18.2, 18.3, 18.4, 18.7	Air pollution control: emission offset rules	16 N.J.R. 1679(a)	R.1985 d.25	17 N.J.R. 277(a)
7:27B-4	Air Test Method 4 for motor vehicles	16 N.J.R. 2894	R.1985 d.3	17 N.J.R. 194(a)
7:28-24	Readopt Nuclear Medicine Technology rules	17 N.J.R. 22(a)		
7:29-1.1-1.5	Noise control	16 N.J.R. 1682(a)		
7:29-1.1-1.5	Noise control: extension of comment period	16 N.J.R. 2405(a)		
7:30	Pesticide Control Code	17 N.J.R. 242(b)		
7:36	Green Acres Program	16 N.J.R. 2405(b)		

(TRANSMITTAL 26, dated December 17, 1984)

HEALTH—TITLE 8

8:20-1	Birth Defects Registry	16 N.J.R. 3118(a)	R.1985 d.92	17 N.J.R. 591(a)
8:21-2.40	Baby foods and ethylene dibromide level	16 N.J.R. 2897(a)	R.1985 d.42	17 N.J.R. 449(a)
8:21A	Good drug manufacturing practices	16 N.J.R. 3248(a)		
8:21A-2.55	Drug manufacturing: medical gas lot or control numbers	16 N.J.R. 1685(a)		
8:31-26.3, 26.4	Health care facilities: employee physicals; child abuse	16 N.J.R. 3249(a)		
8:31A	Readopt SHARE Guidelines	16 N.J.R. 2898(a)		
8:31A-7.3, 7.4	SHARE: 1985 Rate Review Guidelines	16 N.J.R. 2727(a)	R.1984 d.599	17 N.J.R. 80(a)
8:31B-2	1985 uniform bill-patient summary	16 N.J.R. 2728(a)	R.1984 d.610	17 N.J.R. 80(b)
8:31B-2, 3, 4	Hospital Rate Setting rules: temporary waiver of expiration	16 N.J.R. 2733(a)		
8:31B-3.19	RIM methodology for nursing cost allocation: implementation date	16 N.J.R. 2848(b)		
8:31B-3.23	Correction: Hospital reimbursement	16 N.J.R. 2733(b)		
8:31B-3.23, 3.24, 3.43, 3.75	Hospital rate setting; outpatient dialysis reimbursement hospital-based physician costs	16 N.J.R. 669(a)		
8:31B-3.26, App. II	Hospital reimbursement: economic factor	17 N.J.R. 153(a)		
8:31B-3.45	Hospital rate setting	16 N.J.R. 2733(c)	R.1984 d.598	17 N.J.R. 83(a)
8:31B-5.2	Diagnosis Related Groups: outliers	16 N.J.R. 3119(a)		
8:33A-1.1	New and expanded surgical services: deferral of need applications	16 N.J.R. 2734(a)		
8:33A-2	Surgical facilities: planning and need review	17 N.J.R. 154(a)		
8:33E-2	Cardiac surgical centers	16 N.J.R. 3120(a)	R.1985 d.28	17 N.J.R. 281(a)
8:33E-2.1-2.5, 2.10, 2.12, 2.13	Cardiac surgical centers: need review	16 N.J.R. 2196(a)		
8:33F	Renal Disease Services: readopt Planning and Certification rules	16 N.J.R. 3124(a)	R.1985 d.29	17 N.J.R. 284(a)

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8:39-2.1	All health care facilities: certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.26	17 N.J.R. 285(a)
8:35	Repeal (see 8:43B-8)	16 N.J.R. 188(a)	R.1985 d.30	17 N.J.R. 285(c)
8:40-1.1	Licensure of invalid coach and ambulance services	16 N.J.R. 3127(a)		
8:42-1	Home health agencies: readopt licensure standards	16 N.J.R. 3250(a)		
8:42-1.2	Certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.26	17 N.J.R. 285(a)
8:42A-2.1	Certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.26	17 N.J.R. 285(a)
8:42B-2.1	Certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.26	17 N.J.R. 285(a)
8:43-1.5	Certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.26	17 N.J.R. 285(a)
8:43A	Licensure of ambulatory care facilities	16 N.J.R. 3254(a)		
8:43A-1.3	Certificate of need approval letter	16 N.J.R. 3125(a)	R.1985 d.26	17 N.J.R. 285(a)
8:43B-1	Licensure of hospital facilities	16 N.J.R. 3275(a)		
8:43B-6	Hospital facilities: readopt Medical Staff rules	16 N.J.R. 3152(a)	R.1985 d.27	17 N.J.R. 285(b)
8:43B-8	Hospital licensure: obstetric and newborn services	16 N.J.R. 188(a)	R.1985 d.30	17 N.J.R. 285(c)
8:43F	Medical day care facilities: readopt licensure standards	16 N.J.R. 3277(a)		
8:45	Clinical laboratory services	17 N.J.R. 268(a)		
8:57-4.15	Immunization of school children: mumps vaccine	17 N.J.R. 358(a)		
8:57-4.16	Emergency Powers of Commissioner	Emergency	R.1985 d.40	17 N.J.R. 483(a)
8:59-1.3, 4.1, 5.1, 5.5, 6.1, 6.2, 6.3, 7.2, 7.5, 8.5	Worker and Community Right to Know Act	16 N.J.R. 2735(a)	R.1984 d.626	17 N.J.R. 196(a)
8:65-7	Prescription requirements for controlled dangerous substances	16 N.J.R. 2327(a)	R.1984 d.607	17 N.J.R. 83(b)
8:65-10.1, 10.2	Controlled dangerous substances: rescheduling of Sufentanil	16 N.J.R. 2900(a)	R.1985 d.83	17 N.J.R. 592(a)
8:65-10.4	Controlled dangerous substances: add Triazolam to Schedule IV	16 N.J.R. 2901(a)		
8:65-10.4	Controlled dangerous substances: additions to Schedule IV	16 N.J.R. 3390(a)		
8:65-10.8	Controlled dangerous substances: exempt chemicals	16 N.J.R. 3280(a)	R.1985 d.84	17 N.J.R. 592(b)
8:65-11.2	Narcotic treatment programs: registration fee	17 N.J.R. 359(a)		
8:71	Additions to generic drug list (see 16 N.J.R. 1092(a), 1595(a), 1994(a)), 2673(a))	16 N.J.R. 202(a)	R.1984 d.613	17 N.J.R. 200(a)
8:71	Generic drug list additions (see 16 N.J.R. 2672(b))	16 N.J.R. 1436(a)	R.1984 d.612	17 N.J.R. 200(b)
8:71	Generic drug list additions	16 N.J.R. 2483(a)	R.1984 d.615	17 N.J.R. 201(a)
8:71	Additions to generic drug list	17 N.J.R. 158(a)		

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HIGHER EDUCATION—TITLE 9

9:2-1, 2, 3, 8, 9	Repeal (See 9:6)	16 N.J.R. 2209(a)		
9:2-4, 5, 6, 7, 12, 13	Readopt Administrative Policies for colleges and universities	16 N.J.R. 2216(a)		
9:2-11	Recodify as 9:7-7	16 N.J.R. 2218(a)		
9:2-12.2	Teacher education: curriculum	17 N.J.R. 22(b)		
9:6	State College: policies and standards	16 N.J.R. 2209(a)		
9:6-1.2, 3.1, 3.4, 3.5, 3.6, 3.11, 4.4, 4.7, 5.2, 5.13	State Colleges: policies and standards	17 N.J.R. 160(a)		
9:7-3.1	Tuition Aid Grant Award Tables	17 N.J.R. 23(a)		
9:7-4.2	Garden State Scholars: award amounts	16 N.J.R. 3281(a)		
9:7-5.1, 5.4, 5.10	Public Tuition Benefits Program	17 N.J.R. 24(a)		
9:7-7	Readopt Veteran's Tuition Credit Program	16 N.J.R. 2218(a)		

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9:9-1.6	Student loan applications: prohibited fee	16 N.J.R. 3281(b)		
9:9-1.16	Defaulted student loans: interest liability	16 N.J.R. 1012(a)		
9:9-9.2	PLUS Program: direct loan prerequisites	16 N.J.R. 1012(b)		
9:14	Readopt Independent College and University Assistance rules	17 N.J.R. 25(a)		

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HUMAN SERVICES—TITLE 10

10:44A-1.1-1.5, 2.2, 2.4, 3.1, 3.3, 4.3, 5.2, 9	Community residences for developmentally disabled: Supportive Living Programs	16 N.J.R. 1438(a)		
10:44B	Community training and family-based respite care homes	17 N.J.R. 359(b)		
10:47	Private Licensed Facilities for Developmentally Disabled	16 N.J.R. 2902(a)		
10:49-1.1	Medicaid eligibility	16 N.J.R. 2219(a)		
10:49-1.7	Administration Manual: utilization of insurance benefits	16 N.J.R. 1933(a)	R.1985 d.7	17 N.J.R. 309(a)
10:49-1.27	Long-term care facilities: completion of field audit	16 N.J.R. 2413(a)		
10:52-1.1, 1.20	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:52-1.2, 1.3	Covered and non-covered inpatient hospital services	16 N.J.R. 483(a)	R.1985 d.87	17 N.J.R. 593(a)
10:52-2	Hospital Services: readopt Admission and Billing Procedures	16 N.J.R. 3159(a)	R.1985 d.56	17 N.J.R. 451(a)
10:53-1.1, 1.16	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:53-1.2, 1.3	Covered and non-covered inpatient hospital services	16 N.J.R. 483(a)	R.1985 d.87	17 N.J.R. 593(a)
10:54-1.3	Progress notes for mental health providers	16 N.J.R. 2333(a)	R.1985 d.52	17 N.J.R. 452(a)
10:54-3	Preproposal: radioimmunoassay laboratory fees	16 N.J.R. 677(a)		
10:55-1	Prosthetic and orthotic services	17 N.J.R. 26(a)		
10:55-1.5, 1.8, 3.1	Shoes and shoe appliances: provider reimbursement	17 N.J.R. 162(a)		
10:56-1.11	Dental Services: utilization of insurance benefits	16 N.J.R. 1933(a)	R.1985 d.7	17 N.J.R. 309(a)
10:59-1.2, 1.4, 1.9, 1.12	Medical Supplier Manual: recycling of durable medical equipment	16 N.J.R. 2048(a)		
10:60	Readopt Home Care Services Manual	17 N.J.R. 28(a)		
10:60-3	Community Care Waiver Program for Elderly and Disabled	16 N.J.R. 3161(a)		
10:61-1.2	Medicaid participation by State, county and municipal labs	16 N.J.R. 3162(a)		
10:63-1.6	Changes in level of long-term care	16 N.J.R. 2049(a)		
10:63-1.22	Long-term care facilities: completion of field audit	16 N.J.R. 2413(a)		
10:66-1.1, 1.2, 1.3,1.6, 1.7, 1.9	Ambulatory surgical centers	16 N.J.R. 3153(a)		
10:66-1.9	Progress notes for mental health providers	16 N.J.R. 2333(a)	R.1985 d.52	17 N.J.R. 452(a)
10:67-1, 2.6	Readopt Psychologist's Services Manual	16 N.J.R. 3163(a)		
10:67-1.6	Progress notes for mental health providers	16 N.J.R. 2333(a)	R.1985 d.52	17 N.J.R. 452(a)
10:69A-6.9	PAAD: authorization to release prescription information	16 N.J.R. 2050(a)	R.1984 d.617	17 N.J.R. 201(b)
10:69A-1.2, 2.1, 5.3, 5.6, 6.1, 6.4, 6.6, 6.10, 6.11	Pharmaceutical Assistance for Aged and Disabled	17 N.J.R. 367(a)		
10:81-3.9, 3.17, 3.40	PAM: support rights; continued absence	16 N.J.R. 3282(a)	R.1985 d.99	17 N.J.R. 594(a)
10:81-3.34	PAM: temporary absence of children from home	17 N.J.R. 163(a)		
10:81-8.22	PAM: eligibility for medical assistance	16 N.J.R. 2740(a)	R.1984 d.618	17 N.J.R. 202(a)

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10:81-11.1, 11.4, 11.12	PAM: continuing IV-D services for families that lose AFDC	17 N.J.R. 164(a)		
10:81-11.7, 11.9	PAM: child support and health benefits	17 N.J.R. 165(a)		
10:81-11.9	PAM: reimbursement by counties to State	17 N.J.R. 369(a)		
10:82-2.19	ASH: recovery of overpayments	16 N.J.R. 2055(a)		
10:82-3.1-3.7	ASH: resource eligibility in AFDC	16 N.J.R. 486(a)		
10:85-3.1	GAM: household size	17 N.J.R. 37(a)		
10:85-3.2, 10.6	GAM: willingness to work and penalty period	16 N.J.R. 2741(a)		
10:85-3.3	GAM: monthly assistance payment for residential health care	16 N.J.R. 2742(a)		
10:85-3.3	General Assistance rate in residential health care facilities	_____	_____	17 N.J.R. 48(a)
10:85-3.3, 12	GAM: medical care eligibility; repeal income standards rules	16 N.J.R. 3165(a)	R.1985 d.81	17 N.J.R. 595(a)
10:85-5.3	GAM: outpatient facility services	16 N.J.R. 2488(a)	R.1984 d.593	17 N.J.R. 90(a)
10:85-8	GAM: readopt Referral to Other Agency Programs	16 N.J.R. 3166(a)	R.1985 d.80	17 N.J.R. 596(a)
10:87-1.14	Food Stamps: release of case file information	17 N.J.R. 166(a)		
10:87-2.16, 2.17, 8.2	Food Stamps: quality control case review	17 N.J.R. 167(a)		
10:87-2.19, 3.17-3.20	Food Stamp Program: work registration and voluntary quit	Emergency	R.1985 d.4	17 N.J.R. 215(a)
10:89-1.1, 2.2, 2.3, 3.1-3.6, 4.1, 5.3	Home Energy Assistance	16 N.J.R. 3217(a)	R.1985 d.5	17 N.J.R. 310(a)
10:94-3.16	Medicaid district offices	17 N.J.R. 38(a)		
10:94-5.6	Medicaid Only: health insurance premiums	17 N.J.R. 39(a)		
10:99	Commodities and Services Council: Rehabilitation Facilities	16 N.J.R. 2338(a)	R.1985 d.55	17 N.J.R. 453(a)
10:123-3.2	Residential health care: personal needs allowance	17 N.J.R. 39(b)		

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CORRECTIONS—TITLE 10A

10A:31	Adult county correctional facilities	16 N.J.R. 3284(a)	R.1985 d.17	17 N.J.R. 312(a)
10A:32	County juvenile detention centers	17 N.J.R. 40(a)	R.1985 d.97	17 N.J.R. 598(a)
10A:71	State Parole Board rules	16 N.J.R. 3391(a)		

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INSURANCE—TITLE 11

11:1-2.5-2.8	Property-liability: rate counsel participation	16 N.J.R. 2918(a)		
11:1-10	Repeal rules on Licensing of Financial Institutions, Subsidiaries and Affiliates	16 N.J.R. 2919(a)	R.1985 d.69	17 N.J.R. 458(b)
11:1-16	Request for rate decrease	16 N.J.R. 3169(a)		
11:1-18	Approval of business names	17 N.J.R. 41(a)		
11:1-19	Uniform registration of branch offices	17 N.J.R. 42(a)		
11:2-10.1	Repeal Personal Lines Insurance rule	16 N.J.R. 2920(a)	R.1985 d.71	17 N.J.R. 458(a)
11:2-19	Approval of insurance schools and company training programs	16 N.J.R. 2920(b)		
11:2-20	License renewal: continuing education requirement	16 N.J.R. 2922(a)		
11:2-21	Property and casualty coverage: underwriting guidelines	16 N.J.R. 2924(a)		
11:2-23	Advertisement of life insurance and annuities	16 N.J.R. 2926(a)		
11:3-7	Automobile Reparation Reform Act rules: 90-day waiver of expiration	16 N.J.R. 2414(a)		
11:3-7	Automobile Reparation Reform Act rules	16 N.J.R. 3417(a)		
11:3-7	Readopt Automobile Reparation Reform Act rules	17 N.J.R. 43(a)		
11:3-7.8, 7.9	PIP premium on additional automobiles	16 N.J.R. 488(a)		
11:3-8	Nonrenewal of auto insurance policies	16 N.J.R. 2930(a)		
11:3-10	Auto physical damage claims	16 N.J.R. 3170(a)		

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11:3-11.1	Moped insurance	16 N.J.R. 3285(a)	R.1985 d.72	17 N.J.R. 458(c)
11:3-16	Private passenger automobile rate filings	16 N.J.R. 2934(a)		
11:3-17	Automobile rate filings	16 N.J.R. 2936(a)		
11:3-18	Filing review procedures	16 N.J.R. 2937(a)		
11:3-20	Reporting excess profits	17 N.J.R. 370(a)		
11:3-21	Reduced PIP premium charges	16 N.J.R. 3286(a)		
11:4-8	Charitable annuities	16 N.J.R. 3172(a)	R.1985 d.94	17 N.J.R. 598(b)
11:4-9	Annuity and deposit fund disclosure	16 N.J.R. 2939(a)		
11:4-16.8	Medicare Supplement Coverage: disclosure standards	16 N.J.R. 2944(a)	R.1985 d.68	17 N.J.R. 459(a)
11:4-20	Insuring of handicapped	17 N.J.R. 168(a)		
11:4-23	Medicare Supplement Policies and Contracts	16 N.J.R. 2945(a)	R.1985 d.70	17 N.J.R. 460(a)
11:4-25	Social security disability offset	16 N.J.R. 3287(a)		
11:5-1.19	Real estate branch offices	16 N.J.R. 2228(a)		
11:5-1.24	Closing or transfer of real estate brokerage	16 N.J.R. 2228(b)		
11:5-1.28	Approved real estate schools: requirements	17 N.J.R. 376(a)		
11:5-1.32	Residential rental referral agencies	16 N.J.R. 2952(a)	R.1985 d.93	17 N.J.R. 600(a)
11:10-1	Dental plan organizations	16 N.J.R. 2230(a)		
11:10-2	Employees' dental benefit plans	17 N.J.R. 45(a)		
11:14-1.3, 2.1, 2.4, 3.1, 3.3, 4.1, 4.2	Auto body repair facilities	16 N.J.R. 2235(a)		
11:15-2.15	Payment of joint fund assessments by local governments	Emergency	R.1984 d.616	17 N.J.R. 218(a)
11:16	Provider verification of services	17 N.J.R. 47(a)		
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12:15-1.1	Unemployment Compensation: contributions, records and reports	16 N.J.R. 2488(b)		
12:16	Contributions, records, reports	16 N.J.R. 2488(b)		
12:19	Contributions, records, reports	16 N.J.R. 2488(b)		
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12A	Departmental rules; small business set-aside contracts	16 N.J.R. 1955(a)	R.1984 d.421	16 N.J.R. 2683(a)
LAW AND PUBLIC SAFETY—TITLE 13				
13:1-4.6	Police Training Commission: radar instructor certification	17 N.J.R. 377(a)		
13:2-17	ABC: readopt rules on Appeals	16 N.J.R. 2954(a)	R.1984 d.608	17 N.J.R. 91(a)
13:2-19	ABC: readopt rules on Disciplinary Proceedings	16 N.J.R. 2957(a)	R.1984 d.606	17 N.J.R. 92(a)
13:2-23.16, -24, -35	ABC proposal: industry marketing and sales practices	16 N.J.R. 3292(a)		
13:2-31	ABC: readopt rules on Seizure Hearings	16 N.J.R. 2959(a)	R.1984 d.602	17 N.J.R. 92(b)
13:13	Discrimination against handicapped persons	16 N.J.R. 838(a)		
13:18-6.1	DMV: notification of liability coverage termination	16 N.J.R. 3174(a)		
13:19-10	Point System and Driving During Suspension: 25-day waiver of expiration of rules	16 N.J.R. 502(a)		
13:20-26.5, 26.12, 26.16	State inspection of certain trucks and truck tractors	17 N.J.R. 270(a)		
13:20-28	New car inspection	16 N.J.R. 2500(a)	R.1984 d.622	17 N.J.R. 203(a)
13:20-32.14	Reinspection centers: mechanic certification	16 N.J.R. 3175(a)	R.1984 d.619	17 N.J.R. 204(a)
13:20-33.1, 33.50	Licensed reinspection centers	16 N.J.R. 3288(a)	R.1985 d.20	17 N.J.R. 313(a)
13:20-34	Motor vehicle registration identifying marks	16 N.J.R. 2743(a)	R.1985 d.101	17 N.J.R. 601(a)
13:20-37	Motor vehicles with modified chassis height	16 N.J.R. 2501(a)	R.1985 d.100	17 N.J.R. 603(a)
13:20-38	Maximum length for auto transporters	16 N.J.R. 3176(a)	R.1985 d.23	17 N.J.R. 313(b)
13:21-1.3, 1.4, 1.5	Driver's licenses and social security numbers	16 N.J.R. 2746(a)		
13:21-4.1	Readopt rules on Motor Vehicle Titles	17 N.J.R. 377(b)		

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13:21-15.6	Auto dealers: acceptance of altered title documents	17 N.J.R. 169(a)		
13:22	Motor vehicle race tracks	16 N.J.R. 2503(a)	R.1984 d.591	17 N.J.R. 93(a)
13:25-3.15, 3.16, 3.17	Motorized bicycle operator license	17 N.J.R. 48(a)		
13:27-3.13	Certification of landscape architects: fee schedule	16 N.J.R. 3176(b)	R.1985 d.22	17 N.J.R. 313(c)
13:27-8	Certified landscape architects	17 N.J.R. 169(b)		
13:28-1	Readopt Beauty Culture Industry rules	17 N.J.R. 49(a)		
13:28-2	Readopt rules on Beauty Culture Schools	17 N.J.R. 172(a)		
13:29-3	Accountancy: readopt rules of professional conduct	16 N.J.R. 3418(a)	R.1985 d.104	17 N.J.R. 604(a)
13:30-8	Readopt Board of Dentistry general provisions	17 N.J.R. 378(a)		
13:33-1.38	Eyeglass standards and tolerances	16 N.J.R. 3288(b)		
13:33-4.1	Readopt Dispensing of Contact Lenses rule	16 N.J.R. 2513(a)		
13:35-2.4	Chiropractic licensure	16 N.J.R. 3177(a)	R.1985 d.102	17 N.J.R. 605(a)
13:35-6.1	Medical practice identification	16 N.J.R. 3178(a)	R.1985 d.103	17 N.J.R. 606(a)
13:35-6.6	Requirement for issuing prescriptions	16 N.J.R. 2415(a)	R.1984 d.600	17 N.J.R. 102(a)
13:35-6.14	Therapeutic treatment by unlicensed Medical aides	16 N.J.R. 2065(a)		
13:36-1.6	Mortuary Board fees and charges	17 N.J.R. 50(a)		
13:37-1.8	Schools of professional nursing	17 N.J.R. 51(a)		
13:37-2-6	Nursing licensure	16 N.J.R. 3179(a)	R.1985 d.105	17 N.J.R. 607(a)
13:38-2	Readopt rules of optometric practice	16 N.J.R. 3289(a)	R.1985 d.60	17 N.J.R. 467(a)
13:40-8	Engineers and land surveyors: release of project records	16 N.J.R. 1027(a)		
13:40-9	Supervision of engineering and land surveying projects	16 N.J.R. 2067(b)		
13:44-4.1	Veterinary medicine: training certificate fee	17 N.J.R. 383(a)		
13:46	Boxing rules	16 N.J.R. 2241(a)	R.1984 d.611	17 N.J.R. 103(a)
13:46	Boxing Rules	16 N.J.R. 2962(a)		
13:46-4.20, 5.26, -23	Boxing and wrestling standards of conduct	17 N.J.R. 55(a)		
13:46-8.19, 10.7	Scoring of boxing contest; announcement of decision	16 N.J.R. 1956(a)	R.1985 d.21	17 N.J.R. 314(a)
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16:28A-1.7, 1.46	Bus stops on U.S.9 in Ocean County and U.S.130 in Salem County	17 N.J.R. 177(a)		
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16:28A-1.27, 1.37	Parking on Route 38 in Mt. Laurel and Route 70 in Pennsauken	16 N.J.R. 3188(a)	R.1985 d.10	17 N.J.R. 318(a)
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16:53A	Readopt Bus Operating Assistance Program rules	17 N.J.R. 272(a)		
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16:62	Air safety and hazardous zoning	16 N.J.R. 860(b)		
16:62	Public hearing: air safety and hazardous zoning	17 N.J.R. 59(b)		
16:77	Use of occupancy of NJ TRANSIT-owned property	16 N.J.R. 2415(b)	R.1984 d.625	17 N.J.R. 205(a)

(TRANSMITTAL 25, dated December 17, 1984)

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17:1-2.3	Alternate Benefit Program: salary reduction and deduction	16 N.J.R. 2350(b)		
17:3-2.3	Teachers' pension and annuity: full-time employment	17 N.J.R. 60(a)		
17:5-5.5	State Police Retirement: outstanding loans	16 N.J.R. 2997(a)		
17:6-1, 2, 3, 4	Readopt rules on Consolidated Police and Firemen's Pension Fund	16 N.J.R. 2997(b)	R.1985 d.37	17 N.J.R. 475(b)
17:6-1.4	Police and firemen's pension: election of Commission members	16 N.J.R. 2999(a)	R.1985 d.36	17 N.J.R. 476(a)
17:9-2.3	State Health Benefits Program: annual enrollment period	16 N.J.R. 2422(a)	R.1985 d.18	17 N.J.R. 320(b)
17:9-6.3	Health Benefits Program: retired employees' coverage	16 N.J.R. 3192(b)		
17:16-27	Investment Council: certificates of deposit	17 N.J.R. 60(b)		
17:19-2	Construction contracts: prequalification of bidders	16 N.J.R. 2751(a)		
17:20-4.10	Transfer of lottery license	16 N.J.R. 2758(a)	R.1984 d.586	17 N.J.R. 115(a)
17:20-5	Revocation or suspension of Lottery agent's license	17 N.J.R. 272(b)		
17:20-6.1	Distribution of lottery tickets	16 N.J.R. 2758(b)	R.1984 d.585	17 N.J.R. 115(b)
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18:7-8.3	Corporation Tax: discretionary adjustment of 100% allocation factor	16 N.J.R. 3002(a)	R.1984 d.594	17 N.J.R. 115(c)
18:7-8.7-8.10, 8.12	Corporation business tax revisions	16 N.J.R. 3420(b)	R.1985 d.43	17 N.J.R. 477(a)
18:22-1.5	Public utility corporations: accounting methods	16 N.J.R. 3423(a)		
18:24-9.11	Sales by exempt organizations	16 N.J.R. 3298(b)	R.1985 d.44	17 N.J.R. 480(a)
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18:24-31.4	Certified vendors within urban enterprise zones	16 N.J.R. 3193(a)	R.1985 d.31	17 N.J.R. 320(c)
18:36	Savings institution tax	16 N.J.R. 3194(a)	R.1985 d.32	17 N.J.R. 321(a)
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19:47-8.2	Baccarat: minimum wager	16 N.J.R. 3425(a)		

(TRANSMITTAL 11, dated December 17, 1984)

Spring 1985

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