

# NEW JERSEY REGISTER



THE JOURNAL OF STATE AGENCY RULEMAKING

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(Includes rules filed through October 10, 1986)

MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: AUGUST 18, 1986.

See the Register Index for Subsequent Rulemaking Activity.

NEXT UPDATE WILL BE DATED SEPTEMBER 22, 1986

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# INTERESTED PERSONS

Interested persons may submit, in writing, information or arguments concerning any of the rule proposals in this issue until **December 3, 1986**. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal or group of proposals.

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

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

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## NEW JERSEY REGISTER

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

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# RULE PROPOSALS

## AGRICULTURE

### (a)

#### DIVISION OF ANIMAL HEALTH

#### Animal Vaccines

#### Biological Products for Diagnostic or Therapeutic Purposes

#### Proposed Amendment: N.J.A.C. 2:6-1.1

#### Proposed Repeal and New Rule: N.J.A.C. 2:6-1.2, 1.3, 1.4, 1.5, 1.6

#### Proposed Repeal: N.J.A.C. 2:6-1.7, 1.8 and 1.9

Authorized By: State Board of Agriculture; Arthur R. Brown, Jr., Secretary, Department of Agriculture.

Authority: N.J.S.A. 4:5-107-112.

Proposal Number: PRN 1986-441.

Submit comments by December 3, 1986 to:

Sidney R. Nusbaum, D.V.M.  
Director, Division of Animal Health  
N.J. Department of Agriculture  
CN 330  
Trenton, New Jersey 08625  
Telephone (609) 292-3965

The agency proposal follows:

#### Summary

In September 1985, the New Jersey Department of Agriculture adopted new regulations controlling the sale and use of biologics in the State. In December 1985, the Congress of the United States amended the Federal Virus, Serum, and Toxins Act of 1913 to include Federal control of intrastate and export sales. Therefore, the New Jersey Department of Agriculture proposes to amend and readopt the regulations so that it clarifies their relationship to the Federal law and regulations. The Department feels that the current regulations are in substantial compliance with the new Federal law and with subsequent Federal regulations as proposed in this amendment. The New Jersey regulations exempt most Federally licensed manufacturers or products from the New Jersey regulation, limit the use of certain products to the State, and limit who can use these products. The amendments clarify the portion of Federal special licenses and exemptions created in the amended Federal Act. A new definition, "Diagnostic Biologics", has been added and wording has been changed to reflect the Federal Act.

These regulations do not apply to drugs or chemicals, including antibiotic preparations.

#### Social Impact

These regulations affect veterinarians, livestock owners and poultrymen in that they protect them from ineffective vaccines, serums, antigens and diagnostic agents used to determine, prevent, and treat animal disease. The regulations protect the public by keeping ineffective products off the market. The risks of not maintaining these regulations include ineffective vaccines, inferior products, improper handling, misdiagnosis and treatment by laymen. The regulations protect human health by restricting exposure to virulent organisms.

#### Economic Impact

Diagnosis, prevention and treatment of animal disease by the use of veterinary biologics prevent losses of horses, livestock and poultry due to morbidity and mortality, thus, increasing economic return of animal agricultural products. Healthy animals allow New Jersey to compete more effectively in the distribution and sale, both nationally and internationally, of animal agricultural products. A minor degree of economic loss may occur within the animal feedstuff industry and the pet-animal industry by not being able to sell certain biologics.

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

#### 2:6-1.1 Definitions

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

"Accredited veterinarian" means any licensed Doctor of Veterinary Medicine who has fulfilled the requirements for Federal and State accreditation, pursuant to 9 C.F.R. sec. 160.1 et seq. in the State of New Jersey.

"Biologic product" or ["Biological"] "biologic", ["biological product"], "biological" and "biological drug" mean any product utilizing virus (whether active or inactive) or any molecular part thereof, bacteria or any genetic equivalent thereof, or toxin as its basic component, or any product derived from the serum of any other animal, in the diagnosis (diagnostic biologic) or prevention (prophylactic biologic) [therapy] of animal disease. This includes any and all products covered by the Animal Virus, Serum, and Toxin Act, 21 U.S.C.A. secs. 151 et seq., and the regulations issued pursuant thereto, 9 C.F.R. sec. 101.1 et seq.

"Diagnostic biologic" means a preparation of bacterial, viral or parasitic agents, products, fractions, serums, or fractions of serums utilized to determine experience with a disease causing agent.

"Distribution" means the preparation, sale, barter, exchange, or giving away of any regulated product.

"Prophylactic [biological] biologic" means any and all vaccines or toxoids used to initiate [or maintain active or passive] immunity against disease in domestic animals.

#### 2:6-1.2 [Scope] Distribution of biologics

[This subchapter applies to any person who either manufactures, sells, gives away, or distributes, or intends to manufacture, sell, give away or distribute within the State of New Jersey of any biological, biological product, or biological drug.]

(a) No biologic, diagnostic biologic or prophylactic biologic shall be distributed without a license or written permission by the Director, or exemption by these regulations.

(b) The distribution of any Brucella Vaccine and Contagious Ecthyma of sheep vaccines for use in New Jersey is prohibited except by the Division of Animal Health.

(c) The distribution and use of the following biological products in New Jersey is prohibited:

1. Anthrax Spore Vaccine;
2. Avian Influenza Vaccine;
3. Bluetongue Vaccine;
4. Chlamydia Psittaci Bacterin;
5. Duck Virus Enteritis Vaccine;
6. Duck Virus Hepatitis Vaccine;
7. Mycobacterium Paratuberculosis Bacterin;
8. Mycoplasma Gallisepticum Bacterin;
9. Ovine Ecthyma Vaccine;
10. Pseudorabies Vaccine;
11. Salmonella Dublin Bacterin.

(d) The Director may prohibit the distribution of any other diagnostic product or prophylactic biologic, based upon the scientific evidence and/or the usefulness, desirability and value of the biologic product to the overall health and safety of the industry, in accordance with the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:30 et seq.

#### 2:6-1.3 [Application] Persons required to be licensed

[(a) These regulations shall apply whenever:

1. Any person who meets the requirements as defined in N.J.A.C. 2:6-1.1, has failed to meet the requirements of the Animal Virus, Serum, and Toxin Act, 21 U.S.C.A. sec. 151 et seq. and the Federal regulations issued pursuant thereto, 9 C.F.R. sec. 101.1 et seq., or;

2. Any person who is engaged in the manufacture, sale, or distribution of a biological, biological product, or biological drug that is not covered by the Animal Virus, Serum, and Toxin Act, 21 U.S.C.A. sec. 151 et seq.]

(a) This subsection applies to any person who distributes, or intends to distribute any biologic product.

(b) Any person that distributes a biologic product which is not licensed under the Animal Virus, Serum, and Toxin Act, 21 U.S.C.A. sec. 154, and the Federal regulations issued pursuant thereto, 9 C.F.R. sec. 101.1 et seq., requires a license by the Director to distribute the biologic product.

(c) If the United States Department of Agriculture grants a conditional license for a biologic product, pursuant to the Animal Virus, Serum, and Toxin Act, 21 U.S.C.A. sec. 154, or sec. 154a, and the Federal Regulations issued pursuant thereto 9 C.F.R. sec. 101.1, et seq., any person that distributes such biologic product must either be licensed or given permission to use such biologic product by the Director.

2:6-1.4 [Prerequisites for licensure; application] **Licensing procedure**

[Whenever this subchapter applied as specified in N.J.A.C. 2:6-1.2, application for a State license to manufacture, sell, give away, or distribute any biological, biological product, or biological drug must be made to the Director on forms provided by the Division.]

(a) **License or written permission to distribute, use, sell, or give away by the Director upon a showing to the Director's satisfaction in writing of:**

1. **The purpose, purity, safety, potency and efficacy of the product;**
2. **The procedures to insure the same;**
3. **Reporting procedures to track the product; and**
4. **The credibility and reliability of the person applying for the license, based on their credentials and past performance in handling these materials.**

(b) **License or written permission to distribute, use, sell or give away a biologic product may be granted for more than one biologic product upon a showing of the need for scientific research or testing.**

2:6-1.5 [Biologicals for State use only] **Use of biologic products, diagnostic biologicals and prophylactic biologicals**

[Any and all antigens made available by commercial laboratories for distribution, sale, or the like thereof, to be used in the invitro diagnosis of Equine Infectious Anemia, Brucellosis, or Paratuberculosis (Johne's Disease), or any other disease of domestic animals designated by the Director, shall be so used by the Animal Health Laboratory, Division of Animal Health, New Jersey Department of Agriculture. Any and all distribution, sale, or the like, of Brucella bacterin or contagious ecthyma of sheep vaccine shall be only to the Division of Animal Health.]

(a) **Only approved biologic products may be used in New Jersey in accordance with N.J.A.C. 2:6-1.2 and 2:6-1.3, and the Administrative Procedures Act, N.J.S.A. 52:14B-1, et seq.**

(b) **All biologic products, including rabies vaccines, shall be administered only by or on the order of a licensed veterinarian, except in the following instances:**

1. **Prophylactic biologicals used to immunize poultry;**
2. **The use of diagnostic biologicals for any reportable animal disease as enumerated in N.J.S.A. 4:5-4 et seq., shall only be by or on the order of an accredited veterinarian;**
3. **Only accredited veterinarians may administer prophylactic biologicals for the immunization of domestic animals against Brucella contagious ecthyma of sheep and any other disease which may be designated by the Director;**
4. **Only the Animal Health Laboratory of the Division of Animal Health, New Jersey Department of Agriculture may use any and all diagnostic biologicals to be used in the invitro diagnosis of Equine Infectious Anemia, Brucellosis or Paratuberculosis (Johne's Disease), unless specific written permission is granted by the Director, except for other government agencies who may be cooperating with the New Jersey Department of Agriculture, or where in the opinion of the Director, there is an emergent situation requiring immediate action.**

2:6-1.6 [Use of diagnostic biologicals] **Revocation of license or permission to distribute or use**

[Products covered by this subchapter shall be used for the diagnosis or therapy of animal disease (including rabies) only by a licensed veterinarian, provided that the use of any biological for the purpose of diagnosis and control of any reportable animal disease, as enumerated N.J.S.A. 4:5-4 et seq., and the regulations issued pursuant thereto, N.J.A.C. 2:2-1.1 et seq., including Brucellosis, shall only be performed by an accredited veterinarian.]

(a) **A license or permission to distribute or use any biologic product may be revoked by the Director when there has been a violation of State or Federal laws or regulations, or where the public health, welfare or safety shall warrant such revocation, subject to notice and opportunity to be heard.**

(b) **Any hearing to be conducted under this section shall be so conducted pursuant to N.J.A.C. 2:1-3.8 and the Administrative Procedure Act, N.J.S.A. 52:14B-1, et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.**

[2:6-1.7 Use of prophylactic biologicals

Any and all vaccines made for the immunization of animals against Brucella contagious ecthyma of sheep and any other disease designated by the Director, shall be administered to any animal only by an accredited veterinarian. Any and all other biologicals, including rabies vaccines, may be administered only by or on the order of a licensed veterinarian. This section does not apply to the immunization of poultry.]

[2:6-1.8 Revocation of license

(a) All licenses under this subchapter shall be subject to revocation at any time when the Director has a belief that there has been a violation

of these or on the appropriate Federal law or regulation, or where the public health, welfare or safety shall warrant such revocation.

(b) Any hearing to be conducted under this section shall be so conducted pursuant to the governing provisions of N.J.A.C. 2:1-3.8.]

[2:6-1.9 Distribution of biologicals

No person shall distribute, sell, or give away any biological product exempt from these regulations by compliance under the Animal Virus, Toxin, and Serum Act, 21 U.S.C. secs. 151 et seq., and the regulations issued pursuant thereto, 9 C.F.R. sec. 101.1 et seq., except to any person that is licensed to sell, distribute, or prescribe the same.]

## PERSONNEL

### (a)

#### SUPPLEMENTAL COMPENSATION ON RETIREMENT

##### Supplemental Compensation on Retirement Rules

**Proposed Repeal: N.J.A.C. 4:5-1.1, 1.2, 1.3, 1.4, 1.5, 1.7, 6.2**

**Proposed New Rule: N.J.A.C. 4:1-26.1**

**Proposed Readoption with Amendments: N.J.A.C. 4:5-1.6, 2.1, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 5.1, 5.2, 5.3, 6.1**

**Proposed Recodification: N.J.A.C. 4:5 to 4:2**

Authorized By: Merit System Board, Peter J. Calderone,  
Assistant Commissioner, Department of Personnel.

Authority: N.J.S.A. 11A:6-16 to N.J.S.A. 11A:6-23; P.L.1986,  
c.112.

Proposal Number: PRN 1986-463.

A **public hearing** concerning this proposal will be held on:

November 20, 1986 at 1:30 P.M.  
Merit System Board Room  
215 East State Street  
Trenton, New Jersey 08625

**Please contact Ms. Dolores Carvill at 609-292-6568 if you plan to attend and to be included on the list of speakers.**

Submit comments by December 3, 1986 to:

Peter J. Calderone  
Assistant Commissioner  
Department of Personnel  
CN 312  
Trenton, New Jersey 08625

The agency proposal follows:

#### Summary

The current rules governing supplemental compensation on retirement will expire on December 7, 1986 pursuant to Executive Order No. 66(1978). With the enactment of new legislation, N.J.S.A. 11A:1-1 et seq., rulemaking authority rests with the Merit System Board. The Board proposes to adopt rules codified at N.J.A.C. 4:1-26.1 and 4:2-26.1 et seq., which set forth the regulations regarding Supplemental Compensation. The Board also proposes existing N.J.A.C. 4:5-1 et seq. for readoption, as a technical procedure so as to assure regulatory continuity while allowing interested parties the appropriate time to comment and the Board to deliberate on any changes.

N.J.A.C. 4:2-26.2 reflects the statutory purpose of this program, which is a financial inducement and incentive for conscientious and efficient service that concludes upon a bona fide retirement. Thus, employees who are removed for cause after an opportunity for a hearing or who retire in lieu of removal, or under circumstances which warrant removal, will not be eligible to receive this benefit. This condition of eligibility is reflective of general public policy of a program payable from public funds, the cost of which is necessarily borne by the taxpayers. N.J.A.C. 4:2-26.10 provides for the increase in the maximum allowable payment from \$12,000 to \$15,000. Additionally, N.J.A.C. 4:2-26.7 reflects current practice regarding eligibility for supplemental compensation of retired employees if such employees reenter State employment.

Other, non-substantive, changes reflect grammatical construction and were also effected to avoid repetition, and to provide clarification through reorganization of the subject matter areas.

**Social Impact**

The readoption itself has a great impact on those State employees who retire. In particular, employees who are separated from State government under less than honorable conditions will not be eligible to receive supplemental compensation, a program payable from public funds. Moreover, the increased maximum payment will serve as a further incentive for judicious use of sick leave.

**Economic Impact**

The adoption itself has a great impact for governmental retirees. With the increase in the maximum allowable payment from \$12,000 to \$15,000 the cost of the program will increase.

Full text of the readoption can be found at N.J.A.C. 4:5.

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

CHAPTER 2

SUPPLEMENTAL COMPENSATION ON RETIREMENT RULES

Old Citation	New Citation	Old Citation	New Citation
4:5-1.1	Repealed	4:5-4.4	4:2-26.3
4:5-1.2	Repealed	4:5-4.5	4:2-26.4
4:5-1.3	Repealed	4:5-4.6	4:2-26.5
4:5-1.4	Repealed	4:5-4.7	4:2-26.6
4:5-1.5	Repealed	4:5-4.8	4:2-26.7
4:5-1.6	4:2-26.14	4:5-5.1	4:2-26.9
4:5-1.7	Repealed	4:5-5.2	4:2-26.10
4:5-2.1	4:2-26.1	4:5-5.3	4:2-26.11
4:5-4.1	4:2-26.2	4:5-6.1	4:2-26.12
4:5-4.2	4:2-26.8	4:5-6.2	Repealed
4:5-4.3	4:2-26.13		

SUBCHAPTER 26. SUPPLEMENTAL COMPENSATION ON RETIREMENT

4:1-26.1 General

(a) In State service, supplemental compensation on retirement shall be provided pursuant to N.J.A.C. 4:2-26.1 et seq.

(b) In local service, an appointing authority may establish and administer a supplemental compensation on retirement program.

SUBCHAPTER 1. [AUTHORITY AND PURPOSE] (RESERVED)

4:5-1.1 [Rules prescribed] (Reserved)

[N.J.S.A. 11:14-9 et seq. provides that the President of the Civil Service Commission, the State Treasurer and the Director, Division of Budget and Accounting, hereinafter referred to as the "Lump Sum Sick Leave Committee," shall prepare and promulgate rules and regulations including "reasonable standards for determining which employees are eligible for the supplemental compensation."]

[4:5-1.6]4:2-26.14 [A]Effect on other retirement benefits

[The lump sum s)Supplemental compensation [provided herein] for accumulated sick days shall in no way affect[, increase or decrease] any pension or retirement benefits [to such] for which a retired employee is eligible under any other [statute] program.

4:5-1.7 [Payment in accordance with public policy] (Reserved)

[No payment shall be made which may be considered not in accordance with public policy as embodied in the legislative intent of N.J.S.A. 11:14-9 et seq.]

CHAPTER 2  
STATE SERVICE

SUBCHAPTERS 24 AND 25. (RESERVED)

[SUBCHAPTER 2. DEFINITIONS] SUBCHAPTER 26.  
SUPPLEMENTAL COMPENSATION ON  
RETIREMENT

[4:5-2.14]2-26.1 Words and phrases defined

(a) As used in this [chapter,] subchapter, the listed terms shall have the following meanings unless the context clearly indicates otherwise[.]:

"Deferred retirement [benefit]" means termination of service [months or years] before a retirement benefit becomes payable where benefits are to be received [after resignation] at normal service retirement age.

"Layoff" means [involuntary] the separation of a permanent employee from [his position] employment for reasons other than delinquency or misconduct [on his part].

"Newark Employees' Retirement System" means those eligible employees of the [College] University of Medicine and Dentistry of New Jersey only.

"State administered system" means those pension programs administered by the State of New Jersey.

[4:5-4.1]4:2-26.2 General eligibility provisions

(a) Upon retirement [on or after July 1, 1973,] from a State administered system or other system as defined in N.J.A.C. [4:5-2.1] 4:2-26.1 and as authorized by N.J.S.A. [11:14-9 et seq.] 11A:6-16, [the following employees will be eligible: 1. Classified employees of the] State employees in the career service, [;] and [2. State employees not in the classified] employees in the senior executive and unclassified services who have been granted sick leave under the terms and conditions similar to classified employees[;] shall be eligible for supplemental compensation upon retirement ("SCOR").

[i. Appointing authorities, with the approval of the department head, shall request approval of eligibility for class titles of State employees not in the classified service by certifying to the Lump Sum Sick Leave Committee the details and procedures under which sick leave has been granted for those employees;

ii. A request concerning the eligibility of a class title or class titles shall be forwarded to the Lump Sum Sick Leave Committee, care of the Department of Civil Service. Each request shall indicate the detailed basis, with reference to this chapter, upon which the request is being submitted. The Lump Sum Sick Leave Committee will then determine whether the class title in question is eligible;]

[3.](b) Employees of Rutgers, the State University; [Newark College of Engineering] the New Jersey Institute of Technology; and the [College] University of Medicine and Dentistry of New Jersey, who perform services similar to those performed by employees of the New Jersey State Colleges who are in the [classified] career service, or who have been granted or authorized sick leave under the terms and conditions similar to those provided to [classified] career service employees, including those employees of the [College] University of Medicine and Dentistry of New Jersey who are members of the Newark Employees' Retirement System[;], shall be eligible for supplemental compensation upon retirement.

[i. The appointing authority with the approval of the department head shall submit to the Lump Sum Sick Leave Committee for approval regulations concerning standards and procedures for eligibility and payment. Such regulations shall conform to this chapter with regard to limitations and conditions;

ii. A chief administrative officer shall be designated for each institution as the approval authority for purpose of payment of the supplemental lump sum;

iii. The appointing authority with the approval of the department head in each of these institutions shall request approval of eligibility of various class titles of employees at the institutions as in N.J.A.C. 4:5-4.1(a)2. No request shall be submitted by such institution until the regulations prescribed in N.J.A.C. 4:5-4.1(a)3i are approved by the Lump Sum Sick Leave Committee.]

(c) Eligibility for supplemental compensation is conditioned on separation from State service based on retirement.

1. Employees removed for cause after an opportunity for a hearing shall not be eligible for supplemental compensation.

2. Employees who retire in lieu of removal, or under circumstances which would warrant removal, shall not be eligible for supplemental compensation.

[4:5-4.2]4:2-26.8 [Limitations] Deferred retirement

[(a) Limitations include the following:]

[1. No State employee who elects a deferred retirement benefit shall be eligible.

2. An individual may defer his request for lump sum payment but it must be submitted within one year of the effective date of any retirement that occurs on or after July 1, 1973.]

Employees who elect a deferred retirement shall not be eligible for supplemental compensation.

[4:5-4.3]4:2-26.13 Death of an employee

In the event of an employee's death within one year after the effective date of retirement but before payment of [the lump sum] supplemental compensation is made, [the] payment [of the lump sum] shall be made to the employee's estate. However, should an applicant die before his or her retirement allowance becomes due and payable, the determination of

[his] eligibility for [lump sum payment] **supplemental compensation** shall [depend upon] **follow** the procedures [followed by his] of **his or her** particular pension system.

**4:5-4.4] 4:2-26.3 Eligibility for [E]employees in titles not in the [classified] career service**

[(a) The eligibility of an employee will be determined by such class title held at any time during his State employment. Eligibility of class title will not be approved by the Lump Sum Sick Leave Committee unless the following standards and guidelines have been adhered to:]

**(a) Appointing authorities must request approval of eligibility of class titles of State employees not in the career service before payment to employees in such titles will be authorized. A request for title approval is to be filed on application form CS-279.**

**(b) The Department of Personnel, Division of Classification and Compensation, shall maintain a roster of class titles of employees not in the career service eligible for supplemental compensation.**

**(c) In order for a title not in the career service to be eligible for supplemental compensation, the following standards must have been met.**

1. (No change in text.)

2. Proof of need for sick leave usage was required when sick leave exceeded [at least] five consecutive **work days** or [a total] **an aggregate of more than [10] 15 days** [within one calendar year] **in a 12-month period.**

3.-5. (No change in text.)

6. The [time keeping] **timekeeping** procedure required certification of the accuracy of the employees' pay time.

7. Sick leave records for each employee were maintained from the original date of appointment at one or more central points under the jurisdiction of the appointing authority with proper security and verification of [each] **all** use and accrual.

8.-9. (No change.)

**4:5-4.5] 4:2-26.4 Faculty members**

Faculty members of the State Colleges, Rutgers University, the New Jersey Institute of Technology, and the [College] **University of Medicine and Dentistry of New Jersey** are not eligible for [sick leave reimbursement] **supplemental compensation** [upon] on retirement since they are not granted leave in a manner similar to employees in the [classified] **career service**. Faculty members who have served in an administrative capacity may be eligible for [sick leave reimbursement] **supplemental compensation** based on the time served in said administrative capacity. Such employees, deemed eligible, shall be entitled to payment based on sick leave earned while serving in an administrative title and the salary attendant thereto.

**4:5-4.6] 4:2-26.5 Ten month [teachers] employees**

All 10 month [teachers] **employees** in State service will be eligible for [sick leave reimbursement] **supplemental compensation** upon retirement if a reduction factor is applied or has been applied to the amount of accrued sick leave for which payment is requested. This reduction factor shall equal the number of days earned by these employees in excess of the amount of sick leave that would have been earned had the time been prorated on a 10-month basis.

**4:5-4.7] 4:2-26.6 Disability retirement**

State employees who retire as a result of an accidental or ordinary disability retirement, and who meet all other applicable regulations will be considered eligible for [lump sum sick leave reimbursement] **supplemental compensation** [upon] on retirement. [for unused sick leave. If such employees receive lump sum payment and subsequently reenter State employment, they will not be eligible to have their unused sick leave reinstated to their records. Employees reentering State service subsequent to an accidental or ordinary disability retirement will begin earning sick leave in a manner similar to a newly hired employee.]

**4:5-4.8] 4:2-26.7 Return to service after retirement**

[Any] [e] **(a) Employees who [has or shall] have retired [on age and service] and [who] received supplemental compensation [subsequently reenters State employment] will be considered to have incurred a break-in-service if such employees reenter State employment. See N.J.A.C. 4:2-26.11.**

**1. Employees who have retired and received the maximum supplemental compensation payment shall not be eligible for further supplemental compensation upon reentering State employment.**

**2. Employees who have retired and received less than the maximum supplemental compensation payment shall be eligible for the difference between the payment received and the maximum payment upon reentering State employment.**

## SUBCHAPTER 5. [PAYMENT] (RESERVED)

### **4:5-5.1] 4:2-26.9 Computation of payment**

**(a) Rules concerning computation of supplemental compensation are as follows:]**

**1.](a) [The amount] Supplemental compensation shall be computed at the rate of one-half the employee's daily rate of pay for each day of earned and unused accumulated sick leave at the effective date of retirement based upon the average annual compensation received during the last full year of [his] active employment prior to the effective date of [his] retirement. Overtime pay or other supplemental pay shall not be included in the computation. The amount due shall be computed in accordance with [the] application form [provided] **CS-279.****

**2.](b) [In computing the total in Item 11 of the application form, p]Periods of leaves of absence without pay shall be excluded [in] from the computation.**

**3.](c) If an employee changes from 12-month to 10-month employment during the last year of employment, the [total] average annual compensation must be weighted accordingly.**

**4.](d) In calculating [total] average annual compensation, the beginning date shall not be any earlier than one year prior to the effective date of retirement.**

### **4:5-5.2] 4:2-26.10 Maximum payment**

No [lump sum] supplemental compensation shall exceed **[\$12,000] \$15,000.**

### **4:5-5.3] 4:2-26.11 [Time period covered] Break in service**

[For those employed prior to July 1973, and with no subsequent break in service after July 1, 1973, sick leave credit shall be computed upon the aggregate service of the employee. For those hired or rehired on and after July 1, 1973, sick leave credit shall be computed from the date of employment; or if a break in service has occurred, only from the date of return to employment following the break in service except that an] **An employee who has or shall incur a break in service as a result of separation due to layoff shall be credited with sick leave accrued both before separation and after return to employment. An employee incurring a break in service for any other type of separation shall have sick leave computed only from the date of return to employment.**

## SUBCHAPTER 6. [PROCEDURES] (Repealed)

### **4:5-6.1] 4:2-26.12 [General procedures] Procedures for processing**

**(a) [An employee who is about to retire shall follow the regular procedures concerning retirement.] When [he] the employee receives a copy of the official notice of retirement approval issued by the appropriate pension board or authority, he or she may file an application form **CS-279** with his or her [agency] appointing authority personnel office requesting [the] supplemental [lump sum payment] **compensation.****

**1. An employee may defer a request for supplemental compensation but it must be submitted within one year of the effective date of retirement.**

**(b) The appointing authority shall not process the application form until [he] it has received the employer's copy of the notice of retirement approval.**

**(c) After receipt of the employer's copy of the notice of retirement approval and application, the appointing authority shall within 45 days from the date of receipt of the application form forward to the Department of [Civil Service] **Personnel, Division of Classification and Compensation:****

**1. A [CS21] personnel action request certifying the number of days earned and unused accumulated sick leave credited in accordance with N.J.S.A. [11:14-2] **11A:6-5** or similarly credited in accordance with N.J.A.C. [11:14-9 et seq.] **11A:6-16** and the amount to be paid;**

**2. A copy of the notice of retirement approval;**

**3. A copy of the completed application form **CS-279.****

**(d) If the appointing authority has not received the employer's copy of the notice of retirement approval, [he] it must, within 45 days after receipt of the [notice of the] employee's application form **CS-279**, notify the employee accordingly.**

**(e) Following [return to the appointing authority of the CS21 form] approval of the application by the Commissioner of Personnel, payment [as authorized thereon by the Department of Civil Service and the Division of Budget and Accounting] shall be made by the appointing authority in accordance with [the] established payroll [manual] **procedures.** The payroll should not be submitted to the centralized payroll section, Department of the Treasury, until 45 days after the effective date of retirement or until 45 days after the date of the employer's receipt of the notice of retirement approval for the individual, whichever is later, because of the possibility of the retirement being cancelled by the employee within 30**

days and because under the statutes, retirement is contingent on the employee surviving 30 days after the effective date of retirement. The appointing authority shall be responsible for withholding payment should any contingencies occur.

#### [4:5-6.2 Employees not in the classified service

(a) The procedure to obtain approval of the Lump Sum Sick Leave Committee to compensate employees in a nonclassified class title or titles, requires that the appointing authority:

1. Submit the application form (form number 279) for Lump Sum Supplemental Compensation for Earned and Unused Sick Leave for a class title or group of class titles with comparable sick leave administrative practices.

2. Indicate the title or titles for which approval is requested in Item number 7 on the application form.

3. Answer all questions in Item number 15 and be sure to certify as required in Item number 16 on the application form.

(b) Substantiating data should be submitted with the application form. The appointing authority should submit the request for class title approval prior to any individual application by employees of the title being made or submitted.

(c) On the basis of the answers to the questions and any necessary investigations, the Lump Sum Sick Leave Committee will approve class titles which qualify. Thereafter, retiring employees in those titles will be designated as within a Lump Sum Sick Leave Committee approved class title and requests will be approved accordingly unless the Lump Sum Sick Leave Committee has limited approval.

(d) The application for the Lump Sum Supplemental Compensation for Earned and Unused Sick Leave contains questions which shall be answered by the appointing authority for all individual employees applying for the payment.

(e) The appointing authority shall not advise the employee of approval nor make payment until actual individual approval by the Departments of Civil Service and Treasury has been indicated on the Form CS21.]

## EDUCATION

### (a)

#### STATE BOARD OF EDUCATION

##### Pupil Transportation

##### Small Vehicle Regulations

##### Proposed Amendments: N.J.A.C. 6:21-10.1 and 10.4

##### Proposed Repeal: N.J.A.C. 6:21-10.2 and 10.3

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

Authority: N.J.S.A. 18A:1-1, 18A:4-15 and 18A:39-21.

Proposal Number: PRN 1986-461.

Submit comments by December 3, 1986 to:

Patricia Joseph, Rule Analyst  
Department of Education  
225 West State Street  
Trenton, New Jersey 08625

The agency proposal follows:

#### Summary

The proposed amendments have been reviewed internally and found to be workable, effective and necessary to provide safe and efficient transportation for pupils. The proposed amended code covers all pupils transported to and from school and to and from related school activities pursuant to N.J.S.A. 18A:39-1 et seq. and is intended to clarify motor vehicle registration procedures for district boards of education, school bus contractors and individuals under contract providing transportation to and from school and transportation to and from related school activities.

This subchapter has been reorganized and amended to describe the changes in law and procedures for the registration and use of small vehicles intended for transportation to and from school and transportation to and from related school activities pursuant to N.J.S.A. 39, New Jersey Motor Vehicles and Traffic Regulations pursuant to Chapter 554, P.L. of 1981, enacted January 12, 1982, and N.J.S.A. 39:3-19.2 as amended. Division of Motor Vehicle Form BA50, Small Vehicle School Bus Certificate, is no longer required as a result of this amendment.

N.J.S.A. 39:1-1 defines a "School Vehicle Type II" as "any vehicle with a seating capacity of 16 or less, used to transport enrolled children, and adults only when serving as chaperones, to or from a school, school connected activity, day camp, summer day camp, nursery school, child care center, preschool center or other similar places of education. Such vehicle shall comply with the regulations of the Division of Motor Vehicles and either the Department of Education or the Department of Human Services, whichever is the appropriate supervising agency".

Prior to the enactment of Chapter 375 of the Public Laws of 1971, jurisdiction of "for hire" motor vehicles and motorbuses was vested in the Board of Public Utilities; however, upon enactment of this law, jurisdiction was transferred to the New Jersey Department of Transportation. These small vehicles may be used for transportation to and from school and transportation to and from related school activities, provided they comply with the Division of Motor Vehicles statute, N.J.S.A. 39 and the Department of Education regulations N.J.A.C. 6:21, Subchapters 8, 9 and 17.

N.J.A.C. 6:21-10.2, Insurance, is being deleted from this subchapter since it appears in whole in N.J.A.C. 6:21-17, Insurance.

N.J.A.C. 6:21-10.3, Inspections, is being deleted from this subchapter since it will appear in whole in N.J.A.C. 6:21-18.1.

#### Social Impact

The proposed amendments would impact favorably on all district boards of education, school bus contractors and individuals providing transportation to and from school and to and from school related activities. The addition of other registered vehicles clarifies what vehicles may be used for transporting pupils to and from school and to and from school related activities.

#### Economic Impact

Adoption of the proposed amendments will not increase State or local expenditures and should have an overall positive economic impact on district boards of education. District boards of education could realize a reduction in their transportation cost by contracting with parents for specific transportation.

Under the proposed amendments, district boards of education would be permitted to contract with parents for the use of their specially equipped vehicles rather than the current restricted method of transporting special needs pupils on small vehicles, which results in a high transportation cost per pupil.

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

#### 6:21-10.1 Motor vehicle registration

(a) The owner of a private small vehicle wishing to enter into a contract with a local district board of education for the purpose of transporting pupils, to and from school and to and from related school activities, [under contract with a local board of education.] must register his or her vehicle with the Division of Motor Vehicles.[on their Form AA-17 (Small Vehicle School Bus Certification) may be secured from the secretary of the local board of education or the local motor vehicle agency. The agent will recall the present passenger plates of the owner and issue Student Transport Passenger License Plates at a commercial fee. Code 17 registration expires annually and must be renewed prior to March 30. All renewal applications must have an AA-17 form attached.] **The Division of Motor Vehicles will recall the present passenger plates of the owner and issue school vehicle type 2 license plates at the prescribed registration fee. Owners of private and small vehicles must renew the vehicle registration on an annual basis.**

(b) **A district board of education wishing to transport pupils in a district-owned vehicle to and from school and to and from related school activities must register the vehicle with the Division of Motor Vehicles. The Division of Motor Vehicles will provide the district board of education with school vehicle type 2 license plates at no registration fee. All no fee registration transactions with district boards of education will be valid for 36 months.**

(c) **Other types of motor vehicle registrations available for vehicles used to transport pupils to and from school and to and from school related activities are as follows:**

1. **Omnibus registration is for contracted small vehicles that are chartered for hire and used for 10 or more passengers excluding the driver.**

2. **Livery registration is for contracted small vehicles that are chartered for hire and used for nine passengers or less excluding the driver.**

3. **Handicapped registration plates are issued to family members or individuals who own or lease a vehicle for transportation of the handicapped.**

[6:21-10.2 Insurance

(a) Each contractor shall furnish liability insurance for bodily injury or death in the following minimum amounts: All vehicles transporting pupils: \$300,000 for one person, \$500,000 for one accident.

(b) Such insurance shall be through a company authorized to insure in New Jersey.

(c) In lieu of the policy or certificate of insurance hereinbefore prescribed, self-insuring corporations may file the certificate prescribed in N.J.S.A. 48:4-12 and 13.

(d) Policies or certificates of insurance shall accompany all contracts or renewal thereof when such contracts or renewals are submitted to the county superintendent of schools for approval.]

[6:21-10.3 Inspection

Each small vehicle shall be inspected twice within the school year by the Division of Motor Vehicles. Time and location of inspection shall be established in cooperation with the county superintendent of schools.]

[6:21-10.4]6:21-10.2 Transportation to and from related school activities

District boards of education may authorize the use of private vehicles with a capacity of eight or less for the transportation of public school pupils to and from related school activities, in accordance with policy and regulations adopted by the district board of education. The policy [should] shall clearly stipulate procedures under which such transportation shall take place safely, including provision for appropriate and adequate insurance coverage and approval of activities and drivers.

## ENVIRONMENTAL PROTECTION

The following proposals are authorized by Richard T. Dewling, Commissioner; except PRN 1986-459, which is jointly authorized by Commissioner Dewling and Barbara A. Curran, President, Board of Public Utilities.

### (a)

#### DIVISION OF COASTAL RESOURCES

##### Coastal Permit Program Rules

##### Proposed Amendments: N.J.A.C. 7:7-1, 2, 3, 4 and 6

Authority: N.J.S.A. 13:1D-9; 13:19-17; 13:9A-3; 12:5-3.

Docket No. 048-86-10.

Proposal Number: PRN 1986-454.

A public hearing concerning this proposal will be held on:

November 20, 1986 at 10:00 A.M.  
Conference Room (Room 702)  
Division of Coastal Resources  
Labor and Industry Building  
John Fitch Plaza  
Trenton, New Jersey

Submit written comments by December 3, 1986 to:

Michael P. Marotta  
Office of Regulatory Services  
New Jersey Department of Environmental Protection  
CN 402  
Trenton, N.J. 08625

The agency proposal follows:

#### Summary

The Division of Coastal Resources (hereinafter "Division") in the Department of Environmental Protection (hereinafter "Department") is responsible for the implementation of three different coastal permitting laws: the Coastal Area Facility Review Act ("CAFRA", N.J.S.A. 13:19-1 et seq.), the Wetlands Act (N.J.S.A. 13:9A-1 et seq.) and the Waterfront Development Law (N.J.S.A. 12:5-3). In 1980, the substantive policies which are used to evaluate permit applications under these laws were consolidated into one chapter (Chapter 7E) of the New Jersey Administrative Code.

On June 1, 1984, the Department, by the adoption of N.J.A.C. 7:7, consolidated the procedural regulations governing the permit review process into a uniform set of standards for the three coastal permit programs. Since that time, the Division has applied these standards to every project application submitted for review, and, as a result of its experiences, the Department now proposes rule amendments. These are intended to clarify the standards and requirements and to address problems which have been encountered.

Specific proposed substantive changes are as follows:

The Department proposes to remove N.J.A.C. 7:7-1.2. A reference to the authority pursuant to which a rule is promulgated is no longer needed within the body of the regulation.

At N.J.A.C. 7:7-1.3 the definition "high tide line" has been added to explicitly define the limit of regulatory jurisdiction pursuant to the Waterfront Development Law (N.J.S.A. 12:5-3). In addition, the definition of "permit" has expanded to more fully explain the types of permits issued. "Pesticide" has been defined to be in accordance with the Department's Pesticide Control regulations (N.J.A.C. 7:30).

The wording of N.J.A.C. 7:7-1.4 would be updated.

At N.J.A.C. 7:7-1.5, the language at subsection (a) is amended so that post construction notification is no longer necessary and it clearly provides that a permit is necessary prior to the commencement of any regulated coastal activity. Such activities are defined and explained in N.J.A.C. 7:7-2. At subsection (b) of this section, the proposal changes the wording to more clearly reflect the intent of the program. At subsection (d), the language would be modified so that it clearly provides that a permit is valid as long as the activity commences and continues, within five years of its issue.

Amendments to N.J.A.C. 7:7-2.1(b)1 should provide for possible permit exemptions for secondary projects within developments of 24 units or less and will remove the one year limitation when determining the linear footage of roads and sewer lines.

At N.J.A.C. 7:7-2.1(b)1iii the applicability threshold of parking areas would be changed from two or more acres to three or more acres or 300 or more parking spaces. It has always been the intent of the Department that the CAFRA provisions apply only to parking lots of this size or greater.

The proposal modifies the language of N.J.A.C. 7:7-2.1(b)4i so that the standards apply to land subdivisions of 25 or more building lots whether or not the owner conducts actual construction. Additional proposed language would exempt any lot upon which construction commenced prior to September 19, 1973 and would provide that, for purposes of counting the number of lots, they need not be within the same tax block nor do they need to have been created at the same time.

On September 8, 1986 the Department proposed amendments to N.J.A.C. 7:7-2.1 (see 18 N.J.R. 1772(a)) which will impose permit application requirements upon the construction of 25 or more cabanas and similar structures along the beachfront area.

At N.J.A.C. 7:7-2.1(b)4v the language has been modified so that the standards apply to any institution with a capacity of 75 or more beds.

The reference to building lots would be removed from N.J.A.C. 7:7-2.1(b)4.vii. This subparagraph would also be modified so that it clearly provides that the expansion of a project which results in a total of 25 or more units will require a permit.

Additional language proposed at N.J.A.C. 7:7-2.1(b)4viii more clearly defines what is regarded as an equivalent dwelling unit.

Proposed changes to N.J.A.C. 7:7-2.1(b)5 (recodified as N.J.A.C. 7:7-2.1(b)6) would limit the application of CAFRA exemptions obtained based upon on-site construction occurring subsequent to the determination.

A new paragraph (N.J.A.C. 7:7-2.1(b)5) would also be included to clarify the phrase, "contiguous parcels".

The proposal would correct specific provisions of N.J.A.C. 7:7-2.2 to cure omissions which occurred when this rule was promulgated. On May 7, 1984, the Department adopted N.J.A.C. 7:7 for the purpose of establishing, in one place, a uniform set of procedures by which all coastal permit applications would be reviewed and permits issued. Prior to that date the procedures were embodied in the following subchapters: N.J.A.C. 7:7-2 (Waterfront Development), 7:7A-1 (Wetlands Management), 7:7D-1 (Coastal Area Review Board) and 7:7D-2 (CAFRA).

It was the intent, at that time, that the Wetlands Management provisions then in effect at N.J.A.C. 7:7A were to be re-codified, without change, within the new N.J.A.C. 7:7. Nevertheless, when the re-codification occurred, certain provisions were inadvertently omitted from the new N.J.A.C. 7:7-2.2. The Department proposes, now, to reinstate these provisions. Specifically, N.J.A.C. 7:7-2.2(a)2viii would be added to reinstate the provision requiring a Wetland Type "B" permit before any structure is constructed or filling or excavating occurs upon any wetlands.

The Department proposes, also, to reinstate or correct within this rule certain wetlands map numbers which were either omitted or numbered incorrectly at N.J.A.C. 7:7-2.2(c). All of these maps were duly promulgated as part of N.J.A.C. 7:7A pursuant to the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.). However, due to an apparent

printer's error, these maps were, with two exceptions, either omitted from N.J.A.C. 7:7A-1 as it existed immediately prior to the consolidation, or shown incorrectly.

The specific map numbers, are set forth as follows:

At N.J.A.C. 7:7-2.2(c)1. (Middlesex County):

Map number 602-2070 is being inserted. This map was originally proposed on March 21, 1983 at 15 N.J.R. 386(a) and adopted on November 21, 1983 at 15 N.J.R. 1941(a). Its effective date is November 21, 1983. This map appeared correctly in N.J.A.C. 7:7A.

At N.J.A.C. 7:7-2.2(c)5. (Atlantic County):

Map Number 161-1988 is corrected to 161-1998. This map was originally proposed for inclusion in N.J.A.C. 7:7A on October 4, 1973 at 5 N.J.R. 333(d). It was adopted on January 10, 1974 at 6 N.J.R. 6(c). Its effective date is January 15, 1974. The map was shown incorrectly at N.J.A.C. 7:7A.

Map Number 273-2016 is added to this paragraph. This map was originally proposed for inclusion in N.J.A.C. 7:7A on February 8, 1973 at 5 N.J.R. 36(d), and adopted June 7, 1973 at 5 N.J.R. 186(a). Its effective date is June 8, 1973. Although it became part of the regulation, it was not included in N.J.A.C. 7:7A.

At N.J.A.C. 7:7-2.2(c)7 (Cumberland County):

Map number 140-1972 is being corrected to 140-1872. Map number 147-1986 is being corrected to 147-1896. The following maps will be inserted in this paragraph:

140-1902	161-1908
140-1908	196-1800
140-1920	196-1806
140-1926	196-1812
147-1848	196-1818
147-1854	196-1824
161-1902	196-1830

All of these maps were originally proposed for inclusion in N.J.A.C. 7:7A on October 10, 1974 at 6 N.J.R. 393(a) and adopted on March 6, 1975 at 7 N.J.R. 103(a). The effective date was March 21, 1975. Although they became part of the regulation they were, with three exceptions (map #147-1854, map #147-1896 and map #161-1908) either not listed or erroneously listed in N.J.A.C. 7:7A.

It was not the intent of the Department to repeal or modify any of these maps or the general wetlands standards when the regulations were consolidated into N.J.A.C. 7:7 in 1984. Both the Notice of Proposal and the Notice of Adoption (at 15 N.J.R. 2090(a) and 16 N.J.R. 1073(a) respectively) clearly indicated that no modifications were to be made to the wetlands regulations. The maps which are the subject of this correction all accurately depict wetlands areas. The Department has, since their original promulgation, continued to consult these maps where appropriate in order to determine the applicability of the wetlands standards in certain locations. The maps were generally regarded as valid by both the Department and the public so that no repeal or modification did occur.

At N.J.A.C. 7:7-2.3, proposed new language would modify the description of the regulated waterfront area. In this same section, a proposed amendment would exempt from the permit requirement any floating home in use prior to June 1, 1984. A proposed change to this section (at subsection (b)) would impose a waterfront development permit requirement upon reconstruction and alterations as well as upon construction. The proposed amendment would also delete the reference to such a permit requirement where such is required as a condition of a Tideland grant (N.J.A.C. 7:7-2.3(f)2.). The reference is redundant and superfluous. Additional minor changes would also be made to N.J.A.C. 7:7-2.3 and to N.J.A.C. 7:7-3.2 to clarify the intent of the regulations.

Specific standards for the preparation of Environmental Impact Statements have been removed from N.J.A.C. 7:7-4.2, and inserted with modifications at N.J.A.C. 7:7-6.3.

The proposed amendments to N.J.A.C. 7:7-4.2 impose a set of informational requirements upon Wetlands and Waterfront Development applicants. A proposed new N.J.A.C. 7:7-4.2(g) would provide specific standards for the submission of a mitigation plan for any project involving wetlands.

Modifications are being proposed to N.J.A.C. 7:7-4.4, 4.5, 4.6 and 4.7 to accommodate the need to provide the public with an opportunity to present views and data relevant to Waterfront Development and Wetlands permit applications. In accordance with the provisions of the "Ninety Day Construction Permit Law" (N.J.S.A. 13:1D-29 et seq.), the Division may require the submission of additional information where it is necessary to assist it in the review of a project. Certain Waterfront

Development and Wetlands project can have significant impacts upon the public. In those cases, the additional information necessary to adequately review these impacts may be obtainable only by allowing public input through the hearing process.

Changes to N.J.A.C. 7:7-4.5(d)2 would impose notice requirements upon all linear facilities (such as pipelines), not just those in excess of 2,400 feet. However, notice would not have to be given to all owners of abutting property. Notice would still be required to those property owners within 200 feet of an above surface structure relating to the facility.

Changes are proposed to N.J.A.C. 7:7-4.10 which would provide for a distinction between minor and major permit modifications.

No changes are proposed at this time for N.J.A.C. 7:7-5. This subchapter is still under review along with the appeal procedures of the Department generally. Comments concerning this subchapter are invited and will be considered for future proposed amendments.

#### Social Impact

The proposed amendments will result in a positive social impact. They are intended to address and cure a number of problems and issues which the Department has encountered and which could only have been discovered during the implementation of the regulations. Certain provisions will be clarified to cure ambiguities and possible misunderstandings without changing the basic regulatory requirement. The result of this will be that the regulations will be more precise, easier to comply with and easier to enforce.

In certain other areas, the standards have been relaxed because it has been determined that this could be done without any significant detrimental impact. Changes such as these would facilitate the development of commercial and other facilities to serve the people within the coastal area.

Other changes will result in the imposition of more stringent standards. These proposed changes would impose increased restrictions upon specific types of activities within the coastal zone and inhibit certain types of development. In general, however, the proposed changes will improve the decision making process for determining appropriate coastal land and water uses in a way that provides for the preservation of coastal resources.

#### Economic Impact

It is anticipated that the proposed regulations will result in a positive economic effect upon the coastal area. The proposal will help to enhance the Department's ability to deal with the multitude of divergent and often competing activities which take place within the coastal zone. Tourism at New Jersey's shore area is the State's second largest revenue producing industry. A comprehensive and effective coastal program is therefore necessary to assure the continued existence of the resources of the coastal area. Beach restoration and preservation are essential to tourism. Construction along the beach and waterfront areas can also limit public access to the shore. High-rises built in the past have obstructed some panoramic vistas and some beachfront development has interfered with passive and active coastal recreation.

One of the major issues the Coastal Program addresses is water quality. Good water quality is essential to the fish and shellfishing industry, as well as to sport fishermen and boaters.

#### Environmental Impact

The proposed amendments, by enhancing the Department's ability to implement its coastal policies, will have a positive environmental effect upon the coastal areas of the State.

The coastal ecosystem is characterized by a combination of beaches and the ocean, tidal and inland wetlands, flood plains, estuarine areas, bays, streams and stream corridors, vegetation communities and wildlife habitats. These natural features make the area a desirable place to live or visit. The same features make the coastal region a productive area for agriculture and commercial and recreational fishing. If the ecosystem is not protected, not only will natural resources and processes be harmed, but the economy of the area and of the State will suffer.

The proposed amendments will help to provide proper management so that development may occur in a way that safeguards fragile and sensitive environmental resources of the area.

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

7:7-1.2 [Authority] (**Reserved**)

[The provisions of this chapter were adopted pursuant to N.J.S.A. 13:1D-9, N.J.S.A. 13:19-17, N.J.S.A. 13:9A-3, and N.J.S.A. 12:5-1 et seq.]

7:7-1.3 Definitions

...

“Division” means the Division of Coastal Resources in the Department of Environmental Protection.

“High tide line” means a line or mark left upon tide flats, beaches, or along shore objects that indicates the intersection of the land with the water’s surface at the maximum height reached by a rising tide. The mark may be determined by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The term includes spring high tides and other high tides that occur with periodic frequency, but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

“Permit” means any legal instrument constituting permission to undertake construction pursuant to CAFRA (N.J.S.A. 13:19-1 et seq.), the Wetlands Act (N.J.S.A. 13:9A-1 et seq.), or the Waterfront Development Law (N.J.S.A. 12:5-3). Permits may be issued with conditions, including requirements that shall, at the discretion of the Division, be satisfied prior to commencement of construction.

“Pesticide” means any substance defined as a pesticide pursuant to the provisions of N.J.A.C. 7:30.

7:7-1.4 [Policies] Standards for evaluating permit applications

All applications for coastal permits shall be approved, conditionally approved or denied pursuant to the Department’s Rules on Coastal [Resource] Resources and Development [Policies], N.J.A.C. 7:7E.

7:7-1.5 Permits and permit conditions

[(a) legal authority to undertake a regulated coastal activity shall be embodied in a permit issued by the Division of Coastal Resources. Permits may be issued with conditions, including conditions that must be satisfied prior to commencement of construction, at the discretion of the Division.]

(a) No person shall undertake or cause, suffer, allow or permit any regulated activity without a permit issued by the Division in accordance with this chapter.

(b) The following standard procedural conditions shall apply to all coastal permits:

1. A permittee shall notify the Division, in writing, at least three working days prior to the beginning of construction on the site or site preparation.

2. A permittee shall notify the Division in writing within [seven days of the completion of construction at the site, and within seven] five working days of commencement of operation of a CAFRA facility. At this time, the permittee shall also certify that all conditions of the permit that must be met prior to operation of the facility have been met.

3.-8. (No change.)

9. If any condition of a permit is determined to be legally unenforceable, modifications and additional conditions may be [substituted] imposed by the Division as necessary to protect the public interest.

10. (No change.)

11. The Division may issue a [revised] modified permit for good cause when circumstances warrant minor changes in the original permit which will not result in additional adverse environmental impacts.

12. (No change.)

13. In the event of rental, lease, sale or other conveyance of the site by the permittee, the permit shall be continued in force and shall apply to the new tenant, lessee, owner or assignee so long as there is no change in the site, proposed construction or proposed use of the facility, as described in the original application. No such change shall be implemented unless an application is filed pursuant to this Chapter.

14. If a permit contains a condition that must be satisfied prior to the commencement of construction, the permittee must comply with such condition(s) within the time required by the permit or, if no time specific requirement is imposed, then within six months of the effective date of the permit, or provide an explanation of why such condition(s) cannot be satisfied.

15. [A copy of] If required by the Department as a permit condition, the permit shall filed with the [appropriate county] clerk of the county in which the project site is located as notice to prospective purchasers.

(c) The following standard substantive conditions shall apply to all coastal permits, where appropriate:

1. A permittee shall employ appropriate measures to [muffle] minimize noise where necessary during construction, as specified in N.J.S.A. [13:16-1] 13:1G-1 et seq. and N.J.A.C. 7:29 (Noise control).

2. (No change.)

(d) A permitted activity shall be commenced and completed within five years from the date of permit issuance, unless the scope of the project is such that a long time is required. In such cases the Division may, upon request, extend the time period in which to complete the activity.]

(d) A permit shall be valid authority to commence construction of a facility for a period of five years from its date of issuance. Where construction has commenced within this five year period, the permit shall be valid, as long as construction continues, until the project is completed except as provided by paragraph 1 below.

1. If construction continues beyond the five year period, and then, prior to the completion of the project, stops for a period of one year or longer, then the permit shall expire.

(e) (No change.)

7:7-1.8 Permit fees

Permits fees are established by the Department pursuant to the 90 Day Construction Permit Law (N.J.S.A. 13:1D-29 et seq.) and are published at N.J.A.C. 7:1C-1.5. The Division will maintain a printed fee schedule for public use.

7:7-2.1 CAFRA

(a) (No change.)

(b) The Department interprets the statutory term “facility” as defined by CAFRA in its broadest sense so as to provide adequate environmental safeguards for the construction of any facility in the coastal area. On the other hand, the Department interprets the statutory intent as excluding relatively minor construction. To that end, the following [statutory] terms are interpreted, for the purposes of this section, as follows.

1. “Road, airport, or highway construction” means:

i. (No change.)

ii. New road construction of more than 1,200 feet in length or the extension of an existing road by more than 1,000 feet, including a cumulative total of 1,200 feet of road extension or construction in any one municipality at the new one site [in any one year] except such road is totally within a new and expanded housing development consisting of 24 units or less.

iii. The impervious or pervious paving of an area of more than two acres for motor vehicle parking and related access thereto. Paving does not include mere grading or regrading.]

iii. The impervious or pervious paving of an area for 300 or more parking spaces for motor vehicles and related access, or paving of an area equal to or greater than three acres excluding access drives.

2. (No change.)

3. “Installation of above or underground pipelines designed to transport petroleum, natural gas, and sanitary sewage,” means:

i. The construction or extension of a sewer line 1,200 feet or more in length with a design capacity of 9,600 gallons per day or greater, including a cumulative total of 1,200 feet or more of sewer line extensions in any one municipality at any one site [in any one year] except where such sewer line is totally within a new or expanded housing development consisting of 24 units or less;

ii.-iv. (No change.)

4. “New housing developments or expansion of existing developments by the addition of 25 or more dwelling units or equivalent” means:

i. The subdivision or resubdivision of a parcel of land which results in the creation of 25 or more building lots, [where the owner of such parcel will not conduct actual construction;] whether or not the owner of such parcel will conduct actual construction. Any building lots which have been determined by the Department to be exempt from the requirements of this subchapter due to on-site construction on or before September 19, 1973, will not be counted when determining if a new or expanded residential development exceeds 25 units. The total number of building lots need not be restricted to any single municipal tax block nor to any one period of time in order to require a permit;

ii.-iv. (No change.)

v. The construction of 25 or more motel or hotel rooms, campsites (for tents and/or recreational vehicles), [dwelling units in an institution,] mobile home sites, or the construction of hospitals [or], nursing homes or other institutions with a capacity of 75 or more beds;

vi. (No change.)

vii. The addition of one or more dwelling units, or equivalent, to any existing dwelling units for which construction had commenced subsequent to September 19, 1973 where such addition, when combined with the existing dwelling units, results in a total of 25 or more units. Any [building lots

or] dwelling units in existence on or before September 19, 1973 [or] which have been determined by the Department to be exempt from the requirements of this subchapter due to on-site construction on or before September 19, 1973, will not be counted when determining if a new or expanded residential development exceeds 25 units. The total number of dwelling units in a new or expanded development need not be restricted to any single municipal tax block nor to any one period in time in order to require a permit[.];

viii. (No change.)

NOTE: On September 8, 1986 the Department proposed amendments to N.J.A.C. 7:7-2.1(b)4.viii. See 18 N.J.R. 1772(a) for more information.

ix. **The construction of 24 or fewer dwelling units or equivalent as defined in this section, where such construction is part of a larger planned facility in which the total number of dwelling units or equivalent will exceed 24 units.**

5. **Contiguous parcels shall include, but not be limited to, those land areas which directly abut, or are part of a subdivision existing and under common ownership on or after September 19, 1973.**

[5].6. This subchapter shall not apply to those facilities for which an exemption was obtained on the basis that on-site construction had taken place on or before September 19, 1973 provided that it can be shown to the satisfaction of the Division that:

i. **On-site construction has not been interrupted for a period exceeding one year during the period subsequent to the exemption determination; and**

ii. **The facility is being constructed in accordance with the plans which were submitted to the Division at the time that the exemption determination was made.**

7:7-2.2 Wetlands

(a) Wetlands permits are required for almost all activities in coastal wetlands delineated and mapped pursuant to the Wetlands Act and are divided into two categories[.]:

1. (No change.)

2. Type "B" Wetland permits are required for:

i.-vii. (No change.)

viii. **Filling, excavation or the construction of any structure.**

(b) (No change.)

(c) The Wetlands Order promulgated by the Commissioner of Environmental Protection in April 1972, any amendments thereto, and these rules shall be applicable only in those areas shown waterward of the upper wetlands boundary on the following wetlands maps:

1. Middlesex County:

602-2070

2.-4. (No change.)

5. Atlantic County

[161-1988] 161-1998

273-2016

6. (No change.)

7. Cumberland County

[140-1972] 140-1872

140-1902

161-1902

140-1908

161-1908

140-1902

196-1800

140-1926

196-1806

147-1848

196-1812

147-1854

196-1818

196-1824

147-1896 [147-1986]

196-1830

8.-11. (No change.)

7:7-2.3 Waterfront development

(a) The waterfront area regulated under this subchapter is divided into two sections, and will vary in width in accordance with the following rules:

1. (No change.)

2. In [all other areas of the State (that is in] those areas outside of the "coastal area" defined by CAFRA and outside of the Hackensack Meadowlands Development District[)], the regulated waterfront area

shall consist of the area as described in (a)1 above, and an adjacent upland area extending landward from the mean high water line to the first paved public road[,] or railroad [or surveyable property line] existing on September 26, 1980 [(the effective date of these rules)] generally parallel to the waterway, provided that the landward boundary of the upland area shall be no less than 100 feet and no more than 500 feet from the [mean] high [water] tide line, **except for large contiguous waterfront properties which have been combined to create a single development. In such cases, even if the development is to be designed and built in phases, the regulated waterfront area shall include the entire contiguous development proposal.**

(b) (No change.)

(c) The following development activities will require a permit in that portion of the waterfront area at or below [mean] the high tide line:

1.-2. (No change.)

[3. The mooring of a floating home not registered in New Jersey as of June 1, 1984 for more than 30 days (see N.J.A.C. 7:7-2.1(b) for a definition of floating home).]

3. **The mooring of a floating home for more than 30 consecutive days. Floating homes in use within the waters of this State prior to June 1, 1984 shall not require a permit. (See N.J.A.C. 7:7-2.1(b) for a definition of floating home.)**

4.-5. (No change.)

(d) A permit will be required in [that portion of] the waterfront area [between the mean high water line and the landward boundary described in (a)2 above] for the construction, reconstruction, alteration, expansion or enlargement of any structure, or for the excavation or filling of any area with the exceptions listed below:

1. The construction, alteration, expansion or reconstruction of an individual single family dwelling unit or addition to such unit, if constructed more than 100 feet inland from the [mean] high [water] tide line;

2. The reconstruction, conversion, alteration or enlargement of any existing structure located more than 100 feet inland from the [mean] high [water] tide line, provided that no change in land use results, and that enlargements do not exceed 5000 square feet;

3. (No change.)

4. **The repair, replacement or renovation of a permanent dock, wharf, pier, bulkhead or building existing prior to January 1, 1981, provided the repair, replacement or renovation does not increase the size of the structure and the structure is used solely for residential purposes or the docking or servicing of pleasure vessels;**

5. **The repair, replacement or renovation of a floating dock, mooring raft or similar temporary or seasonal improvement or structure, provided the improvement or structure does not exceed in length the waterfront frontage of the parcel or real property to which it is attached and is used solely for the docking or servicing of pleasure vessels.**

(e) Any person proposing to undertake or cause to be undertaken any development or activity in or near the waterfront area may request in writing a determination that proposal is not subject to the requirements of this subchapter on the basis that the proposed development site is located outside the waterfront area, or that the proposed facility does not require a permit under (d) above.

1. The requesting party shall provide the Division with two copies of a map depicting the project site in a scale of not less than 1:2,400 (one inch equals 200 feet) and a project description. When the applicability determination request is based on a proposed facility's location [landward of the first surveyable property line more than 100 feet from the waterway,] in accordance with paragraph (a)2 above, the map shall depict that property line as it is depicted on the official local tax map as of September 26, 1980, shall delineate the [mean] high [water] tide line, and shall graphically depict the proposed project.

2. (No change.)

(f) A permit is required for the additional filling of any lands formerly flowed by the tide, [the] if any filling [of which] took place after 1914 without the issuance of a tidelands grant, lease or license by the Department of Environmental Protection and Tidelands Resource Council or their predecessor agencies, even where such lands extend beyond the landward boundary of the upland area defined in paragraph (a)2 above.

1. (No change.)

[2. In addition, a permit is required for any development on lands formerly flowed by the tide where such a permit is required as a condition of the Tidelands grant, lease or license applicable to such lands. This requirement applies regardless of the land's location with respect to the upland area regulated under this subchapter.]

(g) This subchapter shall not apply to any development or activity in the upland area and in man-made waterways and lagoons for which on-site construction, including site preparation, was in progress on or prior to September 26, 1980.

1. (No change.)

2. Exemptions shall be applied for and considered upon submission of information sufficient for the Division to determine that physical work necessary to begin the construction of the proposed facility, was actually performed prior to September 26, 1980, the effective date of these rules.

i. Any interruption in the process of construction and completion of the facility in excess of one year may be cause for denial of an exemption request, or where previously exempted, it may be cause for revocation of such exemption, by the Division. [unless caused by financial, labor, legal or other factors beyond the developer's control, provided good faith efforts were made by the developer to overcome such delay or interruption. Interruptions caused by financial, labor, or legal factors must be documented in the exemption request.]

ii. (No change.)

#### 7:7-3.2 Request for a pre-application conference

(a) Potential applicants are encouraged to request a pre-application conference with the [Division's Bureau of Coastal Project Review] Division at the earliest opportunity. A request for a pre-application conference [may] shall be made [by telephone or] in writing and shall include a project description, a tax lot and block designation of the site and a United States Geological Survey quadrangle map showing the site.

(b) (No change.)

#### 7:7-4.2 Application contents

(a) Applications shall consist of a completed DEP Standard Construction Permit (CP-1) form, a check or money order in the amount of the appropriate fee (see N.J.A.C. 7:1C-1.5), and any additional information required [below] in this section.

(b) CAFRA permit applications shall also include 20 copies of an Environmental Impact Statement (EIS), prepared in accordance with N.J.A.C. [7:7-5.] 7:7-6.

(c) Wetland Type B applications shall also include five copies of an Environmental Impact Statement which describes and analyzes all possible direct and indirect effects of the proposed activity on the site itself as well as on adjacent and noncontiguous areas, with particular reference to the effect of the project on public safety, health and welfare, the protection of public and private property, the public trust in submerged lands and wildlife and marine fisheries, the protection, preservation and enhancement of the natural environment and the preservation of the ecological balance of the wetlands. It shall relate ecological and physical characteristics of the proposed activity site to local vegetation, birds, mammals, tidal circulation, hydrology, meteorology, geology, soils, land use, recreation and history and, in addition, it shall describe and analyze:

1. The reason that structures cannot be located on lands other than wetlands;

2. Temporary and permanent physical changes which would be caused by the proposed activity and impact of these changes on the activity area and immediate environs;

3. Alternatives to the proposed action which would reduce or avoid environmental damage;

4. All measures to be taken during and after the completion of the proposed activity to reduce detrimental on-site and off-site effects;

5. Adverse environmental impacts which cannot be avoided.]

(c) Wetlands Type B applications shall also include five copies of an Environmental Impact Statement (EIS), prepared in accordance with N.J.A.C. 7:7-6.

(d) Wetlands Type A and Waterfront Development permit applications shall, at the discretion of the Division, include such additional information as may be required to adequately assess the proposed project's impacts. Applicants will be advised of such additional requirements either at the pre-application conference (see N.J.A.C. 7:7-3) or at the initial review phase (see N.J.A.C. 7:7-4.4). The additional requirements shall include but not necessarily be limited to the following:

1. Copy of any Tidelands Grant, Lease or License previously approved for the property in question.

2. Evidence that copies of the CP-1 have been forwarded to the County and Municipal Planning Boards and Environmental Commissions, County and Municipal Clerks, and U.S. Army Corps of Engineers.

3. Fifteen copies and one reproducible transparent copy of a development plan on 8-1/2" x 11" paper, showing, at a minimum the following:

i. The lot;

ii. All existing waterfront structures on the lot and immediately adjacent lots;

iii. Distances and dimension of areas, structures and lots, including wetlands and high tide line, upland property, roads and utility lines;

iv. The proposed work area;

v. The general site location of the development depicting the Region;

vi. The scale of the plan and a north arrow;

vii. The name of the person who prepared the plan; and

viii. The name of the applicant and municipal lot and block number.

4. Photographs showing the project site.

(e) Development plans for activities in an area which will require a Tidelands (Riparian) Grant, Lease or License, shall be prepared by a professional surveyor licensed by the State of New Jersey and shall depict the limits of the area for which the Tidelands instrument will be sought.

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

(g) If the regulated activity for which a permit is requested will occur on wetlands as defined by N.J.A.C. 7:7E-3.25(a), then the applicant shall, subject to the exception set forth in paragraph 1 below, submit a mitigation plan as part of the application.

1. Upon adequate showing by the applicant that financing for the project is contingent upon the issuance of a permit, the Division may issue the permit and allow the submission of a mitigation plan as a pre-construction permit condition, provided, however, that no permit will be issued until the Department has reviewed and approved a conceptual outline of a mitigation plan which applicant intends to implement.

2. Any mitigation plan submitted pursuant to this section shall include, but not necessarily be limited to, the following:

i. A site plan showing wetlands which will be destroyed and showing the wetlands area which will be mitigated.

ii. A metes and bounds description of the proposed mitigation site.

iii. NJ Wetlands Map/Tidelands Map number(s) for the development site (and mitigation site if at a different location) as well as block and lot numbers and ownership of the mitigation site.

iv. Size of wetlands disturbance (surface area in sq. ft. or acres).

v. Size of wetlands mitigation (surface area sq. ft. or acres). The acreage of wetlands habitat, tidal water and any uplands habitats created or preserved as part of the mitigation project shall be specified. Only the wetlands portion of the acreage will apply to wetlands mitigation ratio of 2:1.

vi. Elevation of final grade of mitigation site in relation to mean sea level (MSL), along with slope percentage.

vii. Tidal range of mitigation site and salinity range of adjacent inundating waters.

viii. Wetlands community type and flora species disturbed (scientific name, not common names as these vary) and a real coverage of each prior to disturbance. These items shall be shown on the site plan.

ix. Soil and vegetation type of mitigation site prior to disturbance. This information shall be shown on the site plan.

x. Type of soil if placed as substrate.

xi. Scientific names of species to be planted (or seeded), stock type (example: bare root sprigs, peat potted, etc.), and source of material (example: Maryland).

xii. Spacing of plantings or density of seeding and a schedule showing the dates excavated, planted/seeded, fertilized, monitored etc. These items shall be shown on the site plan.

xiii. Type of fertilizer used, nutrient concentrations and dates applied.

xiv. Schedule of implementation.

iv. Monitoring program (if required).

(h) All application sets including charts, plans and other large documents submitted to the Department pursuant to this chapter shall be collated and folded flat to a size that is suitable for interoffice distribution.

#### 7:7-4.3 Availability of application for examination by the public.

(a) Copies of all coastal permit applications will be available for public scrutiny by interested persons in the offices of the Division in Trenton during normal business hours. Local agencies to whom copies of coastal permit applications were submitted (see N.J.A.C. 7:7-6.1) may also make a copy of the application available for public scrutiny by interest persons during normal work hours, upon request.

(b) The status of all permit applications shall be published in the DEP Bulletin pursuant to N.J.A.C. 7:1C-1.6, and shall constitute notice to all interested persons except as provided in N.J.A.C. 7:7-4.8.

#### 7:7-4.4 Initial review of applications

(a) Within a maximum of 20 working days of receipt of the application, the Division shall take one of the following actions:

1. Declare the application complete for [filing] final review, assign an agency project number, and proceed to review on the merits.

2. Assign an agency project number and accept the application, but request in writing that the applicant submit additional information within a specific period of time to assist in its review. In such cases, the application will not be considered complete for [filing] final review or public hearing until all the additional information has been received and deemed acceptable for review.

**i. In the case of all CAFRA permit applications and those other coastal permit applications or CAFRA permit modification applications for which the Division has determined that additional information is necessary to assist it in its review and that this information can only be obtained by public hearing, the application shall be declared complete for public hearing.**

3. (No change.)

b. Within 15 days of the receipt of any additional information submitted pursuant to paragraph (a)2 above and where a public hearing will not be held, the Division shall notify the applicant of the completeness for [filing] final review of the application, or shall specify which deficiencies still remain. The application shall not be considered to be filed until it has been declared complete for [filing] final review by the Division.

1. (No change.)

(c) Applications for which a public hearing will be held shall go on to the public hearing phase of the permit review process. Wetland and Waterfront Development applications which do not require a public hearing and which are complete for [filing] final review shall begin the 90 day review period established pursuant to the 90 Day Construction Permit Law.

(d) If an application is not complete for [filing] final review within 90 days of a request for additional information, the Division may, 30 days after providing written notice by certified mail to the applicant, cancel and return the application, unless the applicant can demonstrate good cause for the delay in completing the application. In such cases, a 90 day extension in which to submit the information will be granted.

1.-2. (No change.)

(e) Once an application for which a public hearing is required has been declared complete for [filing] public hearing, the Division shall prepare a preliminary analysis of the project, based upon the staff analysis and recommendations, as well as upon comments from other agencies to whom copies of the application were distributed and comments from interested persons.

1. To be incorporated in the preliminary analysis, such comments must be received within 20 days after the applicant has been notified of completeness for [filing] public hearing.

2. (No change.)

#### 7:7-4.5 Public hearings

(a) Public hearings shall be convened in accordance with the following:

1. (No change.)

2. The Division may, in its discretion, hold a non-adversarial public hearing for CAFRA permit modification applications and for Wetland and Waterfront Development permit applications when [the public interest requires it.] **it determines that additional information is necessary to assist it in its review and that this information can be obtained only by providing an opportunity for a public hearing. Such a determination will be made within 20 working days of the filing of the application.**

(b) If a hearing is to take place, the Division shall, within 15 days of declaring the application complete for [filing] public hearing, set a date, place, and time for the public hearing and shall so notify the applicant.

1. The date for the hearing shall not be later than 60 days after the application has been declared complete for [filing] public hearing.

2. (No change.)

(c) (No change.)

(d) The applicant shall give public notice of the public hearing, pursuant to Section 7.1 of the Municipal Land Use Law (N.J.S.A. 40:55D-12).

1. (No change.)

2. If the facility is a linear facility [greater than 2400 feet in length,] such as a pipeline or road, the applicant shall also give public notice by publication of a display advertisement of at least four column inches in a newspaper of general circulation in the municipality, [to the owners of all real property abutting the facility,] and to owners of all real property within 200 feet of an above surface structure related to a linear facility, such as a pumping station or treatment plant.

3. (No change.)

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

(h) Any interested person may submit information and comments, in writing, concerning the application and the preliminary analysis at or within 15 days after the hearing, or until the application is declared complete for final review, whichever occurs last. Such information shall be forwarded to the permit applicant by the Division.

#### 7:7-4.6 Final review of the application

(a) [The] **In the case of CAFRA applications, the Division shall, within 15 days after the public hearing, either declare the application complete for final review or notify the applicant that additional information is required.**

1. [The] **In the case of CAFRA applications, the Division may, at or within 15 days after the public hearing, and based on comments or questions raised at the hearing, require an applicant to submit additional information necessary for the complete review of the application. The request for additional information shall be made in writing, or if made at the hearing, confirmed in writing. If a public hearing was held and no additional information is required, the date of the public hearing shall be the date the application was considered complete for final review.**

(b) The Division shall, within 15 days of the receipt of any required additional information, either declare the application complete for final review or notify the applicant that the application is still not complete for final review.

(c) **In the case of a non-CAFRA application for which a public hearing was held, the application shall be declared complete for final review on the date of the public hearing.**

(d) **If an application for which a public hearing has been held is not complete for review within 90 days of a request for additional information, the Division may, 30 days after providing written notice by certified mail to the applicant, cancel and return the application, unless the applicant can demonstrate good cause for the delay in completing the application. In such cases, further extensions in which to submit the information will be granted.**

1. All fees submitted with a cancelled application shall be non-refundable.

2. A re-submission of a previously cancelled application shall be accompanied by the appropriate fee pursuant to N.J.A.C. 7:1C-1.5, unless re-submitted within one year of cancellation.

#### 7:7-4.7 Timetable for final decisions

(a) The Division shall act on CAFRA applications within 60 days of the public hearing, unless additional information was required at the hearing, in which case the Division shall act on the application within 90 days of the date it was declared complete for final review.

(b) The Division shall act on all Wetland and Waterfront Development applications within 90 days after the application was declared complete for [filing] final review. [, unless a public hearing was held, in which case it shall act on the application within 90 days of the date it was declared complete for review.]

(c) (No change.)

#### 7:7-4.9 Withdrawal, resubmission and amendment of applications

(a) A applicant may withdraw an application at any time in the application review process. All fees submitted with such applications are non-returnable subsequent to the application being declared complete for [filing] public hearing or final review, except that the fee may be credited for the same project within one year of the date of the notice of withdrawal.

(b) If an application is denied, the applicant may resubmit an application for a revised project on the same site within one year without additional fees. The resubmitted application will be treated as a new application, although references may be made to the previously submitted application. [If an] **An applicant who wishes to appeal the denial, and at the same time revise the application[, he] may [follow] do so in accordance with the procedures in N.J.A.C. 7:7-5.4.**

#### 7:7-4.10 Requests for modifications

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

(c) Requests for **minor** modifications shall be acted upon by the Division within 30 days of receipt, unless additional information is required in order to process the request.

(d) If the Division determines that a requested modification is not minor in nature, it shall notify the permittee of that determination within 30 days of receiving the request.

1. (No change.)

2. A fee shall be required for any modification which [increases total project costs in excess of 10 percent] **is not minor in nature, and shall be [based on the value of those modifications] in accordance with the provisions of N.J.A.C. 7:1C (Ninety Day Construction Permits).**

3. (No change.)

#### 7:7-4.12 Expedited application process

(a) (No change.)

(b) In order to qualify for the expedited application process, an application must meet the following requirements:

1.-3. (No change.)

4. The application must be complete for [filing] final review or public hearing when submitted. This will require detailed consultation between the Division and the applicant prior to its submission.

(c) The Division shall, by the end of the first working day after submission of an application with a request for expedited review, notify the

applicant by telephone (and shall confirm by letter) that the application is or is not complete to qualify for an expedited review. A finding that it does not qualify may be appealed to the Director of the Division.

1. An application which qualifies for expedited review shall be declared complete for [filing] **final review or public hearing** on the day it is submitted.

2.-4. (No change.)

7:7-6.2 Distribution of EIS to other agencies

(a) (No change.)

(b) The applicant shall include the following statement in the transmittal letter accompanying an EIS distributed to local agencies:

"This environmental impact statement has been submitted to the New Jersey Department of Environmental Protection, Division of Coastal Resources as part of an application for a Coastal Area Facility Review Act permit for a project in (indicate municipality in which the facility is proposed).

This copy of the EIS is submitted to this agency for your information and comments, and to make the EIS available for review by interested citizens. The Department of Environmental Protection welcomes your comments on the project described and assessed in this EIS. Please submit your written comments within 21 days to:

Bureau of [Coastal] **Planning** and Project Review  
Division of Coastal Resources  
New Jersey Department of Environmental Protection  
CN 401  
Trenton, New Jersey 08625"

(c) An affidavit shall be sent by the applicant or [his] the applicant's agent to the Division stating that the applicant has distributed copies of the EIS pursuant to paragraph (b) above. No application shall be declared complete for filing pursuant to N.J.A.C. 7:7-4.7 without submission of this affidavit.

7:7-6.3 Formats and contents

(a) [The EIS will be prepared] **The applicant shall prepare and submit the EIS** in the form and manner [specified by the Division, which shall prepare detailed guidelines and instructions for preparation.] **as set forth in this subchapter.** Failure to comply with these [guidelines] requirements may result in a determination that an application is not complete for [filing] **public hearing or final review**, depending on its status (see N.J.A.C.

7:7-4.1 and 4.4).

(b) [The EIS shall consist of the following:] **The applicant shall include in the EIS the following:**

1.-3. (No change.)

4. An EIS for a Type B Wetlands Permit shall, in addition to the general requirements set forth in paragraphs 1 to 3 above, include a description and analysis of all possible direct and indirect effects of the proposed activity on the site itself as well as on adjacent and noncontiguous areas. The EIS shall refer particularly to the effect of the project on the public trust in submerged lands, wildlife and marine fisheries, the protection, preservation and enhancement of the natural environment and the preservation of the ecological balance of the wetlands. It shall relate ecological and physical characteristics of the proposed activity site to local vegetation, birds, mammals, tidal circulation, hydrology, soils, and land use; in addition, it shall describe and analyze:

i. The reason that structures cannot be located on lands other than wetlands;

ii. Temporary and permanent physical changes which would be caused by the proposed activity and impact of these changes on the activity area and immediate environs;

iii. Alternatives to the proposed action which would reduce or avoid environmental damage;

iv. All measures to be taken during and after the completion of the proposed activity to reduce detrimental on-site and off-site effects; and

v. Adverse environmental impacts which cannot be avoided.

(c) Every EIS submitted to the Division, other than those submitted for a Type B Wetlands Permit shall, to the maximum extent practicable, be prepared in accordance with the following format:

1. Table of contents;

2. List of figures;

3. Introduction;

4. Inventory:

i. Location;

ii. Ownership of site and adjacent properties; and

iii. Existing site conditions:

(1) Topography;

(2) Existing development;

(3) Existing zoning;

(4) Master plan;

(5) Tidelands interest;

(6) Regulated wetlands;

(7) Delineated flood hazard areas; and

(8) Publicly owned lands.

5. Project description:

i. General;

ii. Building type;

iii. Transportation plan;

iv. Utilities plan:

(1) Water supply;

(2) Wastewater service;

(3) Storm drainage facilities;

(4) Electrical service;

(5) Solid waste collection, recycling, disposal; and

(6) Street lighting.

v. Energy plan;

vi. Landscaping plan;

vii. Soil erosion and sediment control plan;

viii. Open space and recreation plan;

ix. Aesthetics plan;

x. Construction plan;

xi. Operation plan; and

xii. Future plan.

6. Environmental assessment and compliance with Coastal Resource and Development Policies. This section of the EIS shall include an environmental inventory assessment, a detailed statement of compliance with the Coastal Resource and Development Policies (N.J.A.C. 7:7E), and a listing of adverse impacts, mitigation and alternatives.

i. Location policies:

(1) Special areas;

(2) General water areas;

(3) General land areas; and

(4) General Location Policies with reference to Secondary impacts.

ii. Use Policies; and

iii. Resource Policies.

7. Appendices as needed.

(a)

**DIVISION OF COASTAL RESOURCES  
Wetlands Management  
Wetlands Maps in Monmouth County  
Proposed Amendment: N.J.A.C. 7:7-2.2**

Authority: N.J.S.A. 13:9A-1 et seq. and 13:1D-1 et seq.  
DEP Docket No. 050-86-10.

Proposal Number: PRN 1986-453.

A public hearing concerning this proposal will be held on:

November 20, 1986 at 7:00 P.M.

Monmouth College, Monmouth Campus

Pollak Auditorium

500 Building

Cedar Avenue

West Long Branch, N.J. 07764

Copies of the wetlands maps affected by this proposal are available at the Monmouth County Clerk's Office.

Submit comments by December 3, 1986 to:

Robert Tudor

Department of Environmental Protection

Division of Coastal Resources

CN 401

Trenton, NJ 08625

The agency proposal follows:

**Summary**

The Wetlands Act of 1970 (N.J.S.A. 13:9A-1 et seq.) authorizes the Department of Environmental Protection to regulate certain activities on mapped tidal wetlands throughout the State. The purpose of the proposed revision is to update the upper wetlands boundary of the mapped wetlands of Monmouth County to reflect both natural changes and changes which have resulted from permitted filling and construction. Individual notice of affected property owners has been made and a public

hearing scheduled, as required by the Wetlands Act. The list of affected wetlands appears at N.J.A.C. 7:7-2.2(c)2.

Seven new wetlands maps in Monmouth County are being proposed. In addition to these new maps, the Department is proposing to physically alter 32 existing maps to reflect changes which have occurred to the land in this area.

**Social Impact**

The proposal will result in changes to existing wetlands maps, and will place some additional private lands under wetlands protection and will, as a result, impose requirements upon the use of those lands pursuant to N.J.A.C. 7:7E. Almost all forms of development or disturbance within these designated areas are regulated.

**Economic Impact**

The proposal is likely to result in a small reduction in property value of those land areas which will be designated as wetlands. However, a net beneficial economic impact is expected due to a reduction in potential flood damage, recovery costs, and the maintenance of high water quality levels.

**Environmental Impact**

The wetlands area protects the land from the force of the sea, moderates weather, provides a habitat for waterfowl and for two thirds of all fish and shellfish and assists in absorbing discharge from the rivers of the land. Designation of specific wetlands areas and the regulation of activities in these areas will help to prevent further deterioration and destruction of wetlands.

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

7:7-2.2 Wetlands

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

(c) The Wetlands Order promulgated by the Commissioner of Environmental Protection in April 1972, any amendments thereto, and these rules shall be applicable only in those areas shown waterward of the upper wetland boundary on the following wetlands maps:

1. (No change.)
2. (Monmouth County:

(NOTE: The following maps are proposed to be physically altered.)

- ... 476-2172
- ... 483-2172
- 490-2166
- ... 497-2172
- ... 539-2154
- 539-2166
- 539-2172
- 539-2178
- 539-2184
- 539-2190
- ... 546-2160
- ... 546-2184
- 546-2190
- ... 553-2184
- ... 560-2184
- ... 574-2118
- ... 574-2154
- ... 574-2166
- ... 574-2172
- ... 574-2184
- 574-2190
- ...

- 581-2118
- 581-2124
- 581-2136
- 581-2142
- ... 581-2154
- 581-2160
- ... 588-2124
- 588-2130
- 588-2136
- 588-2142
- ...

(NOTE: The following maps are proposed to be added to the list of wetlands maps for Monmouth County.)

- 455-2160**
- ...
- 469-2172**
- 469-2178**
- ...
- 497-2166**
- 518-2184**
- 539-2160**
- ...

3.-11. (No change.)

**(a)**

**DIVISION OF WATER RESOURCES**

**Sewer Connection Ban**

**Proposed Repeal: N.J.A.C. 7:9-13**

**Proposed Amendments: N.J.A.C. 7:14A-1.9 and N.J.A.C. 7:14A-12.**

**Proposed New Rules: N.J.A.C. 7:14A-12.20 through 12.26**

Authority: N.J.S.A. 58:10A-1 et seq. and 13:1D-1 et seq.

DEP Docket No. 049-86-10.

Proposal Number: PRN 1986-452.

A **public hearing** concerning this proposal will be held on:

December 2, 1986 at 10 A.M.  
New Jersey State Library  
185 West State Street  
Trenton, New Jersey

Submit comments by December 3, 1986 to:

Rachel Lehr, Esq.  
Office of Regulatory Services  
Department of Environmental Protection  
CN 402  
Trenton, NJ 08625

The agency proposal follows:

**Summary**

The purpose of this proposal is to further clarify and refine the Department's regulatory authority as it relates to wastewater treatment in New Jersey.

The existing rules for the imposition of sewer bans are an important aspect of the Department's water quality management program. Sewer ban imposition is required by the Department in areas where wastewater treatment agencies are not meeting the requirements of their New Jersey Pollutant Discharge Elimination System (NJPDDES) permits including such requirements as permitted flow and effluent quality averaged over a three month period. These permit violations could contravene the State's Surface Water Quality Standards (N.J.A.C. 7:9-4) and cause an adverse impact on both the environment and the public health in New Jersey.

Where a sewer ban is in effect, the Department will not accept any applications for treatment works approvals, thereby eliminating activities which would add additional flow to the already stressed treatment system, until the affected agency has resolved its treatment problems. Furthermore, affected sewage authorities and their participating municipalities cannot approve any connections to the sewer system whether or not a treatment works approval is required. A sewer ban cannot be lifted

until the affected sewage authority can demonstrate its ability to continually meet all of the effluent discharge limitation requirements of its NJPDES permit. It is important to note that the affected sewage authority, not the Department, has the primary responsibility of directly managing wastewater flows. The establishment of a sewer ban does not, by itself, correct problems at a treatment plant. It serves to prevent additional harm to the environment until further action is taken to correct the existing deficiencies in the wastewater treatment facility.

Prior to the enactment of the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.), sewer bans were imposed through judicial orders. During 1973 and before the promulgation of sewer ban regulations, "letter bans" were imposed by the Department. In 1975, regulations were adopted by the Department to provide for the imposition of sewer bans. Several amendments have been made since then. The amendments proposed herein represent revisions to the existing regulations to clarify the process and to make the requirements easier to understand.

The proposed repeal of N.J.A.C. 7:9-13.1 et seq. and the proposed amendments to N.J.A.C. 7:14A-1.9 and 7:14A-12.1 et seq. result in the placement of the requirements for sewer ban imposition within the subchapter regulating treatment work approvals. Although both the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-6(b) and various sections of the New Jersey Administrative Code clearly state that "it shall be unlawful for any person to build, install, modify or operate any facility for the collection, treatment or discharge of any pollutant, except after approval by the department . . .", confusion appears to persist concerning this issue. Many people seem to believe that unless there is a sewer ban, no treatment works approval is necessary. This is a misconception, and placing the sewer ban provisions so that they are included among other treatment works approval rules is intended to clarify this requirement and prevent this problem from reoccurring. Accordingly, the entire treatment works approval process is covered within one subchapter of the regulations. The subchapter outlines all the requirements for treatment works approval, capacity assurance, sewer ban imposition, sewer ban exemptions, construction only permits, and adjudicatory hearings.

The most important of the proposed revisions is the elimination of the term "extension" as found in the present sewer ban regulations and the sole use of the term "connection". Connection means any physical or operational change to a collection system or to the plumbing or piping of any building, facility or other structure either proposed or existing for which a building permit or other municipal approval is required, and which connects directly or indirectly to any portion of a domestic treatment works. Thus, connection refers to any activity which will cause additional flow to be directed to the treatment system. Previous use of both terms caused confusion over when a treatment works approval was required. The revisions completely clarify the terminology using "connection" and "connection approval" as they apply to the treatment works approval process.

The proposed revisions also clarify the sewer ban exemption process in general, and eligibility for an exemption based on substantial expenditures in particular. In order to qualify for an exemption, such expenditures must be made in reliance on a valid building permit issued prior to November 3, 1986 and must be incurred prior to the effective date of the ban. These expenditures must be made for the physical improvement of the property itself. Pursuant to the regulations of the Department of Community Affairs (N.J.A.C. 5:23-1 et seq.), a building permit cannot be issued unless a treatment works approval has been issued first, however, this has been a matter of confusion and controversy in the past and some building permits were improperly issued by local officials. The Department of Community Affairs is undertaking a program to educate construction code officials on the requirement of a treatment works approval prior to the issuance of a building permit. In the future, therefore, there will be no expenditures in reliance on a valid building permit and this exemption will no longer be necessary.

In the revised regulations exemptions may also be granted: where connection to a treatment system would eliminate a health hazard caused by a malfunctioning existing individual or community subsurface disposal system; where there is sufficient public need for a publicly owned or operated project; where a structure in use at the time the ban was issued is replaced by a project which would create flow equal to or less than the flow of the structure being replaced; where the proposed connection is for a ground water remedial action approved by the Department prior to the effective date of the ban; or where the proposed project, located on a tax lot that was in existence prior to the effective date of the ban, will have a total design flow of less than 500 gallons per day. The Department may also grant allotments of additional capacity for specific

projects when interim improvements in the system have resulted in a substantial upgrade in effluent quality. The exemption process, therefore, provides relief in cases of hardship or public need.

The Department may lift a sewer ban in an affected sewage authority's service area when the affected sewage authority has proven to the satisfaction of the Department that it is in compliance with the effluent discharge limitation and other requirements of its NJPDES permit for a period of four consecutive calendar months. If applicable, affected sewage authorities must continue to make improvements at their facilities to meet the July 1, 1988 deadline for compliance with the Federal Clean Water Act.

#### Social Impact

The dominant social impact of these regulations is borne by those groups involved in a community's physical development: the building industry, land owners, real estate businesses dealing with new development, and persons wishing to purchase and occupy new buildings. The period of impact depends on how quickly an affected sewage authority will take action to correct its treatment problems. There is an exemption process in the regulations to provide relief in certain cases of hardship or public need during this period of impact.

The general public will greatly benefit from this program as new pollution sources are prevented from causing additional harm and the necessary groundwork is set in motion to correct the problem. Significant improvement in water quality is an obvious benefit to the community in its use of its water resources. In addition, these requirements protect the rights of downstream communities to a clean environment and, for many, a safe source of drinking water.

#### Economic Impact

Although a moratorium on new construction where sewer connection ban has been imposed presents a burden to the building industry, property owners and real estate businesses and their clients, the impact will only be temporary in areas where action is taken to correct the deficiencies of the affected sewage authority. The exemption process provides a relief valve, especially where certain "significant expenditures" are involved.

A community's ability to attract tax rates may be temporarily affected since the community will not have the sewer capacity to sustain the needs of new businesses. A community wishing to increase its tax base must be able to provide the essential public services without an increase in harm to the environment and the public health. This short term impact should, however, be superseded by the long term advantages of a properly sized and operated sewage treatment facility.

Costs for improvements to an affected sewage authority's operation are likely to be passed down to residents in the service area via user charges. This expense is borne by residential, commercial and industrial users according to the amount of sewage flow they produce. The additional expense for the improvement of treatment is applied to all users and is necessary to support the sewer system and keep it operating efficiently so that the public health and the environment will not be adversely impacted. In some cases, a developer whose project is held up due to the imposition of a sewer ban may decide to provide funding for the expansion or upgrade of a treatment facility in communities with limited funds. In this way, the developer obtains the necessary sewer capacity for a project at the same time as helping to improve the system and the quality of the receiving water.

The maintenance of high quality water resources is important to all, particularly to the many communities that are supported by such industries as water supply, recreation and tourism, fishing and shellfishing. Inadequately treated water could severely impact these industries and thus the economy of the communities as well as endanger the public health.

#### Environmental Impact

The treatment works approval program and the implementation of the sewer ban program are integral elements of the State's water quality management efforts. The sewer ban regulations work immediately to limit the quantity of improperly treated domestic wastewater which is discharged into water bodies in New Jersey while improvements are being made to the wastewater system. A wastewater treatment facility that cannot meet the requirements of its NJPDES permit is not allowed to accept any additional sewage flow. The imposition of a sewer connection ban, therefore, stops additional harm to the environment and the public health and sets the stage for the expansion or upgrade of the wastewater treatment system so that future discharges will not adversely impact water quality or cause problems with public health.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 7:9-13.

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

#### 7:14A-1.9 Definitions

As used in this chapter, the following words and terms shall have the following meanings.

“Actual flow” means the volume of sewage and other wastes which a domestic treatment works receives; actual flow shall be determined by the arithmetic average of the metered daily volumes of waste received at a treatment works for the preceding period of three consecutive calendar months. Where peak flows have been determined by the Department to be seasonal in nature, the seasonal peak flow period shall be used in determining actual flow.

“Adequate conveyance capacity” means

1. That in the downstream sewers, the peak dry weather flow does not flood the bench of the manhole and the peak wet weather flow does not result in overflows or discharges from any manhole.

2. That in downstream pumping stations, with two pumps, peak dry weather flow shall be handled by one pump and in pumping stations with more than two pumps, peak dry weather flow shall be handled with the largest pump out of service, and the peak wet weather flow does not result in any overflow or discharge.

“Affected sewage authority” means any public or private sewerage authority, municipal utilities authority, joint meeting, state agency, county, municipality, or other entity which owns or operates any sewage treatment plant or sewage collection system, into which a treatment works will discharge; or which has jurisdiction to treat or convey sewage or other wastewater in the service area in which the proposed treatment works are to be located.

[“Applicant” means a person who applies for a NJPDES permit, DAC, or a Departmental approval pursuant to this chapter.]

“Applicant” means any person, corporation, government body or other legal entity who applies for a NJPDES permit, DAC, or Departmental approval pursuant to this chapter, or makes a request for an exemption from a sewer connection ban as provided for in N.J.A.C. 7:14A-12.25 and has a substantial interest in the property subject to such ban.

“Committed flow” or “projected flow” means the sum of the actual flow plus the sum of all flows which are anticipated from connections which have been approved but are not yet in operation. The flow to be anticipated from any such connections shall be that flow referred to in the departmental approval.

“Connection” means any physical or operational change to a collection system or to the plumbing or piping of any building, facility, or other structure either proposed or existing for which a building permit or other municipal approval is required, and which connects directly or indirectly to any portion of a domestic treatment works.

“Connection approval” means a treatment works approval to construct and/or operate a connection pursuant to N.J.S.A. 58:10A-6, N.J.A.C. 7:14-2.1 et seq. or 7:14A-12.1 et seq. or an approval permit to construct and operate a sewer connection.

“Design flow” means the average daily volume of wastewater, which a domestic treatment works was designed to treat or convey, or the maximum permissible volume of flow to a domestic treatment works as established by a NPDES permit, an NJPDES permit, or a treatment works approval, whichever permit or approval is most recently issued.

“Division” means the Division of Water Resources in the Department of Environmental Protection.

“Endorse” means that the sewerage authority under a Departmentally imposed ban accepts and approves of the project and that the project is in conformance with all ordinances, rules and regulations of the sewerage authority. This is not a judgement by the sewerage authority that an exemption is justified.

“Maximum sewage treatment capacity” means the hydraulic, biological and sludge handling capacity limitations necessary to meet the terms and conditions of the NJPDES or NPDES Permit.

“Participating municipality” means a municipality or other body which is a member of an affected sewage authority or which has contracted to obtain sewage treatment services from a sewage authority or other domestic treatment works.

“Publicly owned or operated” means owned or operated by the State, a county, a municipality, or other public body.

“Sewage authority” means a county sewage authority, municipal utilities authority, municipality, corporation or other legal entity which owns or operates a sewage facility.

“Treatment works approval” means an approval issued pursuant to N.J.S.A. 58:10A-6 and 7:14A-12.3, or pursuant to former N.J.S.A. 58:12-3.

“201 Facilities Plans” means plans for wastewater treatment facilities adopted pursuant to Section 201 of the Federal Water Pollution Control Act, 33 U.S.C. 1281.

## SUBCHAPTER 12. [ADDITIONAL] REQUIREMENTS FOR A TREATMENT WORKS APPROVAL

### 7:14A-12.1 Scope

(a) Pursuant to N.J.S.A. 58:10A-6 and N.J.A.C. 7:14A-2.1 et seq., [N] no person shall build, install, modify or operate any facility for the collection, treatment or discharge of any pollutant, including any “connection” as defined in this chapter, except after approval by the Department.

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

(f) In addition to any action expressly authorized by this chapter the Department shall have the authority to pursue other remedial actions under the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., or any other applicable statutes.

### 7:14A-12.2 General policy and [P]urpose

(a) It is the purpose of [these rules] this subchapter:

1. To establish requirements for the approval of the design, construction and operation of treatment works so that wastes are properly collected and treated before discharge; and

2. To require that all facilities subject to approval conform to any facility plan, basin plan, or areawide plan, where applicable.

(b) All domestic treatment works have a design capacity for treating sewage. When a domestic treatment works receives sewage in excess of its design capacity, it discharges improperly treated wastes; therefore:

1. The Department shall take steps to avoid pollution problems created by a domestic treatment works which received flow in excess of its design capacity.

2. In determining whether to approve the construction of a connection, the Department will consider, among other things, the committed flow to the domestic treatment works.

(c) It is the responsibility of participating municipalities and sewage authorities to carefully monitor the issuance of municipal approvals and sewage connection permits in order to prevent committed flow from exceeding design capacity, to provide for the future availability of adequate sewage treatment capacity, and to initiate appropriate action when maximum sewage treatment capacity is being approached. Whenever the participating municipalities and sewage authorities fail in this responsibility, the Department may take whatever action necessary to assure compliance, including the imposition of a sewer connection ban as outlined in this subchapter.

### 7:14A-12.3 Activities for which a treatment works approval is required

(a) Except as provided in N.J.A.C. 7:14A-12.4, [N]no person [required to comply with this subchapter] shall engage in the following activities except in conformance with one of the following written approvals [of] from the Department:

[(b)]1. Treatment [W]orks [A]pproval—Before building, installing, modifying, or operating any treatment works, a [T]reatment [W]orks [A]pproval shall be [required] obtained from the Department. The [T]reatment [W]orks [A]pproval shall consist of Stages 1, 2, and 3 as prescribed in N.J.A.C. 7:14A-12.10 through 12.19.

2. Connection Approval—A form of treatment works approval for connections to a domestic treatment works as defined in N.J.A.C. 7:14A-1.9 and subject to the provisions of N.J.S.A. 13:1D-29 et seq., Construction Permits. Approvals, permits, service contracts or reservations of capacity issued or agreed to by any participating municipalities or sewage authorities do not constitute a connection approval required by this subchapter.

7:14A-12.4 Activities for which a **treatment works** approval is not required

(a) [Notwithstanding the requirements of N.J.A.C. 7:14A-12.3, t]The Department, shall not require a [T]reatment [W]orks [A]pproval from the Department for the following activities:

1. Building, installing, modifying, or operating any sewer connection which links any single building to a [municipal] **domestic** treatment works and through which **an aggregate** of less than 2,000 gallons per day of waste flows by gravity. [or]

i. **All projects so excluded shall receive a sewer connection approval from the domestic treatment works into which the proposed project will discharge and such approval shall be in accordance with criteria at least as stringent as those of this subchapter.**

ii. **Notwithstanding the terms of (a)I and (a)II, above, the Department shall have the authority to regulate, at its discretion, any sewer connection or other treatment works when a sewer ban is in effect or when an emergency situation so requires.**

2. Building, installing, modifying or operating any part of a separate storm sewer system; or

3. Building, installing, modifying, or operating a septic system or other subsurface disposal system, **receiving less than 400 gallons per day of domestic wastes**, that is subject to **and in compliance with** the requirements of P.L. 1954 c.199 (N.J.S.A. 58:11-23 et seq.).

7:14A-12.5 Construction or operation inconsistent with terms of a **treatment works** approval

(No change in text.)

7:14A-12.6 Modification or revocation of **treatment works** approvals

(a) The Department may modify, suspend, or revoke [an] a **treatment works** approval in whole or in part for cause, including but not limited to the following reasons:

1. Violation of any term or condition of the **treatment works** approval;

2. Obtaining a[n] **treatment works** approval by misrepresentation or failure to disclose fully all relevant facts;

3. The nonconformance of the facility with any applicable facility, basin, or areawide plans; or

4. If such **treatment works** approval is inconsistent with any duly promulgated effluent limitation, permit, regulation, statute, or other applicable state or federal law.

(b) The Department [shall have cause to] **may also** modify **treatment works** approvals in accordance with N.J.A.C. 7:14A-2.12.

7:14A-12.7 **Ninety** [90-]day limitation on Department

(a) The Department shall approve, condition, or disapprove an application for a **treatment works** approval[s] pursuant to this subchapter within 90 days after a completed application has been accepted by the Department. [in conformance with rules established by Governor Byrne's Executive Order No. 57.]

[(b) Until such times as rules are promulgated under N.J. Executive Order No. 57, it shall be the goal of the Department to approve, condition, or disapprove applications within 90 days of the receipt of a completed application.]

[(c)](b) [Notwithstanding (a) and (b) above, t]The Department shall [not be limited to] **have longer than 90 days** [in its review of], **if necessary, to review** projects funded pursuant to Section 201 of the Federal Act.

[(d)](c) Where the Delaware River Basin Commission has jurisdiction over a project, it shall be the goal of the Department to submit the application for such project to the DRBC within 90 days after the receipt of the completed application. The Department shall make a final determination on such application within 30 days after DRBC approves it.

[(e)](d) [Sewer connection] [p]Projects subject to N.J.S.A. 13:1[O]D-29 (90-day law) shall not be subject to the time period requirements of this section but shall be subject to the provisions of N.J.S.A. 13:1[O]D-29 et seq. and N.J.A.C. 7:1C-1.1 et seq.

7:14A-12.9 Request for endorsement

(a) **When discharging into a New Jersey Pollution Discharge Elimination System (NJPDES) permitted facility, the applicant shall submit a certification by the NJPDES permittee, for the facility into which the proposed project will discharge, that the domestic treatment works is currently complying with its NJPDES permit requirements and should continue to do so even with the additional flow from the proposed project.**

(b) The applicant shall submit a request for endorsement to the affected sewage authority and submit a copy of this request to the Department in accordance with N.J.A.C. 7:14A-2.1(j)(k).

7:14A-12.11 Preliminary review of **applications** for treatment works approval (Stage 1)

(a) Persons who propose to build, install, or modify treatment works, which discharge into the waters of the State, shall:

1. Submit to the Department information and documents required in the Department "Project Report Requirements" (July, 1972 or as amended); [and]

2. For DSW new sources, obtain a Discharge Allocation Certificate from the Department (the Department shall determine the waste load allocation where applicable); [and]

3.-4. (No change.)

(b) The Department shall authorize treatment works which discharge into waters of the State to proceed to Stage 2 if the requirements in (a) [I] above are satisfied.

(c) The Department, at [in] its discretion, may waive the requirements of this section at the request of the applicant. If at the request of an applicant such a waiver is given, the applicant bears the responsibility [to] of designing its treatment works [so as] to meet all the Department requirements for a Stage 2 application pursuant to N.J.A.C. 7:14A-12.12.

(d) The Department shall not require a preliminary review for any sewer [extension or] **connection, interceptor sewer or pumping station.**

7:14A-12.12 Applications for construction, installation, or modification of treatment works (Stage 2)

(a) Persons who propose to build, install, or modify treatment works shall submit to the Department in the manner prescribed by this subchapter:

1. An application for the treatment works approval on forms [provided by] **available from** the Department; forms may be obtained from: Assistant Director for Water Quality Management, Division of Water Resources, CN-029, Trenton, New Jersey 08625; [and]

2. [Where applicable, a request for] **An endorsement of the treatment works from the affected sewer[er]age authority and/or the municipality in which the proposed treatment works will be located, as required by N.J.A.C. 7:14A-12.9; [and]**

3. The documents and information required by N.J.A.C. 7:14A-12.13; [and]

4. A certification by a [L]icensed [P]rofessional [E]ngineer approved by the N.J. Board of Professional Engineers and Land Surveyors to practice in New Jersey, stating that the proposed treatment works are adequate to meet all applicable Federal and State effluent limitations, and meet the requirements for the preparation and submission of plans for Sewer Systems and Wastewater Treatment Plants, N.J.A.C. 7:9-1, where applicable; and

5. Preliminary review or waiver issued by the Department pursuant to N.J.A.C. 7:14A-12.11 (Stage 1).

(b) Applications and other submissions for treatment works approval shall be submitted by a [L]icensed [P]rofessional [E]ngineer approved by the N.J. Board of Professional Engineers and Land Surveyors to practice in New Jersey. All submissions must bear such engineer's seal and must be preceded or accompanied by a letter of appointment from a responsible official of the applicant, certifying that the engineer has been duly authorized to prepare the submissions.

(c) Applications shall be signed by a responsible official of the applicant or by an authorized agent, provided that an application signed by such agent shall be accompanied by a certified copy of the authorization.

(d) **In order to ensure that sufficient capacity exists and that new projects will not cause environmental degradation, applications for treatment works approvals for sewer connections shall contain a statement by the design engineer that sufficient capacity exists in the downstream sewers or pumping stations. The 201 sewerage agency shall certify that the project is in conformance with the applicable 201 Facilities Plan and the owner of the sewage treatment facility shall certify that with the addition of the project, the approved design capacity will not be exceeded. In addition, water quality management planning agencies shall determine that projects are consistent with 208 Areawide Plans.**

[(d)](e) [Where applicable,] Upon receipt of endorsement pursuant to N.J.A.C. 7:14A-12.9, the applicant shall send the application, [request for] endorsements, and other documents and information to:

**Bureau of Municipal Waste Management**  
[Assistant Director]  
[Water Quality Management]  
Division of Water Resources  
Department of Environmental Protection  
CN-029  
Trenton, New Jersey 08625

**7:14A-12.13 Applications** [Required information and documents] for treatment works approval (Stage 2)

(a) [The Department shall require that] [a]An applicant for [approval to construct, install, or modify] a treatment works **approval** [(Stage 2) pursuant to N.J.A.C. 7:14A-12.12 through 12.16] shall submit the following information and documents to the Department:

1. Name, address and telephone number of applicant; [and]
2. Name, address and telephone number of the principal officers and the registered agent of the applicant; [and]
3. Name of receiving water; [and]
- 4-5. (No change.)

**7:14A-12.14** Criteria for approval of building, installing or modifying treatment works (Stage 2)

(a) The Department shall **not** issue a **treatment works approval** [of the building, installing, or modifying of treatment works if and only if] **unless**:

1. A **licensed** [P]professional [E]ngineer has certified the facility in accordance with N.J.A.C. 7:14A-12.12; [and]
2. The Department has determined that the proposed treatment works [have] **has** the potential for preventing, abating, and controlling water pollution; [and]
3. Where applicable, the request for endorsement of the treatment works has been submitted to the affected sew[er]age authority and the municipality in which the project will be located except as provided otherwise by N.J.A.C. 7:14A-12.9; [and]
4. The **proposed** treatment works **is in compliance** [comply] with the rules and regulations for preparation and submission of plans for Sewer Systems and Wastewater Treatment Plans, N.J.A.C. 7:9-1, where applicable; [and]
5. The **proposed** treatment works [conform to] **is in compliance with** applicable facilities, basin and areawide plans; and
6. The applicant otherwise satisfies the requirements of this subchapter.

**7:14A-12.16** Expiration of [approval to build, install, or modify] a treatment works **approval** (Stage 2)

[An approval to build, install, or modify] A treatment works **approval** (Stage 2) pursuant to N.J.A.C. 7:14A-12.12 to 12.16 shall expire [and become void two years after the date of issuance] unless building, installing, or modifying of such treatment works has begun **within two years after the date of issuance of the treatment works approval**.

**7:14A-12.17** Approval of operation of treatment works (Stage 3)

(a) No person shall operate a treatment works except upon final approval of the Department.

(b) The Department [shall] **may** approve operation of treatment works if:

1. The applicant has obtained a [T]reatment [W]orks [A]pproval (Stage 2) pursuant to N.J.A.C. 7:14A-12.12. through 12.16; [and]
2. A [L]icensed [P]rofessional [E]ngineer certifies that the treatment works is [are] built in conformance with the plans approved pursuant to N.J.A.C. 7:14A-12.12. through 12.16 (Stage 2); [and]
3. Where applicable, an [licensed] operator **licensed in accordance with N.J.A.C. 7:10-13.1 et seq.** has been engaged by the applicant to operate the treatment works; [and]
4. The applicant has submitted an operations and maintenance manual for the treatment works, where applicable; and
5. "As-built" plans and specifications have been submitted (if different from the approved plans).

(c) Where necessary for the prevention of pollution or protection of the environment, [the Department may require] the applicant **shall comply with any** [to meet] special conditions **established by the Department** for the operation of a treatment works.

(d) The Department, at [in] its discretion, may approve the building, installing, or modifying of a treatment works pursuant to N.J.A.C. 7:14A-12.12 through 12.16 (Stage 2) and the operation[ng] of a treatment works pursuant to this section, at the same time.

**7:14A-12.19** Validity of permits to Construct and Operate

(a) A [p]ermit to Construct and/or Operate previously issued to the owner or operator of a treatment works pursuant to N.J.S.A. 58:11-10 or N.J.S.A. 58:12-3 shall constitute a treatment works approval for the purpose of this subchapter. [1.] **The** [Such] permit and any conditions thereto shall continue in effect until such time as **the** [such] permit is revoked or amended.

[2. Permits to Construct previously issued pursuant to N.J.S.A. 58:11-10 or N.J.S.A. 58:12-3 shall expire, by the terms of the permits, two (2) years after the date of issuance unless building, installing, or modifying of the project described therein has begun.]

**7:14A-12.20** Capacity assurance program

(a) Whenever the committed flow reaches or exceeds 80 percent of the permitted capacity of a treatment works, the participating municipalities and authorities shall submit to the Department a program to be implemented in order to prevent an overloading of their facilities or a violation of their NJPDES Permit. This program shall include the following:

1. Implementation of water conservation measures;
2. Reduction of infiltration and inflow;
3. Implementation of a report on measures to maximize treatment plant capacity at a minimum cost (max./min. report);
4. Construction of improvements; and
5. The preparation for the imposition of a self-imposed sewer connection ban, as required by N.J.A.C. 7:14A-12.21, when committed flow reaches 100 percent of design capacity.

(b) If the participating municipalities and authorities do not comply with (a) above, then the Department may issue a warning notice. A warning notice shall require the sewage authority to prepare and submit a program pursuant to N.J.S.A. 58:10A 6(h)(3) and (a) above within 45 days of receipt of the notice.

(c) Upon approval by the Department of a program submitted pursuant to (a) or (b) above, the sewage authority and participating municipalities shall give public notice of the program in a manner designed to inform local residents, developers, the local planning board(s) and other affected persons. Such notice shall include at least the following information:

1. The name, mailing address and telephone number of the treatment works;
2. The design capacity of the treatment works;
3. The committed flow to the treatment works;
4. A statement that the treatment works is approaching design capacity and that a connection ban could be imposed when committed flow reaches 100 percent of design flow.
5. Description of service area including participating municipalities.

(d) Neither this section nor the provisions of N.J.A.C. 7:14A-12.21 shall apply to industrial treatment works.

**7:14A-12.21** Sewer connection bans

(a) Whenever any of the following events occur:

1. Committed flow to the treatment works has reached 100 percent of its design capacity; or
2. Adequate conveyance capacity is not available; or
3. The treatment works is operating in violation of a noneffluent condition of its NJPDES Permit, a court imposed order, an administrative order, or an administrative or judicial consent order; or
4. For a three month period the treatment works has discharged effluent which violates any of the following as determined by the arithmetic average of the permit parameters for a period of three consecutive calendar months; N.J.A.C. 7:9-4 et seq.; standards promulgated by the Delaware River Basin Commission, Interstate Sanitation Commission or Hackensack Meadows Development Commission; or the effluent limitations set forth in its NPDES permit, NJPDES permit, or approval to operate; then the participating municipalities and affected sewage authority shall do the following:

- i. Cease the further approval of sewer connections to the treatment works;
- ii. Condition the approval of any building projects (by way of preliminary or final subdivision approval, or other form of approval), which will require or modify a sewer connection, upon the terms and requirements of this subchapter;
- iii. Give notice of the sewer connection ban to the Department, to residents of the affected area, landowners therein, local planning boards, and other persons or legal entities affected by the ban within 10 days of the effective date of the ban and at intervals of no more than six months in a manner reasonably expected to be received by such persons; and
- iv. Institute a Departmentally approved program in compliance with N.J.A.C. 7:14A-12.20. If such a program has already been instituted, then they shall submit to the Department a program to institute additional measures and shall, upon Department approval, institute those measures. Such a program may include more severe restrictions on sewer connections to the treatment works than those contained in these regulations.

(b) Where a sewer connection ban is required by this section, the affected sewage authority and participating municipalities shall issue sewer connection approvals and endorse sewer connection applications in the affected area only after the following requirements have been met:

1. A sewer connection ban has been implemented;
2. Sewer connection ban exemption criteria equivalent to or more stringent than those contained in N.J.A.C. 7:14A-12.22 have been adopted;
3. The affected sewage authority and the participating municipalities have granted preliminary approval to a sewer connection ban exemption pursuant to 2 above; and

4. The sewer connection ban ordinance, or resolution, and the exemption have been approved by the Department.

(c) Whenever the participating municipalities and/or affected sewage authority have failed to comply with (a) or (b) above, the Department shall cease issuing treatment works approvals and may direct the implementation of a sewer connection ban. The Department may also impose a sewer connection ban, issue administrative orders, assess civil administrative penalties, seek judicial relief, or take any other enforcement action it deems appropriate.

(d) The effective date for any sewer connection ban required to be imposed by this subchapter or imposed by the Department pursuant to this subchapter shall be the date upon which the first of any one of the following conditions first occurs:

1. The date of non-compliance with a NJPDES permit condition other than an effluent limitation, or

2. The due date of the Discharge Monitoring Report which would indicate non compliance as indicated in N.J.A.C. 7:14A-12.21(a), or

3. The date of identification of a lack of adequate conveyance capacity as defined in N.J.A.C. 7:14A-1.9.

(e) Any sewage authority or participating municipality may apply for a rescission or modification of a sewer connection ban implemented pursuant to this subchapter, at such time as it can show that:

1. Committed flow to the treatment works does not exceed permitted flow;

2. There is adequate conveyance capacity;

3. The effluent from the domestic treatment works consistently meets all applicable effluent limitations in the facility's NPDES or NJPDES permit and the domestic treatment works approval as determined by the arithmetic average of the permit parameters for the preceding period of four consecutive calendar months; and

4. All dates for compliance in a NPDES or NJPDES permit or a judicially or administratively imposed compliance schedule have been or will be met.

#### 7:14A-12.22 Sewer connection ban exemptions

(a) Each affected sewage authority, upon the institution of a connection ban, shall adopt exemption criteria at least as stringent as those included in this subchapter in order to provide relief to persons who suffer substantial harm due to the timing of a ban or when there is a compelling public need for a proposed facility. The burden of proof is upon the applicant in all exemption requests under this section.

1. The Department and each affected sewage authority shall presume that all applicants have knowledge of the sewer connection ban after the effective date of the sewer connection ban.

2. No exemption shall be granted to any party who subsequently proceeds with a proposed project and thereby increases or creates the hardship which is the basis for the requested exemption.

3. An applicant for an exemption shall submit a plan for water conservation plumbing, and the implementation of such a plan, as approved by the Department, shall be a condition of the exemption.

(b) An applicant for an exemption must prove to the satisfaction of the affected sewage authority and the Department that it meets any of the following criteria:

1. If the municipality, prior to November 3, 1986 has issued a building permit or final subdivision approval, the construction covered by such permit or approval may be exempt.

i. The applicant must show that, in good faith reliance upon the permit or approval, substantial expenditures have been made by the applicant for physical improvements to the property prior to the effective date of the ban.

(1) The payment of taxes, the purchase price, expenditures for preparatory of engineering and architectural plans and for legal fees, and other costs not expended for physical improvements to the land shall be ineligible for consideration in determination of "substantial expenditures".

(2) All claims for eligible expenditures shall be accompanied by certified true copies of contracts, receipts or invoices. An unverified list of expenses will fail to establish substantial expenditures.

ii. For the purposes of these regulations "substantial expenditures" shall mean those eligible costs in excess of:

(1) 25 percent of the cost of those projects whose total cost is less than \$100,000.

(2) \$25,000 plus 10 percent of the costs in excess of \$100,000 for these projects whose total cost is less than \$10,000,000 but more than \$100,001.

(3) \$1,015,000 plus 5 percent of the project costs in excess of \$10,000,000 for those projects whose total cost exceeds this amount.

(4) In addition, the applicant shall submit an estimate of the total cost with a certification that the estimate is true and accurate.

2. If an existing building or group of buildings constructed prior to the effective date of the sewer connection ban with individual subsurface disposal system(s) is certified by the local health authorities and proven to the satisfaction of the Department to the presently creating a health hazard due to overflow, contamination of the waters of the State, or other malfunction and the system cannot be reasonably rehabilitated, an exemption may be granted.

3. If the application for the exemption is a request to allow the connection of a proposed project, which is publicly owned or operated, including but not limited to: a school, hospital, fire or police station, senior citizen housing, or long term health care facility which has received a certification of need from the New Jersey Department of Health, an exemption may be granted by the Department, if in the Department's opinion there exists a sufficient public need for the proposed project and there are no other reasonable alternatives available including alternative sites.

4. If the proposed project will replace a building, structure or unit with an existing sewer connection, the proposed project is exempt only if the building, structure or unit with the existing connection was in use at the time the sewer connection ban was implemented and if the proposed project will create flow equal to or less than the flow of the former building, structure or unit and the proposed project will be at the same location as the existing building, structure or unit.

5. If the proposed connection is for a ground water remedial action what was approved by the Department prior to the effective date of the sewer connection ban.

6. If the proposed project will have a total design flow, using Department criteria in N.J.A.C. 7:9-1 et seq., of less than 400 gallons per day ("GPD") and will be constructed and/or operated on a tax lot that was in existence prior to the effective date of the ban.

i. The Department may decide that no exemptions will be granted in this category and that all connections are banned unless they meet one of the other categories outlined in this section.

7. The Department may grant additional sewage capacity for a specific project when it has been demonstrated that substantial improvement in effluent quality through a reduction in actual flow or other measures has occurred. In addition, the affected sewage authority or municipality must be committed to making improvements sufficient to enable the treatment works to meet the July 1, 1988 deadline for compliance with the Federal Clean Water Act through either the execution of an Administrative Consent Order, acceptance of a NJPDES permit, or a judicial order.

8. The Department may grant an exemption for the construction of publicly assisted housing owned or operated by nonprofit organizations incorporated pursuant to N.J.S.A. 55:141-1 et seq. for the purpose of providing housing that is designed to be occupied exclusively by low income senior citizens and which provides for occupancy by the handicapped.

i. For the purpose of these regulations "publicly assisted" shall mean that:

(1) The project is to be built with funds provided pursuant to Section 202 of the Federal Housing Act, 12 U.S.C.A. 1701q; and

(2) The monthly rents are to be subsidized by funds provided pursuant to Section 8 of the United State Housing Act of 1937, 42 U.S.C.A. 1437.

#### 7:14A-12.23 Application for a sewer connection ban exemption

(a) The affected sewage authority shall provide the applicant with the following:

1. Copies of N.J.A.C. 7:14A-12.22 through 12.26;

2. An exemption request form;

3. A request for endorsement form; and

4. Information on water conservation plumbing.

(b) An applicant for a sewer connection ban exemption shall submit an application, including the appropriate documentation, to the affected sewage authority.

(c) An applicant for an exemption shall submit a plan for water conservation plumbing, and the implementation of such a plan, as approved by the Department, shall be a condition of the exemption.

(d) If the affected sewage authority or municipality denies the request for an exemption, that decision shall be final.

(e) If the affected sewage authority finds that the applicant meets the criteria in N.J.A.C. 7:14A-12.22 it shall forward the request and all documentation to the Department for final approval or denial.

(f) After reviewing the application for a sewer connection ban exemption, the Department shall notify the affected sewage authority of the results of its review.

(g) Before making a decision, the Department may request that the applicant supply additional documentation. When additional information is not supplied as requested, the Department may deny the exemption.

(h) An exemption granted for a specific property is not transferrable to any other property and is only transferrable to another person, upon written application to and approval by the Department, for the same property if the original circumstances which justified granting the exemption have not changed.

(i) The granting of an exemption by the Department and the affected sewage authority does not relieve the applicant of the following responsibilities:

1. Compliance with all other State and local requirements, including compliance with 201 Facilities and 208 Water Quality Management Plans; and

2. Obtaining the requisite treatment works approval from this Department or from the municipality or affected sewage authority in the case of a project granted an exemption under N.J.A.C. 7:14A-12.22(b)5.

7:14A-12.24 Bans in effect prior to (the effective date of these rules)

Sewer connection and extension bans imposed pursuant to N.J.S.A. 58:10A-1 et seq. or N.J.S.A. 58:12-1 et seq., which were instituted prior to (the effective date of these amendments to these rules), shall remain in full force and effect and are hereby modified to the extent necessary to conform to the requirements of this Subchapter as amended.

7:14A-12.25 Construction only permits

(a) An applicant may apply for a treatment works approval for construction only, not operation, in the following circumstances:

1. Where the sewage authority or the participating municipalities have awarded construction contracts for final facilities:

i. To comply with a valid NJPDES permit; or  
ii. To provide adequate conveyance capacity in a manner approved by the Department; or

2. To sewer a geographical area not currently sewered, if:

i. It is identified as a future service area in an approved 208 Areawide Plan; and

ii. The proposed project could be serviced by individual on-site systems meeting the requirements of P.L. 1954, C.199 (N.J.S.A. 58:11-23 et seq.) until sewer service is provided.

(b) An applicant shall apply for a treatment works approval for construction only by submitting to the Department an application for a treatment works approval in accordance with the provisions of N.J.A.C. 7:14A-12.11 through 12.14 above, and (c) below.

(c) An applicant for a treatment works approval for construction only shall include with the application a certification in which the applicant shall certify that the applicant understands and agrees to the following:

1. The affected sewage authority and participating municipalities shall not approve the use of the proposed treatment works;

2. The applicant proceeds at his or her own risk that a treatment works approval for use may not be granted;

3. Construction of the treatment works based on the treatment works approval for construction only does not qualify the applicant for an exemption pursuant to N.J.A.C. 7:14A-22; and

4. The applicant shall not use the treatment works and the sewage authority and participating municipalities shall not approve the operation of the treatment works until the Department has determined that adequate treatment and conveyance capacity exists at the receiving treatment works and has granted approval to operate.

(d) A treatment works approval for construction only of any treatment works shall be filed with the appropriate county clerk as notice to prospective purchasers of the restrictions on the property. The treatment works approval for construction only shall remain in the record until such time as a treatment works approval for operation and use has been issued by the Department.

7:14A-12.26 Requests for adjudicatory hearings

(a) An applicant who is denied a treatment works approval, a construction only approval or a connection ban exemption pursuant to N.J.A.C. 7:14A-12.22 and 12.23 by the Department may request an adjudicatory hearing within 30 days of receipt of the Department's denial of the approval or exemption.

(b) A hearing request shall be in writing and it shall be accompanied by a copy of the denial and the same documents that were submitted with the connection ban exemption application.

(c) A hearing request shall furnish the Department with a specific statement of the matters the applicant contests. The applicant shall:

1. Specify which of the Department's reasons for denial are contested; and

2. Specify the applicant's own version of the facts concerning the application.

(d) Requests for hearing shall be sent to:

Bureau of Municipal Waste Management  
Division of Water Resources  
CN 029  
1474 Prospect Street  
Trenton, New Jersey 08625

(a)

## DIVISION OF WATER RESOURCES

### Flood Hazard Area Delineation

### Redelineation of Henderson Brook in the Passaic River

#### Proposed Amendment: N.J.A.C. 7:13-7.1(e)

Authority: N.J.S.A. 13:1D-1 et seq. and 58:16A-50 et seq.

DEP Docket No. 046-86-10.

Proposal Number: PRN 1986-456.

A public hearing concerning this proposal will be held on:

November 19, 1986 at 1:00 P.M.

Fair Lawn Municipal Building

8-01 Fair Lawn Avenue

Fair Lawn, New Jersey

Submit comments by December 3, 1986 to:

Marlen Dooley

Office of Regulatory Services

Department of Environmental Protection

CN 402

Trenton, New Jersey 08625

The agency proposal follows:

#### Summary

The New Jersey Department of Environmental Protection (Department) proposes to amend N.J.A.C. 7:13-7.1(e) by the revision of the existing delineated flood hazard area for Henderson Brook in the Passaic River.

The proposed redelineation is based upon a detailed hydraulic analysis by engineers for the Bellini Verga Development Corporation and existing Project B hydrology. As a result of having received more detailed data and analyses from an application to build a 44 unit townhouse development within a designated floodway along Henderson brook, the Department is proposing to update the present delineation to reflect the new information.

The proposed map revision indicates a more narrow floodway than the State designated floodway in Project B and revised flood hazard areas. This proposed amendment would revise the floodway and flood hazard area of Henderson Brook from River Road upstream approximately 1850 feet near Kossuth Place. This redelineation will require no change in the text of N.J.A.C. 7:13-7.1(e), since only a revision of the flood hazard area delineation map is required.

The proposed redelineation will affect the Borough of Fair Lawn and Bergen County.

Regulations of delineated flood hazard areas are designed to preserve the flood carrying capacity and to minimize the threat to the public safety, health and general welfare. Revisions to existing delineations further clarify the bounds of such flood fringe areas.

#### Social Impact

By delineating streams and rivers, the Department sets the approximate area (flood fringe) which is regulated under the Flood Hazard Area Control Act Regulations, N.J.A.C. 7:13. As part of an application for a stream encroachment permit, the applicant must accurately locate the lines which delineate the floodway and the outer edge of the fringe. Since the delineated floodway and flood fringe lines will simply be more accurately described, no additional social impact will result beyond that intended and foreseeable from the original delineation of Henderson brook.

#### Economic Impact

Since the proposed amendment is the result of the application of the existing delineation to a specific project, there is no economic impact resulting from this proposal, beyond what was reasonably foreseeable at the time of the original delineation.

#### Environmental Impact

As in the case of the other areas of potential impact discussed above, no environmental impact will result from this proposed amendment. Revision of the present delineation is needed so that it will reflect the more accurate data and analyses now available.

AGENCY NOTE: All relevant information and documents are available for inspection during normal working hours at the Department's Office of the Bureau of Flood Plain Management, 1911 Princeton Avenue, Trenton, New Jersey.

In addition, maps of the proposed redelineation have been sent to the Borough of Fair Lawn town clerk and to the Bergen County Engineering Department. The maps are also available for inspection during normal office hours at the Office of Administrative Law, Quakerbridge Plaza, Building 9, Trenton, New Jersey.

### (a)

#### OFFICE OF SCIENCE AND RESEARCH

##### Fisheries Closure: Striped Bass

##### Proposed Amendment: N.J.A.C. 7:25-18A.4

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

DEP Docket No. 047-86-10.

Proposal Number: PRN 1986-455.

Submit comments by December 3, 1986 to:  
Howard Geduldig, Regulatory Officer  
Office of Regulatory Services  
Department of Environmental Protection  
CN 402  
Trenton, NJ 08625

The agency proposal follows:

#### Summary

The Department proposes to prohibit the sale of striped bass (*Morone saxatilis*) in New Jersey. The existing rule at N.J.A.C. 7:25-18A.4 prohibits the sale only of those striped bass taken from the Hudson River, Upper New York Bay, Newark Bay, Lower Passaic River, Lower Hackensack River, Arthur Kill, and Kill Van Kull. Under the proposal, recreational fishermen will be allowed to continue to retain their allowable catch as specified by the Striped Bass Act, N.J.S.A. 23:5-43 et seq. and any rules promulgated pursuant thereto.

The Department of Health has concurrently proposed a similar rule which prohibits the sale of striped bass (see proposed new rule, N.J.A.C. 8:21-2.41, in this issue).

#### Social Impact

A major positive social impact will result from the adoption of this proposed amendment. The bioaccumulation of PCB's in the striped bass-consuming public of the State will be decreased, thus reducing the risk of cancer and other serious health problems.

As a result of the adoption of the Federal Interstate Management Plan (adopted in 1981 by the Atlantic Coast states), which was designed to protect the dwindling supply of the 1983-year class of Chesapeake striped bass, Maryland, Delaware, New York, and Connecticut not prohibit the sale of striped bass. Absent this rule, New Jersey could become a "dumping ground" for the sale of striped bass which cannot be sold elsewhere, thereby increasing fishing pressure on the species and concomitantly reducing the size of subsequent spawns. Such a result would serve only to damage sport fishing for striped bass in the future.

#### Economic Impact

Limited adverse economic impact will result from the prohibition of the sale of striped bass in New Jersey. This negative economic impact upon recreational fishing will, however, be offset by the economic benefits of improved public health resulting from reduced consumption of PCB-contaminated fish taken from the waters of the State.

#### Environmental Impact

The adoption of this amendment will have the positive environmental impact of reducing the consumption by humans of PCB-contaminated fish. A serious environmental health problem will be substantially reduced.

Furthermore, for the reasons given above under "Social Impact", this rule should increase the likelihood of achieving continued viability of the striped bass resource in and adjacent to the waters of New Jersey.

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

#### 7:25-18A.4 Closure of fisheries

(a) The Commissioner finds, based upon scientific investigations, that to protect the public health of the citizens of the State the following designated regions of the State's waters shall be closed and the sale prohibited of the following fish species:

[1. Prohibition of the sale of Striped Bass (*Morone saxatilis*) taken from the Hudson River, Upper New York Bay, Newark Bay, Lower Passaic River, Lower Hackensack River, Arthur Kill and Kill Van Kull; and]

[2.]1. (No change in text.)

(b) **No person may expose for sale, offer for sale, or sell striped bass (*Morone saxatilis*) in this State.**

### (b)

#### DIVISION OF SOLID WASTE MANAGEMENT

##### Closure and Post-Closure of Sanitary Landfills

##### Proposed Amendment: N.J.A.C. 7:26-2.9

Authority: N.J.S.A. 13:1E-6, 13:1E-9 and 13:1E-114.

DEP Docket No. 044-86-10.

Proposal Number: PRN-1986-458.

Submit comments by December 3, 1986 to:  
Howard Geduldig  
Department of Environmental Protection  
Office of Regulatory Services  
Room 803  
Labor and Industry Building  
CN 402  
Trenton, New Jersey 08625

The agency proposal follows:

#### Summary

N.J.A.C. 7:26-2.9(d) requires the owner or operator of every sanitary landfill facility to file a Closure and Post-Closure Financial Plan to guarantee proper closure of the facility. N.J.A.C. 7:26-2.9(f)4 requires that the financial plan take into consideration the effects of inflation on closure and post-closure expenses, unless otherwise approved by the Department, by using an adjusted inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its "Survey of Current Business."

The Department proposes to change the method for addressing the effects of inflation on closure and post-closure expenses from the use of a one-year adjusted inflation factor derived by dividing the latest published annual Implicit Price Deflator by the previous year's Deflator to the use of a calculated adjusted inflation factor. This calculated adjusted inflation factor shall be derived from the ten-year average inflation rate for the most current ten-year period of Gross National Product Implicit Price Deflators in order to moderate the effects of any single year's potentially anomalous inflation rate on the following year's adjusted inflation factor.

N.J.S.A. 13:1E-109 requires the owner or operator of every sanitary landfill facility to deposit, on a monthly basis in an interest-bearing account with an accredited financial institution, an amount equal to \$0.30 per cubic yard of solids and \$0.004 per gallon of liquids for all solid waste accepted for disposal during the preceding month at that sanitary landfill facility. N.J.A.C. 7:26-2.9(g)19 imposes upon the owner or operator of every sanitary landfill the duty of having the financial institution, wherein the funds are to be deposited, send a monthly statement of the escrow account to the Department. N.J.A.C. 7:26-2.9(g)21 imposes upon the owner or operator of every sanitary landfill the duty of filing with the Department a statement disclosing amounts of solid waste received, transfers into and out of the closure escrow account, interest accrued thereon, and closure escrow account balance.

The Department proposes to afford some relief from these monthly filing requirements for closure escrow accounts with balances under \$25,000.00 by substituting a quarterly filing requirement therefor, upon petition of the owner or operator, where the Department finds that such filing requirements are unnecessarily burdensome on the financial institution, with respect to N.J.A.C. 7:26-2.9(g)19, or on the owner or operator with respect to N.J.A.C. 7:26-2.9(g)21. The Department published a similar proposal on February 3, 1986 at 18 N.J.R. 252(a). This proposal

was not adopted, however, because the Department determined that there was a need for greater clarity detailing the form of relief from the monthly filing requirement (that is, substitution of a quarterly requirement) available to the owner or operator at the discretion of the Department.

#### Social Impact

Proposed changes to the determination of inflation for purposes of developing the financial plan will result in the plan's more accurately reflecting the effects of long term inflation on closure and post-closure expenses.

The proposed reporting changes are mostly procedural and are being made to improve the efficient and equitable administration of the program. As such, the amendments are unlikely to have any adverse social impact on either State agencies or the sanitary landfill facility owner or operator. However, it is anticipated that administration of the program will be enhanced and that the reporting requirements will impose the least burden necessary for the efficient and effective monitoring of the program.

#### Economic Impact

There will be minimal economic impact resulting from these changes. The overall reduction in administrative costs experienced by the State will be minimal because the administration of the program will remain basically unchanged. These changes will provide cost relief for the owners or operators of some relatively small or inoperative landfills. These changes will also improve the economic prediction of landfill closure and post-closure costs by giving adequate consideration to inflation.

While the calculated adjusted inflation factor derived from a ten-year average may be larger than that of one derived from the single most recent year, and therefore require more in alternate funds to meet the dictates on an approved closure financial plan, it is equally probable that this ten-year average would be smaller, and therefore require less in alternate funds.

#### Environmental Impact

It is not anticipated that there will be any significant environmental impacts resulting from these proposed changes.

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

7:26-2.9 Closure and post-closure care of sanitary landfills

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

(f) The Closure and Post-Closure Financial Plan shall meet the following specific requirements.

1.-3. (No change.)

4. The Financial Plan shall take into consideration the effect of inflation on closure and post-closure expenses. Unless otherwise approved, the owner or operator shall calculate the latest closure cost estimate using [an] **a calculated** adjusted inflation factor derived from the annual Implicit Price Deflator for the Gross National Product as published by the U.S. Department of Commerce in its "Survey of Current Business." The adjusted inflation factor shall be [calculated by dividing the latest published annual Deflator by the Deflator for the previous year.] **the 10-year moving average inflation rate (average annual percentage) for the most current 10-year period of Gross National Product Implicit Price Deflators, for example, 1974 compared with 1984 or 116.50 compared with 223.43 which yields a 6.73 percent average annual percentage change.** The **adjusted annual** closure cost estimate shall equal the latest closure cost estimate times the adjusted average inflation factor.

5. (No change.)

(g) Pursuant to N.J.S.A. 13:1E-100[,] et seq., the requirements for the escrow account are as follows:

1.-18. (No change.)

19. The owner or operator of every sanitary landfill must arrange, with the financial institution wherein the funds are to be deposited, for a monthly statement of the escrow account to be sent to Landfill Closure Escrow Account, [the] Office of Special Funds Administration, Department of Environmental Protection, CN 402, [88] 428 East State Street, Trenton, New Jersey 08625[.]; **provided, however, the Department may at its discretion upon written petition from the owner or operator relieve the owner or operator from the requirement for the monthly statement of the escrow account and substitute a quarterly (that is, once every three months) statement requirement therefor if it determines that monthly reporting on an account of less than \$25,000.00 would impose an unnecessary burden on the financial institution;**

20. (No change.)

21. The owner or operator of every sanitary landfill facility shall file, on or before the 20th of every month, with the Office of Special Funds Administration, Landfill Closure Escrow Account, Department of Environmental Protection, CN 402, [88] 428 East State Street, Trenton, New Jersey 08625, a statement showing the exact amounts of all solid waste accepted for disposal during the preceding month, the total amounts of solid waste received calendar year-to-date, the funds deposited in and withdrawn from the escrow account for the particular sanitary landfill during the current month, interest accrued, escrow account balance, and the total calendar year-to-date funds deposited in and withdrawn from the escrow account. These statements shall be filed on forms provided by the Department[.]; **provided, however, the Department may at its discretion upon written petition from the owner or operator relieve the owner or operator from the requirement for monthly reports and substitute a quarterly (that is, once every three months) reporting requirement therefor, if it determines that the monthly reporting on an account of less than \$25,000.00 would impose an unnecessary burden on the owner or operator.**

(a)

### DIVISION OF SOLID WASTE MANAGEMENT BOARD OF PUBLIC UTILITIES

#### Interdistrict and Intradistrict Solid Waste Flow Joint Proposed Amendment: N.J.A.C. 7:26-6.5

Authority: N.J.S.A. 13:1E-6, 13:1E-23 and 48:13A-1 et seq.  
DEP Docket No. 043-86-10.

Proposal Number: PRN 1986-459.

A **public hearing** concerning this proposal will be held on:

November 19, 1986 at 2 P.M.

New Hanover Township Municipal Building

Court Room

Main Street

Cookstown, New Jersey 08511

Submit comments by December 3, 1986 to:

Michael S. Caro, Regulatory Officer

Office of Regulatory Services

Department of Environmental Protection

CN 402

Trenton, New Jersey 08625

The joint agency proposal follows:

#### Summary

The Department of Environmental Protection (DEP) and the Board of Public Utilities (BPU) are proposing to amend the Interdistrict and Intradistrict Solid Waste Flow rules, N.J.A.C. 7:26-6.5, to redirect waste types 10, 23 and 27 generated at the Fort Dix Army Base and the McGuire Air Force Base, located within the Townships of New Hanover and North Hanover, to the Fort Dix Heat Recovery Incinerator (HRI) for disposal through incineration. Waste types 13 and 25 and all non-processible and residual waste shall continue to be disposed of at the Parklands Reclamation Project landfill in Bordentown Township. Upon completion of the Burlington County Solid Waste Facilities Complex (county landfill), such waste shall be disposed of at that facility.

Four modular twenty-ton per day units will comprise the 80 ton per day capacity of the Fort Dix HRI. The HRI will recover steam from incinerating solid waste that will heat at least half of the buildings on the Fort Dix Base through the base's central heating system. On December 5, 1985, the Department of Environmental Protection issued a Certificate of Approved Registration and Engineering Design Approval for the incinerator and the facility is scheduled to commence operations in late 1986 or early 1987.

#### Social Impact

A positive social impact will result from the redirection of waste generated at the Fort Dix Army Base and the McGuire Air Force Base by providing a long-term disposal solution to waste generated at these facilities and by conserving landfill capacity at both the Parklands landfill and, later, the new county landfill.

#### Economic Impact

The solid waste to be diverted to the Fort Dix incinerator is presently disposed of at the Parklands Reclamation Project landfill. An adverse economic impact will result from this redirection to the owner of that facility since a decrease in loading, although small in degree, will occur.

However, the capital investment in the incinerator's construction has had a beneficial impact on the local economy by generating construction jobs. After the incinerator becomes operational, ten new permanent positions will be created at the facility. Also, about 1,000,000 gallons of fuel oil costs will be avoided annually at the two bases, and, based on 1981 fuel oil costs, this translates to a savings of approximately \$900,000. Finally, the DEP encourages the development of resource recovery facilities as a preferable primary disposal alternative to landfilling.

#### Environmental Impact

The redirection will result in a positive environmental impact for Burlington County. Solid waste which would otherwise be landfilled will be processed to generate energy, thereby conserving landfill space and the burning of fossil fuels to heat the two military bases. State-of-the-art pollution control devices will be utilized to minimize emissions. Truck traffic to the heat recovery incinerator shall be minimal due to its small size.

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

- 7:26-6.5 District waste flow planning requirements and disposal facility designations
- (a)-(b) (No change.)
- (c) Waste flows within, into, and out of the Burlington County District:
1. (No change.)
  2. **Except as provided in i and ii, below, all [All] waste types 10, 13, 23, 25, and 27 generated from within the Burlington County municipalities of Beverly City, Bordentown City, Bordentown Township, Burlington Township, Chesterfield, Delanco, Edgewater Park, Fieldsboro, Florence, Mansfield, New Hanover, North Hanover, Pemberton Township, Pemberton Borough, Springfield, Willingboro, and Wrightstown shall be disposed of at the Parklands Reclamation Project landfill facility number 0304A, located in Bordentown Township, Burlington County, New Jersey.**
    - i. (No change.)
    - ii. **All waste types 10, 23, and 27 generated at the Fort Dix Army Base and the McGuire Air Force Base, located within New Hanover and North Hanover Townships, shall be disposed of at the Fort Dix Heat Recovery Incinerator, facility number 0325A located in New Hanover Township, Burlington County. All non-processible and non-hazardous residual waste shall be disposed of at the Parklands Reclamation Project landfill, facility number 0304A, located in Bordentown Township, Burlington County, New Jersey. Upon operation of the county landfill, all non-processible and non-hazardous residual waste shall be redirected to the county landfill.**
    - iii. **If the county landfill is not operational and the Fort Dix Heat Recovery Incinerator should become unavailable, waste directed to the Fort Dix Heat Recovery Incinerator pursuant to ii, above shall be disposed of at the Parklands Reclamation Project landfill until such time that the county landfill becomes operational.**
  - 3.-10. (No change.)
  - [1.]11. (No change in text.)
  - (d)-(v) (No change.)

### (a)

#### DIVISION OF SOLID WASTE MANAGEMENT DIVISION OF HAZARDOUS WASTE MANAGEMENT Solid and Hazardous Waste Regulations Licensing of Transporters and Facilities Deadline for Filing Disclosure Statements Proposed Amendments: N.J.A.C. 7:26-16A.1 and 16A.2

Authority: N.J.S.A. 13:1D-9 and N.J.S.A. 13:1E-6, as supplemented by N.J.S.A. 13:1E-126 to 135.  
DEP Docket No. 045-86-10.  
Proposal Number: PRN 1986-457.

Submit comments by December 3, 1986 to:  
Bruce S. Schwartz  
Office of Regulatory Services  
Department of Environmental Protection  
CN-402  
Trenton, NJ 08625

The agency proposal follows:

#### Summary

The Department of Environmental Protection is proposing to amend N.J.A.C. 7:26-16A.2 to give the regulated community notice of a new deadline of May 1, 1987 for the filing of disclosure statements by solid and hazardous waste license holders subject to L. 1983, c.392, N.J.S.A. 13:1E-126 to 135, also known as "A-901". The previous deadline of June 10, 1986 was rendered inoperative by a federal court injunction of 1985 which suspended enforcement of the A-901 law for almost a year.

Governor Thomas Kean signed the A-901 legislation into law on December 14, 1983, to become effective six months later. The new statute supplemented the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., by establishing requirements for background checks and inquiry into the "integrity" of applicants for and holders of commercial solid and hazardous waste licenses. The statute also set out a number of specific grounds for denial or revocation of licenses. These included certain kinds of criminal convictions. See N.J.S.A. 13:1E-133 and 134.

One of the cornerstones of the licensing program under the A-901 legislation is the disclosure statement, described in N.J.S.A. 13:1E-127(e). The disclosure statement is designed to yield basic information about companies' ownership, management structure and history in the solid waste business. The information is intended to indicate the existence of grounds for disqualification, or to provide the basis for further investigation leading to the discovery of such grounds if they exist.

Under Section 3 of the A-901 law, N.J.S.A. 13:1E-128, new applicants for commercial solid or hazardous waste licenses must submit a disclosure statement and undergo a background investigation by the Attorney General's office before the Department can issue a license. Section 3 also contained a provision which required all persons who held licenses on the effective date of the law (June 11, 1984) to file a disclosure statement with DEP and the Attorney General within two years. If the operation of the statute had not been interrupted, all of those statements would have been due by June 10, 1986.

To implement the A-901 legislation, the Department in 1984 adopted regulations and promulgated forms for the disclosure statements. The regulations were codified as Subchapters 16 and 16A of Chapter 26 of Title 7 of the New Jersey Administrative Code, N.J.A.C. 7:26-16 and 16A. Adoption history and materials interpreting those subchapters can be found in a Basis and Background document published in 1984 and in the following issues of the New Jersey Register: 16 N.J.R. 986 (May 7, 1984); 16 N.J.R. 1425 (June 18, 1984); 16 N.J.R. 1766 (July 2, 1984); 16 N.J.R. 2480 (October 1, 1984); 16 N.J.R. 3310 (December 3, 1984).

Subchapter 16 contains the general rules governing the A-901 licensing program. Subchapter 16A contains a set of special provisions regarding the submission of disclosure statements by existing license holders and applicants whose applications were pending before the Department, but not yet acted upon, when the disclosure rules took effect on July 2, 1984.

Between August and December 1984, utilizing the Subchapter 16A procedures, the Department "called in" approximately 100 disclosure statements from existing license holders. These were the first of an estimated 1,500 to 2,500 that were to have been called in on a 90-day notice basis under N.J.A.C. 7:26-16A.2(c) and (e).

The process of calling in disclosure statements was halted, however, in February 1985, after the Trade Waste Management Association and a number of its members filed suit in federal court challenging the constitutionality of the A-901 law. On April 3, 1985, U.S. District Court Chief Judge Clarkson S. Fisher issued an opinion holding A-901 unconstitutional on the ground that it violated solid waste operators' freedom to associate for purposes protected under the First Amendment to the United States Constitution. Judge Fisher then entered a permanent injunction barring the State of New Jersey from enforcing the statute. Eight months later, on December 19, 1985, the United States Court of Appeals for the Third Circuit reversed the decision of the federal District Court, and held that A-901 is constitutional. On January 23, 1986, Judge Fisher dissolved the injunction, returning A-901 to full effect.

The Department has determined that the Legislature, when it established the 2-year deadline in N.J.S.A. 13:1E-128(a), expected the disclosure statements to be collected over an operational period of two years. Since the injunction disrupted the operation of the licensing statute for nearly a year, the Department believes it is reasonable to regard the deadline as being extended by the time when the statute was inoperative. Effectively, the State was precluded from enforcing A-901 beginning February 19, 1985 (the date of Judge Fisher's entry of a preliminary injunction) until dissolution of the permanent injunction on January 23, 1986. This was a period of 338 days. Adding that period beyond June 10, 1986 would result in a new deadline of May 15, 1987. In order to ensure that this new deadline is met, the Department proposes to adopt

a regulatory deadline of May 1, 1987. N.J.A.C. 7:26-16A.2 will be amended to reflect this.

It is anticipated that on or before December 31, 1986, the Department will mail out disclosure statement forms to all solid and hazardous waste license holders that have not filed or been ordered to file disclosure statements as of that date. This will give the recipients at least four months to prepare and file the forms by May 1, 1987. However, while the Department hopes to notify all companies it believes subject to the disclosure requirements to file the statements, it remains the obligation of the license holder to make sure that the disclosure statement is filed on time, whether there is a reminder from the Department or not. This obligation is expressed in N.J.A.C. 7:26-16A.2(f).

License holders should also note that the Department retains the power to "call-in" the disclosure statement on 90 days notice. This power is set forth in the existing text of N.J.A.C. 7:26-16A.2(c) and (e), which will remain essentially unchanged. Depending on the Department's ability to process the intake of disclosure statements, some companies may receive notices to file disclosure statements earlier than May 1, 1987, under the 90-day "call-in" procedure.

Finally, readers will note that the proposal includes two minor additions in the nature of clarifications of the existing text of N.J.A.C. 7:26-16A.2(b), (c) and (f). The proposed change in (b) would add an explicit reference to "existing facility" status under N.J.A.C. 7:26-12.3 to the list of examples of authorizations equivalent to a "license" for A-901 purposes. In practice, the existing language has been interpreted as implying the phrase to be added. The change, therefore, will have no substantive effect on the operation of the rule. The changes in (c) and (f) clarify Department policy, which is that demands to file disclosure statements shall be made in writing. This, too, will have no substantive impact on the regulated community since the Department already follows this practice.

#### Social Impact

The social, economic and environmental impacts of the A-901 Licensing Act and the regulations adopted to enforce it in 1984 have been set forth in the proposal documents that accompanied the original rules proposal. See 16 N.J.R. 987 (May 7, 1984). With respect to existing license holders (the objects of the current proposal), the social impact was summarized as follows:

"The individuals submitting the disclosure statements will be the subject of complete background investigations by the Office of the Attorney General. If the investigation should reveal a disqualifying factor, the Department may . . . revoke a license. It is expected that license . . . revocations will become more frequent, generating additional appeals through the administrative hearing process and litigation in the courts. The numbers cannot be forecast.

"As a result of the additional responsibilities placed upon them, the Department anticipates that the less reliable companies or individuals with criminal connections . . . presently operating a solid or hazardous waste business will lose their licenses or choose to leave the industry. It is anticipated that this will foster a more competitive market within the solid waste industry, with collusion and economic or physical coercion eliminated. There should be more competition in bidding for municipal waste removal contracts and private, industrial solid waste contracts. There should also be a reduction in the incidence of illegal and environmentally unsound disposal of hazardous waste. As these effects become more evident in the immediate future, it is hoped that public confidence in the industry will increase, contributing to a reduction in public opposition to the siting of new waste disposal facilities."

This proposed amendment of N.J.A.C. 7:26-16A.2 will have no impact beyond or different from that contemplated for the original regulations, other than to reschedule enforcement events related to the filing of disclosure statements by existing license holders by approximately 11 months. This proposed amendment is intended simply to restore the A-901 licensing program, with respect to existing license holders, to the status it should have reached in 1986 but for the interruption caused by the federal lawsuit.

#### Economic Impact

In its May, 1984, proposal, the Department estimated that approximately 3,000 of 4,050 licensed solid and hazardous waste transporters and facility operators would be subject to the A-901 requirements. Estimating an average of three to five names per disclosure statement filed, and a fee of \$200 per name, the Department projected revenues of \$1.8 million to \$3 million from fees. This represented a direct cost to the regulated companies, expected to be passed onto customers. Other costs

included executive time, attorney fees, and other costs associated with the preparation and filing of disclosure statements.

The Department now estimates that a somewhat smaller number of registered operators will be subject to the A-901 requirements. A firm figure cannot be set until the Department attempts to call in all the disclosure statements; only at that time can the Department identify which companies fall under A-901 and which are exempt because they transport only waste they themselves generate. However, the Department now estimates that no more than 2,500 companies will have to file disclosure statements, and the number could be as small as 1,500. That would imply fee collections of \$1.5 million to \$2 million, overall, assuming the average of five names per statement continues to hold.

The proposed amendment, however, will not change the economic impact of the A-901 program except as to its timing.

#### Environmental Impact

In its May, 1984 proposal, the Department described the anticipated environmental impact of the A-901 program as follows:

"Positive environmental impacts will be effected to the extent licensees willing to use illegal hazardous waste disposal methods are driven from the industry. Although there will be a similar positive impact from the regulation of the non-hazardous solid waste industry, it will be to a lesser degree. The Department expects fewer incidents of deliberate illegal disposal, thereby reducing the number of contaminated locations Statewide and related pollution effects to surface and groundwater, and to air."

No additional or different impact is expected to result from the present proposal.

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

#### SUBCHAPTER 16A. SPECIAL RULES FOR SUBMISSION OF DISCLOSURE STATEMENTS BY EXISTING LICENSEES AND APPLICANTS WHOSE APPLICATIONS WERE PENDING BEFORE THE DEPARTMENT PRIOR TO JULY 2, 1984

##### 7:26-16A.1 Scope and applicability; conflicts

(a) This subchapter implements section 3.a. of L. 1983, c.392, N.J.S.A. 13:1E-128.a., which states that "Every licensee who is not otherwise required to file a disclosure statement within two years of the effective date of this act [(June 11, 1984)] shall file a disclosure statement with the department and the Attorney General within that period."

(b) This subchapter is intended to provide for orderly and timely filing of disclosure statements by existing licensees [so as to equalize the administrative burdens on the Department and the Attorney General over the two-year period].

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

##### 7:26-16A.2 Schedule for submitting disclosure statements

(a) All persons who had received a license from the Department prior to July 2, 1984 shall submit a disclosure statement to the Department and the Attorney General [within two years after June 11, 1984] **on or before May 1, 1987**. Disclosure statements shall be submitted according to the procedures and requirements set forth in N.J.A.C. 7:26-16.3 and 16.4.

(b) A person shall be deemed to have "received a license" if he had received from the Department final approval to operate a solid or hazardous waste collector-hauler business or treatment, storage or disposal facility, or was actually operating pursuant to any authorization equivalent to an approved registration, such as a temporary operating authorization, judicial order or administrative consent order[.], **or the authorization conferred by "existing facility" status pursuant to N.J.A.C. 7:26-12.3.**

(c) The Department may require any applicant or licensee to submit a disclosure statement **prior to May 1, 1987** on demand upon 90 days notice **in writing**.

(d)-(e) (No change.)

(f) Any licensee who has not received a **written** demand to file a disclosure statement by [March 11, 1986] **February 1, 1987** shall file a disclosure statement on or before [June 10, 1986] **May 1, 1987**.

##### 7:26-16A.3 Applications pending on July 2, 1984

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

## HEALTH

### (a)

#### LOCAL AND COMMUNITY HEALTH SERVICES

##### Sale of Striped Bass Prohibited

##### Proposed New Rule: N.J.A.C. 8:21-2.41

Authorized By: Molly Joel Coye, M.D., M.P.H., Commissioner,  
Department of Health.

Authority: N.J.S.A. 24:2-1 et seq.

Proposal Number: PRN 1986-448.

Submit comments by December 3, 1986 to:

Kenneth Kolano, Chief  
Food and Milk Program  
New Jersey Department of Health  
120 S. Stockton Street  
Trenton, New Jersey 08625  
609-984-1370

The agency proposal follows:

##### Summary

The toxicity of polychlorinated biphenyls (PCB's) has been known for many years. PCB's are a suspected human carcinogen. Birth defects and a wide range of acute and chronic health effects have been attributed to PCB's that bioaccumulate in humans. While virtually all humans have some detectable level of PCB's in their bodies, U.S. Food and Drug Administration (FDA) surveys indicate that fish are the most significant source of dietary exposure. Consequently, on January 3, 1983, the Department of Environmental Protection (DEP) promulgated an emergency New Rule and Concurrent Proposal at N.J.A.C. 7:25-18A establishing fishery closures (prohibitions of sales of designated fish species taken from designated regions of the State's waters) and public health advisories (DEP warnings to limit consumption of designated fish species taken from designated regions of the State's waters) to reduce the imminent peril to public health from consumption of various fin fish species including striped bass (*Morone saxatilis*).

Since the 1983 DEP closures and advisories became effective, the FDA administrator issued a final decision, with due consideration of the public health and human food loss, that the appropriate tolerance for PCB's in fish should be reduced from five parts per million (ppm) to two ppm. Subsequent DEP analysis for PCB's in 22 striped bass taken from Raritan Bay, New Jersey's northern coastal waters, and New Jersey's southern coastal waters revealed mean PCB concentrations of 2.06 ppm (range: 1.14 ppm-5.07 ppm) for striped bass along New Jersey's Atlantic Coast, an amount in excess of the FDA's tolerance for PCB's in fish.

Similar studies done on striped bass taken from the waters off the coast of New York State indicated PCB contamination at even higher levels than those discovered in the striped bass taken from New Jersey's coastal waters. Based on these studies, both New York and Rhode Island have now prohibited the sale of striped bass. Since the New York striped bass migrate southward into New Jersey waters, there is also concern that these fish might be caught and sold in New Jersey, posing a further health threat to the citizens of this state.

Furthermore, in October, 1981, the Federal Interstate Fishing Management Plan for striped bass was adopted for the Atlantic Coast, by the Atlantic State Marine Fishery Commission. The plan is designed to protect the dwindling Chesapeake stock of striped bass, particularly the 1983 year class, so that that class can spawn, thereby creating an abundant future supply of striped bass. As the result of this plan, the catching and sale of striped bass is now prohibited in Maryland, Delaware, and Connecticut. (Chesapeake striped bass migrate as far north as Maine).

Thus, every state from Maryland to Connecticut, with the exception of New Jersey, has banned the sale of striped bass (on either health or conservation grounds). Consequently, New Jersey may become a "dumping ground" for the sale of striped bass, which cannot be sold elsewhere on the Atlantic Coast. Therefore, it is necessary to propose new rule N.J.A.C. 8:21-2.41 to prohibit the sale of striped bass in New Jersey, both to protect the public health, as well as the dwindling stocks of Chesapeake striped bass. In order to effectively enforce this rule, and to protect the migrating Chesapeake striped bass, the prohibition shall be effective for the entire state.

DEP has concurrently proposed a similar rule, which will close the striped bass fishery and prohibit the sale of these fish. (See proposed amendment to N.J.A.C. 7:25-18A.4 in this issue.)

##### Social Impact

A major positive social impact will result from the proposed new rule. Public health problems due to PCB contamination of striped bass taken from the waters of New Jersey by citizens of the State will be eliminated, due to citizen compliance with the closures established in the adopted emergency amendments. The bioaccumulation of PCB's in the striped bass-consuming public of the State will be decreased, thus reducing the risk of cancer and other serious health problems.

As a result of the adoption of the Federal Interstate Management Plan (adopted in 1981 by the Atlantic Coast states), which was designed to protect the dwindling supply of the 1983-year class of Chesapeake striped bass, Maryland, Delaware, New York, and Connecticut now prohibit the sale of striped bass. Absent this rule, New Jersey may become a "dumping ground" for the sale of striped bass which cannot be sold elsewhere, thereby increasing fishing pressure on the species and concomitantly reducing the size of subsequent spawns. Such a result would serve only to damage sport fishing for striped bass in the future.

##### Economic Impact

Limited adverse impact of the proposed new rule will result from the prohibition of the sale of striped bass taken from the waters of New Jersey and by the reduced consumption that should follow. The Department, however, believes that the economic loss would be limited because New Jersey fishing laws do not permit the netting of striped bass, therefore, commercial fishermen are not economically dependent upon this species. This limited negative economic impact upon commercial fishing will, however, be offset by the economic benefits of improved public health resulting from reduced consumption of PCB-contaminated fish taken from the waters of the State.

Full text of the proposed new rule follows.

8:21-2.41 Prohibition of sale of striped bass

No person may expose for sale, offer for sale, or sell striped bass (*Morone saxatilis*) in this State.

## HIGHER EDUCATION

### (b)

#### STUDENT ASSISTANCE BOARD

##### Carl D. Perkins Scholarship Program

##### Proposed New Rules: N.J.A.C. 9:7-9

Authorized By: Student Assistance Board, Joseph Streit,  
Chairman.

Authority: N.J.S.A. 18A:71-15.3, Title V, Part E of the Higher  
Education Act of 1965, as amended by the Human Services  
Reauthorization Act of 1984, 20 U.S.C. 1119d-1119d-8.

Proposal Number: PRN 1986-450.

Submit comments by December 5, 1986 to:

Grey J. Dimenna, Esq.  
Administrative Practice Officer  
Department of Higher Education  
225 West State Street  
CN 542  
Trenton, NJ 08625

The agency proposal follows:

##### Summary

The Carl D. Perkins Scholarship Program is a federally funded program to be administered in each state by a designated state agency. In New Jersey the designated state agency is the Student Assistance Board. Because the program was created by an act of the federal government there is no specific state statutory authority for the Student Assistance Board to promulgate regulations for this program. Therefore, the Student Assistance Board is relying upon its general authority to administer undergraduate scholarship programs as set forth in N.J.S.A. 18A:71-15.3 as the basis for these regulations. The Carl D. Perkins Scholarship Program is designed to encourage and enable outstanding high school graduates who demonstrate an interest in teaching to pursue teaching careers at the elementary or secondary school level by providing scholarships to help finance their college education. The regulations for the administration of this program by the Student Assistance Board set forth the eligibility requirements for application, selection, undergraduate enroll-

ment as well as the monetary benefits available to the students while attending college and in turn what their teaching obligations are for redemption of monies awarded following graduation.

#### Social Impact

The Carl D. Perkins Scholarship Program will provide an inducement to many outstanding New Jersey students, through the awarding of scholarships, to complete a course of study leading to a teaching certificate and to commit themselves to a teaching career. As New Jersey looks forward and projects the need for elementary and secondary school teachers within the next ten years, especially in the bilingual, special education, vocational education, mathematics, science, and foreign language areas, it is anticipated that the Carl D. Perkins Scholarship Program will assist the State significantly in providing qualified teachers to fill these vacancies. By providing annual awards of as much as \$5,000, which are renewable throughout the student's four year undergraduate education, this program will enable students from diversified economic backgrounds who otherwise could not afford a college education to pursue teaching careers, thus insuring New Jersey's continued commitment to provide quality education for its residents.

#### Economic Impact

Funding for the Carl D. Perkins Scholarship Program will be provided by the federal government and allotted to the states on the basis of population. New Jersey will receive funds totaling \$300,545 for the awarding of approximately 60 scholarships under the program. Dependent upon continued federal funding, students can qualify for annual awards of up to \$5,000 which are renewable for four years thus providing maximum undergraduate education benefits of \$20,000. Students need not repay any of the monies they have received as long as they fulfill the teaching obligation requirements following their graduation from college. Should students withdraw from college or fail to meet the teaching obligations after graduation, they are then responsible for repaying the amount of the scholarships received prorated according to the fraction of the teaching obligation not completed, plus interest on the outstanding principal, and all reasonable collection costs as determined by the Student Assistance Board, not to exceed 25% of the amount of the unpaid principal and accrued interest.

Full text of the proposed new rules follows:

### SUBCHAPTER 9. CARL D. PERKINS SCHOLARSHIP PROGRAM

#### 9:7-9.1 General provisions

General Provisions for all Programs Administered by the Student Assistance Board (N.J.A.C. 9:7-2) which pertain to residency, foreign nationals, payments to students, check endorsements, appeals, and fiscal responsibilities shall be in effect for the Carl D. Perkins Scholarship Program.

#### 9:7-9.2 Academic requirements for application

(a) In order to be eligible for a scholarship, an applicant must rank in the top 10 percent of his or her secondary school graduating class.

(b) In addition to (a) above, upperclass students must also have a cumulative grade point average (GPA) of at least 2.5.

#### 9:7-9.3 Attendance in an eligible institution

An applicant must be enrolled or plan to enroll in an accredited New Jersey college or university on a full-time basis in a degree program leading to a teaching certificate or in a degree program in a specialized field of study leading to a teaching certificate through the "Alternative Route".

#### 9:7-9.4 Amount of scholarship

Awards may be made without regard to need and shall be \$5,000 per year, although a recipient may not receive an amount which shall exceed the cost of college attendance as defined by the institution. In no case shall awards be made of less than \$2,000 per year. Awards will be made on a semester or term basis, and half-year awards are permissible.

#### 9:7-9.5 Application procedures

(a) An applicant must submit the following information:

1. An application to participate in the program including a statement indicating the applicant's intent to pursue a teaching career; and

2. Two written recommendations from secondary school or college administrators, guidance counselors or teachers attesting to the applicant's interest in and aptitude for teaching; and

3. An official secondary school transcript, including class rank and SAT scores; and

4. An official transcript of college grades including the cumulative grade point average (GPA), if applicable.

(b) All application forms and information must be submitted to the following authorized State agency:

New Jersey Department of Higher Education  
Office of Student Assistance  
4 Quakerbridge Plaza  
CN 540  
Trenton, NJ 08625

#### 9:7-9.6 Selection

(a) The Distinguished Scholars Committee will apply the selection criteria to the applications received according to a formula which will consider:

Class Rank + Scholastic Aptitude Test (SAT) Scores + Grade Point Average (GPA) + Other Documents Provided by the Applicant.

(b) Scholarships will be awarded without regard to sex, race, handicapping condition, creed, or economic background.

#### 9:7-9.7 Renewal of scholarship eligibility

(a) In order to maintain eligibility for a scholarship a scholar must be:

1. Enrolled as a full-time student in a New Jersey postsecondary institution that is currently accredited by a nationally recognized accrediting agency or association; and

2. Pursuing a course of study leading to certification as a teacher at the elementary or secondary level, as determined by the State in which the postsecondary institution the student is attending is located; and

3. Maintaining satisfactory progress as determined by the New Jersey postsecondary institution and federal regulations.

(b) The scholar shall provide the authorized State agency, as it requires, with evidence of compliance with the above requirements.

#### 9:7-9.8 Teaching obligations of the scholarship recipient

(a) The scholar shall teach on a full-time basis for a period of not less than two years for each year for which he or she received a Carl D. Perkins Scholarship in a public elementary or secondary school or education program in any State; in a private nonprofit elementary or secondary school located and serving students in a district eligible for assistance under Chapter 1 of the Education Consolidation and Improvement Act of 1981; or handicapped children, or children with limited English proficiency, in a private nonprofit elementary or secondary school.

1. The requirement to teach two years for each year of scholarship assistance is reduced by one-half if the scholar teaches on a full-time basis:

i. In a school which is designated by the Secretary as meeting the provisions of 34 CFR 674.54(a) of the National Direct Student Loan Program regulations for the year in which the individual is teaching at the school or the prior year; or

ii. Handicapped children, or children with limited English proficiency, in an education program or school referred to in N.J.A.C. 9:7-9.8(a).

(b) The scholar shall fulfill the teaching obligation described above within ten years after completing the postsecondary education degree program for which the scholarship was awarded.

(c) The scholar shall provide the authorized State agency, as it requires, with evidence of compliance with the above requirements.

#### 9:7-9.9 Redemption

(a) Redemption of this loan is predicated upon obtaining a baccalaureate degree and providing teaching service as specified in N.J.A.C. 9:7-9.8. Depending upon the location and duration of the teaching assignment, the total principal sum of the Interim Promissory Note including any accrued, capitalized interest will be cancelled for the service rendered within ten years after completing the postsecondary education degree program for which the scholarship was awarded.

(b) Total cancellation of loan indebtedness will not exceed the maximum of \$20,000 plus accrued, capitalized interest. Any other loans received in addition to those loans obtained through the Carl D. Perkins Scholarship Program will not be eligible for redemption.

(c) The scholar's loan indebtedness will be redeemed annually based on the submission of a notarized copy of:

1. The signed contract between the district board of education and the borrower indicating a full-time teaching agreement is in force, submitted by a specified date; and

2. A letter from the chief school administrator submitted by a specified date indicating a year of service has been completed.

#### 9:7-9.10 Repayment schedule for failure to meet teaching obligations or withdrawal from undergraduate degree program

(a) If the scholar fails to meet the teaching obligations described in N.J.A.C. 9:7-9.8, or if the scholar ceases to pursue the postsecondary degree program for which the scholarship is awarded, the scholar shall:

1. Repay the amount of the scholarships received, prorated according to the fraction of the teaching obligation not completed, as determined by the authorized State agency; and

2. Pay a simple per annum interest charge on the outstanding principal; and

3. Pay all reasonable collection costs as determined by the authorized State agency but not to exceed 25 percent of the amount of the unpaid principal and accrued interest.

(b) The interest charge accrues from the date of the initial scholarship payment if the scholar has ceased to pursue the postsecondary education degree program for which the scholarship was awarded, or the day after that portion of the scholarship period for which the teaching obligation has been fulfilled.

(c) The interest charge is adjusted annually, from the time interest begins to accrue to the time the repayment period begins (as described in (d) below), and is set at a rate which is the greater of 14 percent annually or 5 percent above the average of the bond equivalent rates of 91-day Treasury bills auctioned during the most recent quarter ending March 31. The interest charge applicable during the repayment period is the greater of these rates as determined when the repayment schedule is established.

(d) The scholar shall enter repayment status on the first day of the calendar month after:

1. The State has determined that the scholar has ceased to pursue the postsecondary education degree program for which the scholarship was awarded; or

2. The date the scholar informs the agency he or she does not plan to fulfill the teaching obligation; or

3. The latest date on which the scholar must have begun teaching in order to have completed the teaching obligation within ten years after completing the postsecondary education for which the scholarship was awarded, as determined by the authorized State agency.

i. A scholar covered by N.J.A.C. 9:7-9.10(d)3. could apply for a deferment upon obtaining a full-time teaching position eligible for redemption.

(e) The scholar shall make payments to the State which cover principal, interest, and collection costs according to a schedule established by the State which calls for complete repayment within ten years after the scholar enters repayment status and which amount annually is no less than \$1,200 or the unpaid balance, whichever is less with the following exceptions:

1. The State agency shall extend the ten-year scholarship repayment period by a period equal to the length of time a scholar meets any of the conditions in N.J.A.C. 9:7-9.11.

2. The State agency shall not require scholarship repayments amounting to more than \$1,200 annually unless higher payments are needed to complete the entire repayment within the ten-year period.

(f) The scholar will notify the Department of Higher Education, Office of Student Assistance, by certified mail within 15 days of termination in the program. The Department of Higher Education, Office of Student Assistance, will then authorize the New Jersey Higher Education Assistance Authority (NJHEAA) to issue a statement of total loan indebtedness.

(g) The particular terms and conditions of loan indebtedness will then follow in a separate document known as the repayment schedule that will be provided to the scholar prior to the repayment period by the NJHEAA. The repayment schedule will consolidate all loan amounts borrowed through the program and will include all accrued interest capitalized to the principal balance at the time of repayment. The scholar will be required to repay the entire capitalized principal balance, plus accruing interest at the assigned rate determined by the Department of Higher Education, Office of Student Assistance, in equal monthly installments over a repayment period that generally lasts no more than ten years.

9:7-9.11 Exceptions to repayment schedule

(a) A scholar is not considered in violation of the repayment schedule and need not make scholarship repayments nor will interest accrue during the time he or she is:

1. Engaging in a full-time course of study at an institution of higher education as defined in 34 CFR 668.2 of the Student Assistance General Provisions regulations as verified by the submission of official certification of full-time enrollment; or

2. Serving, not in excess of three years, as a member of the armed services of the United States as verified by the submission of documentation of enlistment; or

3. Temporarily totally disabled, for a period not to exceed three years, as established by a sworn affidavit of a qualified physician; or

4. Unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled as evidenced by a qualified physician's sworn affidavit; or

5. Seeking and unable to find full-time employment for a single period not to exceed 12 months; or

6. Seeking and unable to find full-time employment as a teacher in a public elementary or secondary school or public education program as evidenced by notarized copies of letters of application for teaching positions and any other documents as required by the Department of Higher Education, Office of Student Assistance.

(b) Scholars submitting documentation attesting to any of the conditions in (a) above will be reviewed individually by the Office of Student Assistance and final determination will be made by the Office of Student Assistance, Student Assistance Board. The final decision will be forwarded to the scholar within 60 days of the written request for postponement or cancellation of the loan obligation.

9:7-9.12 Cancellation of repayment schedule

(a) The authorized State agency shall cancel a scholar's repayment obligations if it determines:

1. On the basis of a sworn affidavit of a qualified physician that the scholar is unable to teach on a full-time basis because of an impairment that is expected to continue indefinitely or result in death.

2. On the basis of a death certificate or other evidence of death that is conclusive under State law that the scholar has died.

9:7-9.13 Default

(a) This loan will be considered in default and become immediately due and payable if the scholar fails to meet any of the following conditions:

1. Notify the Department of Higher Education, Office of Student Assistance, of termination in the program within the 15-day time period (see N.J.A.C. 9:7-9.10(f)); or

2. Execute and deliver an installment note prior to the repayment date; or

3. Make any installment payment that is due for a period of 120 days.

(b) The Department of Higher Education, Office of Student Assistance, will then authorize the NJHEAA to take the necessary steps to ensure the return of monies as permitted by federal law and regulations. Default on this loan may be reported to credit bureau organizations which may significantly and adversely affect the scholar's credit rating.

(c) The scholar will also be required to pay all charges and other costs, including attorney's fees, for the collection of the defaulted amounts. If this loan is referred for collection to an agency that is subject to the Fair Debt Collection Practices Act (15 U.S.C. 1692) the scholar will pay those collection costs which do not exceed 25 percent of the unpaid principal and accrued interest.

## HUMAN SERVICES

### DIVISION OF PUBLIC WELFARE

The following proposals are authorized by Drew Altman, Ph.D., Commissioner, Department of Human Services.

Submit comments by December 3, 1986 to:

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

(a)

### Public Assistance Manual General Assistance Manual Special Payments Handbook Retroactive Funeral Payments

**Proposed New Rules: N.J.A.C. 10:81-7.29, 10:85-4.9, 10:100-3.10**

Authority: N.J.S.A. 44:1-157.1, 44:7-6, 44:7-12, 44:7-13, 44:7-38, 44:7-43, 44:8-111(d), 44:10-3.

Proposal Number: PRN 1986-460.

The agency proposal follows:

**Summary**

Assembly Bill No. 2846, now Chapter 282, Laws of 1985, carried an effective date of September 8, 1985. The administrative regulations implementing that legislation became operational on November 1, 1986 (see 18 N.J.R. 2125(a)). It is now necessary that retroactive coverage be established for the interim period. The beneficiaries of the retroactive coverage are the funeral directors who supervised the funerals of the assistance recipients who died in the interim period without leaving sufficient funds to defray final costs. The Department's Division of Public Welfare has been advised by officials of the New Jersey Funeral Directors Association that a supplementary payment of \$600.00 will satisfactorily cover the costs incurred by those funeral directors who had received agency funeral payments under the previously existing rules. This amount is authorized together with lesser supplements for services for those who were ineligible because of marginal amounts of cash on hand. Administrative requirements for the payments are also included. Included are requirements for communication with known and potential beneficiaries, prompt payment, and the making available of petition forms. The regulations expire at the end of September 1987.

**Social Impact**

Because these regulations cover only activities in the past, they cannot influence the present or future activity of anyone except for the activity involved in the paying and collecting of funds. All of the situations for which payment is to be made have already occurred. The activities involved in payment and collection represent short term activity for the welfare agencies and one time only activity by the funeral directors for each funeral subject to payment.

**Economic Impact**

It is expected that these provisions will result in expenditure of public funds in the amount of \$1,500,660. Of that amount \$1,125,495 will represent expenditure of State funds. The balance will be paid by the local welfare agency. The recipients of the funds, and thus the beneficiaries of favorable economic impact, will be the funeral directors involved.

**Full text** of the proposed new rules follows:

**10:81-7.29 Retroactive adjustment payments**

(a) This section on retroactive adjustment payments expires on September 30, 1987. No payments are to be approved for any funeral for which a petition for retroactive payment has not been received by the agency by September 30, 1987.

(b) The agency will make retroactive adjustment payments to funeral directors under the following conditions:

1. The decedent died on or after September 8, 1985.
2. The decedent died before November 1, 1986.
3. The funeral director provided embalming and preparation services.
4. The funeral director submitted, and the agency received, a properly completed and notarized petition on Form PA-11C or substantially similar document on or before the expiration date hereof.
5. The decedent was programmatically eligible for funeral payment, and
  - i. The agency made or is authorized to make a funeral contribution under prior regulation, or
  - ii. The agency was not authorized to make a funeral contribution under prior regulation because the decedent's resources in combination with the contributions of others exceeded agency payment limits.

(c) The amounts to be paid are as follows:

1. For funerals for which the agency contributed—\$600.00
2. For funerals for which the agency did not contribute—the amount by which \$1500 exceeds the total amount paid for funeral and burial, but not more than \$600.00.

(d) Time of payment: The agency will make the retroactive payments as promptly as possible but, in the absence of irregularity, not later than 30 days after the date of receipt of the petition. The agency will reconcile irregularities as promptly as possible and make payment within 30 days after the last irregularity in any petition is reconciled.

(e) Other agency action shall be as follows:

1. The agency will communicate with all funeral directors to whom the agency made funeral payments for decedents who died on or after September 8, 1985, identifying the decedents, and advising of these provisions for retroactive payments.
2. Unless it is known that a retroactive payment cannot be made, the agency will communicate with the funeral director who conducted the funeral of any other person known or believed to have died on or after September 8, 1985 while programmatically eligible, identifying the decedent and advising of these provisions for retroactive payments.

If the identity of the funeral director is not known, communication shall be made with others, such as next-of-kin or hospital administrators as indicated, for the information.

3. The agency will supply blank copies of Form PA-11C in reasonable quantity to any funeral director requesting them. The agency will establish procedures for prompt responses to inquiries and processing of petitions.

**10:85-4.9 Retroactive adjustment payments**

(a) This section on retroactive adjustment payments expires on September 30, 1987. No payments are to be approved for any funeral for which a petition for retroactive payment has not been received by the agency by September 30, 1987.

(b) The agency will make retroactive adjustment payments to funeral directors under the following conditions:

1. The decedent died on or after September 8, 1985.
2. The decedent died before November 1, 1986.
3. The funeral director provided embalming and preparation services.
4. The funeral director submitted, and the agency received, a properly completed and notarized petition on Form PA-11C or substantially similar document on or before the expiration date hereof.
5. The decedent was programmatically eligible for funeral payment, and
  - i. The agency made or is authorized to make a funeral contribution under prior regulation, or
  - ii. The agency was not authorized to make a funeral contribution under prior regulation because the decedent's resources in combination with the contributions of others exceeded agency payment limits.

(c) The amounts to be paid are as follows:

1. For funerals for which the agency contributed—\$600.00
2. For funerals for which the agency did not contribute—the amount by which \$1500 exceeds the total amount paid for funeral and burial, but not more than \$600.00.

(d) Time of payment: The agency will make the retroactive payments as promptly as possible but, in the absence of irregularity, not later than 30 days after the date of receipt of the petition. The agency will reconcile irregularities as promptly as possible and make payment within 30 days after the last irregularity in any petition is reconciled.

(e) Other agency action shall be as follows:

1. The agency will communicate with all funeral directors to whom the agency made funeral payments for decedents who died on or after September 8, 1985, identifying the decedents, and advising of these provisions for retroactive payments.
2. Unless it is known that a retroactive payment cannot be made, the agency will communicate with the funeral director who conducted the funeral of any other person known or believed to have died on or after September 8, 1985 while programmatically eligible, identifying the decedent and advising of these provisions for retroactive payments. If the identity of the funeral director is not known, communication shall be made with others, such as next-of-kin or hospital administrators as indicated, for the information.

3. The agency will supply blank copies of Form PA-11C in reasonable quantity to any funeral director requesting them. It will establish procedures for prompt responses to inquiries and processing of petitions.

**10:100-3.10 Retroactive adjustment payments**

(a) This section on retroactive adjustment payments expires on September 30, 1987. No payments are to be approved for any funeral for which a petition for retroactive payment has not been received by the agency by September 30, 1987.

(b) The agency will make retroactive adjustment payments to funeral directors under the following conditions:

1. The decedent died on or after September 8, 1985.
2. The decedent died before November 1, 1986.
3. The funeral director provided embalming and preparation services.
4. The funeral director submitted, and the agency received, a properly completed and notarized petition on Form PA-11C or substantially similar document on or before the expiration date hereof.
5. The decedent was programmatically eligible for funeral payment, and
  - i. The agency made or is authorized to make a funeral contribution under prior regulation, or
  - ii. The agency was not authorized to make a funeral contribution under prior regulation because the decedent's resources in combination with the contributions of others exceeded agency payment limits.

(c) The amounts to be paid are as follows:

1. For funerals for which the agency contributed—\$600.00

2. For funerals for which the agency did not contribute—the amount by which \$1500 exceeds the total amount paid for funeral and burial, but not more than \$600.00.

(d) Time of payment: The agency will make the retroactive payments as promptly as possible but, in the absence of irregularity, not later than 30 days after the date of receipt of the petition. The agency will reconcile irregularities as promptly as possible and make payment within 30 days after the last irregularity in any petition is reconciled.

(e) Other agency action shall be as follows:

1. The agency will communicate with all funeral directors to whom the agency made funeral payments for decedents who died on or after September 8, 1985, identifying the decedents, and advising of these provisions for retroactive payments.

2. Unless it is known that a retroactive payment cannot be made, the agency will communicate with the funeral director who conducted the funeral of any other person known or believed to have died on or after September 8, 1985 while programmatically eligible, identifying the decedent and advising of these provisions for retroactive payments. If the identity of the funeral director is not known, communication shall be made with others, such as next-of-kin or hospital administrators as indicated, for the information.

3. The agency will supply blank copies of Form PA-11C in reasonable quantity to any funeral director requesting them. The agency will establish procedures for prompt responses to inquiries and processing of petitions.

## (a)

### Public Assistance Manual Child Support Guidelines

#### Proposed Repeal and New Rule: 10:81-11.18

Authority: N.J.S.A. 30:1-12; 44:7-6 and 44:10-3; Child Support Amendments of 1984 (P.L. 98-378).

Proposal Number: PRN 1986-443.

The agency proposal follows:

#### Summary

The Child Support Amendments of 1984 (P.L. 98-378) were developed by Congress to make critical improvements in the child support system and provide states with the initiative to improve their current child support programs.

Included in the new Federal law is a provision that the State must establish guidelines for child support awards within the State. The guidelines may be established by law or by administrative or judicial action. They must be made available to judges and other officials who have the power to determine child support awards within the State. However, the guidelines are not binding on those individuals and would not divest the courts of its authority or discretion to consider the individual circumstances in each case, but will provide a framework to aid in the decision making process.

A subcommittee of the Family Court Planning Committee of the New Jersey Supreme Court was formed to examine the concept and need for child support guidelines in New Jersey. The results were the formulation of a proposed court rule.

On May 9, 1986, the New Jersey Supreme Court adopted R. 5:6A, "Child Support Guidelines". The rule brings the State into compliance with the Federal Child Support Amendments of 1984 (P.L. 98-378). The rule attempts to encompass a broad range of family circumstances in setting child support awards and is to be used in all child support matters.

#### Social Impact

A growing number of children are growing up in single family households and many spend their lives in poverty, which often leads to less productive occupational pursuits as adults. It is believed that a strong enforcement system can be an important factor in potentially reversing this situation and can cause parents to become more cognizant of their responsibilities in the maintenance of the family.

#### Economic Impact

The adoption of the Child Support Guidelines will adjust some of the inconsistency and inadequacy of support orders. The guidelines contain mechanisms to update current support orders while taking into account inflation and changed circumstances. The guidelines are based on the premise that a child should receive the same proportion of parental income which would have been received if the parent lived together in an intact household. Certain families receiving Aid to Families with

Dependent Children (AFDC) will be able to subsist without public assistance. Application of the guidelines will also assist in preventing other families with dependent children (non-AFDC) from seeking public assistance. Thus the cost of public welfare will be reduced. The overall projection for the increase in collections is \$35 million per year.

Full text of the proposed repeal appears in the New Jersey Administrative Code at N.J.A.C. 10:81-11.18.

Full text of the proposed new rule follows:

10:81-11.18 Child Support Guidelines (New Jersey Supreme Court Rule 5:6A)

(a) The Child Support Guidelines of the New Jersey Supreme Court Rule 5:6A are set forth in the Appendix and are incorporated herein by reference. The guidelines shall be applied when an application for support, made pursuant to any section of the New Jersey Supreme Court Rule 5:6A, is considered by the court.

1. The guidelines may be modified or disregarded by the court only where good cause is shown. Good cause shall consist of:

i. The considerations set forth in Appendix A, or the presence of other relevant factors which may make the guidelines inapplicable or subject to modification; and

ii. The fact that injustice would result from the application of the guidelines.

2. In all cases, the determination of good cause shall be within the sound discretion of the court.

(b) The county welfare agency (CWA) shall seek spousal support, when appropriate, in an amount equal to the amount of support applicable for one child under Appendix C.

(c) The Child Support Guidelines Worksheet (see Appendix D) shall be completed by the CWA, using instructions in Appendix E, and information in Appendix A, B and C.

#### APPENDIX

- A Considerations in the Use of Child Support Guidelines
- B Percentages Used in Developing the Child Support Guidelines
- C Child Support Guidelines Chart
- D Child Support Guidelines Worksheet
- E Child Support Guidelines Worksheet Instructions

#### APPENDIX A

#### CONSIDERATIONS IN THE USE OF CHILD SUPPORT GUIDELINES

The guidelines set forth in this Rule shall be applied by first determining the available family income using the Child Support Guidelines Worksheet (Appendix D) and then determining the amount of the child support obligation from the Child Support Guidelines Chart (Appendix C). The child support obligation is then divided proportionately between the parents based upon their contribution to the family income. If necessary, an order shall be entered to supplement the calculated child support amount to include each parent's share of work-related child care expenses and extraordinary medical/dental expenses for the child. Such expenses will be distributed based on the percent contribution of each parent to the combined family income.

These child support guidelines assume that the custodial parent is spending his/her calculated share directly on the child. For the non-custodial parent, the calculated share establishes the child support order.

Considerations which may make these child support guidelines inapplicable or cause the child support amount to be adjusted are:

1. These tables and procedures are not generally intended to apply to parents with a combined net income which is below the poverty level (as set forth in the Federal Register) or in excess of \$42,000 per year. Parents at these extreme income levels should be subject to child support orders based upon individual case review. However, obligor parents earning less than the poverty level shall be ordered to pay a nominal child support amount to establish the principle of payment and lay the basis for increased orders if income increases in the future (See Appendices B and C).

2. These child support guidelines are based upon traditional custody and visitation arrangements.

3. These child support guidelines do not take into account the economic impact of the following factors:

- (a) Spousal support;
- (b) Equitable distribution of property;
- (c) Tax consequences
- (d) Fixed direct payments;

- (e) Unreimbursed extraordinary medical/dental expenses for the obligor parent;
  - (f) Educational expenses for the child(ren) or the spouse (i.e., those incurred for private, parochial, or trade schools, other secondary schools, or post-secondary education where there is tuition or other costs beyond state/local tax contributions);
  - (g) Verified non-court ordered support needs of children from other relationships;
  - (h) Families having more than six (6) children.
4. In determining gross income, these guidelines do not take into

account the following factors:

- (a) Unreported cash income;
- (b) Underemployment;
- (c) Income derived by other household members; and/or
- (d) In-kind income.

The above enumerated considerations should not limit the Court from taking into account other significant factors which may cause these child support guidelines to be inapplicable or cause the child support amount to be adjusted.

APPENDIX B  
INCOME SHARE FORMULA  
CHILD SUPPORT AWARDS AS A PERCENTAGE OF COMBINED WEEKLY AVAILABLE INCOME

COMBINED WEEKLY AVAILABLE INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
116*	12.4%	12.4%	12.4%	12.4%	12.4%	12.4%
140	23.3%	27.0%	27.0%	27.0%	27.0%	27.0%
163	23.3%	36.0%	37.4%	37.4%	37.4%	37.4%
186	23.1%	35.9%	44.9%	45.3%	45.3%	45.3%
209	22.9%	35.4%	44.3%	50.0%	51.3%	51.3%
233	22.2%	34.5%	43.2%	48.7%	53.1%	56.2%
256	21.7%	33.7%	42.3%	47.6%	52.0%	55.5%
279	21.3%	33.1%	41.5%	46.8%	51.0%	54.5%
302	20.6%	32.0%	40.2%	45.3%	49.4%	52.8%
326	20.0%	31.1%	39.1%	44.0%	48.0%	51.3%
349	19.5%	30.3%	38.1%	42.9%	46.8%	50.1%
372	19.3%	30.0%	37.6%	42.4%	46.3%	49.4%
395	19.1%	29.8%	37.3%	42.1%	45.8%	49.0%
419	19.0%	29.6%	37.0%	41.7%	45.5%	48.6%
442	18.9%	29.4%	36.7%	41.4%	45.2%	48.3%
465	18.8%	29.2%	36.5%	41.2%	44.9%	48.0%
488	18.6%	28.9%	36.1%	40.8%	44.4%	47.5%
512	18.4%	28.6%	35.8%	40.4%	44.0%	47.0%
535	18.3%	28.3%	35.5%	40.0%	43.6%	46.6%
558	18.1%	28.1%	35.2%	39.7%	43.3%	46.2%
581	18.0%	27.9%	34.9%	39.4%	42.9%	45.9%
605	17.8%	27.7%	34.7%	39.0%	42.6%	45.5%
628	17.7%	27.5%	34.4%	38.8%	42.3%	45.2%
651	17.6%	27.3%	34.2%	38.5%	42.0%	44.9%
674	17.4%	27.0%	33.8%	38.0%	41.5%	44.4%
698	17.2%	26.6%	33.4%	37.6%	41.0%	43.8%
721	17.0%	26.3%	32.9%	37.1%	40.5%	43.3%
744	16.8%	26.0%	32.6%	36.7%	40.0%	42.8%
767	16.6%	25.7%	32.2%	36.3%	39.6%	42.3%
791	16.4%	25.4%	31.9%	35.9%	39.2%	41.9%
814	16.2%	25.2%	31.5%	35.5%	38.8%	41.5%

\*For combined weekly available income less than this amount, the obligor parent should be ordered to pay a nominal child support amount to establish the principle of payment and lay the basis for increased orders should obligor income increase in the future.

APPENDIX C  
CHILD SUPPORT GUIDELINES CHART  
WEEKLY CHART SUPPORT AMOUNT ±5%

COMBINED WEEKLY AVAILABLE INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
116*	14-15	14-15	14-15	14-15	14-15	14-15
140	31-34	36-40	36-40	36-40	36-40	36-40
163	36-40	52-62	58-64	58-64	58-64	58-64
186	41-45	63-70	79-88	80-88	80-88	80-88
209	46-50	70-78	88-97	99-110	102-113	102-113
233	49-54	76-84	95-105	108-119	117-130	124-137
256	53-58	82-91	103-114	116-128	126-140	135-149
279	56-62	88-97	110-122	124-137	135-149	144-160
302	59-65	92-102	115-127	130-144	142-157	152-168
326	62-68	96-106	121-134	136-150	148-164	159-175
349	65-72	101-111	126-139	142-157	155-171	166-183
372	68-75	106-117	133-147	150-166	163-181	175-193
395	72-79	112-124	140-155	158-175	172-190	184-203

419	76-84	118-130	147-163	166-183	181-200	193-214
442	79-88	123-136	154-170	174-192	190-210	203-224
465	83-92	129-143	161-178	182-210	198-219	212-234
488	86-95	134-148	168-185	189-209	206-228	220-243
512	89-99	139-154	174-192	196-217	214-236	229-253
535	93-103	144-159	180-199	203-225	222-245	237-262
558	96-106	149-165	186-206	210-232	229-253	245-271
581	99-110	154-170	193-213	217-240	237-262	253-280
605	103-113	159-176	199-220	224-248	245-270	262-289
628	106-117	164-181	205-227	231-256	252-279	270-298
651	109-120	169-187	212-234	238-263	260-287	278-307
674	111-123	173-191	217-230	244-269	266-294	284-314
698	114-126	177-195	221-244	249-275	272-300	290-321
721	116-128	180-199	226-249	254-281	277-306	296-328
744	118-131	184-203	230-254	259-287	283-313	302-334
767	121-134	187-207	235-260	264-292	289-319	308-341
791	123-136	191-211	239-265	270-298	294-325	315-348
814	125-139	195-215	244-270	275-304	300-332	321-354

\*For combined weekly available income less than this amount, the obligor parent should be ordered to pay a nominal child support amount to establish the principle of payment and lay the basis for increased orders should obligor income increase in the future.

APPENDIX D  
CHILD SUPPORT GUIDELINES WORKSHEET

APPENDIX E  
INSTRUCTIONS TO CHILD SUPPORT GUIDELINES WORKSHEET

Case Name: \_\_\_\_\_ vs. \_\_\_\_\_

County: \_\_\_\_\_ Oblig: \_\_\_\_\_ Docket No: \_\_\_\_\_ Oblig: \_\_\_\_\_

Case Type: Non-dissolution Dissolution D.V. No. Child

Complaint Filed Conf./Hearing Date

	Mother	Father
1. Weekly Earned and Unearned Gross Income from all sources (excluding AFDC grants)	_____	_____
2. Weekly Mandatory Deductions		
a. Federal, State, and Local Income Taxes	_____	_____
b. FICA (Social Security)	_____	_____
c. Mandatory Union Dues	_____	_____
d. Mandatory Retirement	_____	_____
e. TOTAL MANDATORY DEDUCTIONS	_____	_____
3. Weekly Net Income (Line 1 minus Line 2e)	_____	_____
4. Weekly Allowable Exemptions		
a. Medical/Dental Insurance for Family (unreimbursed premium)	_____	_____
b. Child Support and/or Alimony Orders In Other Support Cases	_____	_____
c. TOTAL ALLOWABLE EXEMPTIONS	_____	_____
5. Weekly Available Income (Line 3 minus Line 4c)	_____	_____
6. COMBINED TOTAL WEEKLY AVAILABLE INCOME	_____	_____
7. Percent Contribution of Each Parent (Line 5, each parent, divided by line 6)	_____ %	_____ %
8. WEEKLY CHILD SUPPORT AMOUNT (From Chart)	[ ]	
9. TOTAL WEEKLY CHILD SUPPORT AMOUNT EACH PARENT (percent line 7 each parent, times line 8)	[ ]	[ ]
10. Percent Contribution of Each Parent Toward Extraordinary Medical/Dental Expenses for Child(ren) and Work Related Child Care Expenses (from line 7)	_____ %	_____ %

A. General

(1) A child support guidelines worksheet should be completed and made part of the permanent case file for each child support order which is established by expedited or judicial process using the guidelines set forth in the Rule.

(2) All income information presented on the worksheet should be based upon weekly amounts. For persons paid monthly, the pay should be divided by 4.3. For persons with an annual salary figure, divide by 52.

B. Completion of the Worksheet

(1) Enter on Line 1, for each parent, the weekly earned or unearned gross income from all sources.

(a) **Gross Income**<sup>1</sup> means all income from whatever source derived, including (but not limited to) the following items: 1. Compensation for services, including wages, fees, commissions, and similar items, 2. Gross income derived from business, 3. Gains derived from dealings in property, 4. Interests, 5. Rents, 6. Royalties, 7. Dividends, 8. Alimony and separate maintenance payments, 9. Annuities, 10. Income from life insurance and endowment contracts, 11. Income from discharge of indebtedness, 12. Pensions, 13. Income in respect of a decedent, and 14. Income from an interest in an estate or trust.

(b) Aid to Families With Dependent Children (AFDC) grants should be **excluded** in the determination of gross income.

(c) Prior to June 30 of the current year, use the IRS/State income tax return and/or W-2 statement(s) of the preceding year to obtain each parent's gross income (Line 1). If tax documentation is unavailable, use any other available evidence of current earnings (i.e., paystubs, employer statements, or receipts and expenses, if self-employed) to determine gross income. Divide the annual gross income by 52 to obtain the weekly gross income.

After June 30, use the year-to-date income figure from all documented sources (i.e. check stubs). Divided the total gross income from all sources by the number of elapsed weeks to calculate the weekly gross income.

(2) For each parent, enter all mandatory payroll deductions as itemized on Lines 2a through 2d. Enter the sum of the mandatory deduction on Line 2e.

(a) Weekly deductions for taxes should be based upon the weekly gross income (Line 1) and the number of exemptions provided by law. Care should be taken to recognize any possible change in filing status or right to tax exemptions pursuant to a pending dissolution or property settlement.

(b) Once the weekly gross income is calculated, determine the Federal income tax withholding from the Single Persons Weekly Wage Bracket Withholding Table (attached).

The general rule in determining the **number of dependency deductions**, for use with the wage bracket withholding table is that the non-custodial parent may claim the exemption only if the custodial parent waives his or her right to the exemption on a written declaration that must be attached to the non-custodial parent's tax return each year that the non-custodial parent claims the exemption. However, a decree of divorce or

separate maintenance or a written agreement executed prior to 1985 that grants the non-custodial parent the exemption is to be given effect if the non-custodial parent provides at least \$600 for the support of the dependent child during the calendar year and the child received more than one half of his/her support from both parents during the calendar year.

Calculate the **State income tax** by multiplying the weekly gross income by the current State tax rate (2.0% up to \$20,000; 2.5% from \$20,000 to \$50,000).

Determine any **local income tax** by dividing the total year-to-date local tax by the number of elapsed weeks.

(c) For W-2 wage earners, determine the **FICA tax** (Line 2b) by multiplying the gross income by 7.05% (the employee's contribution for 1985). For self-employed individuals, multiply the gross income by 11.8% (1985 self-employment tax). The maximum taxable amount in 1985 for both categories is \$39,600.

(d) Determine mandatory union dues and retirement by dividing the year-to-date contributions by the number of elapsed weeks.

(3) Calculate the "Weekly Net Income" (Line 3) for each parent by subtracting "Total Deductions" (Line 2e) from "Earned and Unearned Income From All Sources" (Line 1).

(4) List the "Weekly Allowable Exemptions" as itemized on Lines 4a and 4b. Enter the sum of the weekly allowable exemptions on Line 4c. All exemptions listed in this section should be verified.

(a) Enter on Line 4a the parent's share of the unreimbursed premium which they must contribute for their family's medical or dental insurance.

(b) Enter on Line 4b the weekly amount of all previously ordered child support and/or alimony payments for any **other** child(ren) or **other** spouses (i.e., obligated spouse is paying child support and alimony to the custodial parent of a prior marriage).

(5) Calculate the "Weekly Available Income" (Line 5) for each parent by subtracting the "Total Allowable Exemptions" (Line 4c) from the "Weekly Net Income" (Line 3).

(6) Add the "Weekly Available Income" (Line 5) of both parents and enter the sum at "Combined Total Weekly Available Income" (Line 6).

(7) Calculate the "Percent Contribution of Each Parent" (Line 7) by dividing each parent's "Weekly Available Income" (Line 5) by the "Combined Total Weekly Available Income" (Line 6).

(8) Using the "Combined Total Weekly Available Income" (Line 6), determine the appropriate "Weekly Child Support Amount" (Line 8) from the Child Support Guidelines Chart (Appendix C).

(9) Calculate the "Total Weekly Child Support Amount Each Parent" (Line 9) by multiplying the "Weekly Child Support Amount" (Line 8) by the "Percent Contribution of Each Parent" (Line 7).

(10) If there are work-related child care or extraordinary medical/dental expenses for the children, an order should be entered to supplement the base child support amount. Each parent should share in those expenses based on their proportionate contribution to the family income found on Line 10 (This figure is the same as the "Percent Contribution of Each Parent" found on Line 7).

(a) Work-related child care costs are those incurred due to employment or job search of custodial parent. Such costs should be reasonable; that is, such cost should not exceed the level required to provide high quality care for the child(ren) from a licensed source.

(b) Extraordinary medical/dental expenses are those which are incurred on behalf of the child(ren) which exceed insurance reimbursement by \$100. These may include (but are not limited to): orthodontic treatment, psychiatric therapy, asthma treatments, or extended physical therapy.

SINGLE PERSONS—WEEKLY PAYROLL PERIOD

(For Wages Paid After December 1985)

And the wages are—

And the number of withholding allowances claimed is—

At least	But less than	The amount of income tax to be withheld shall be—										
		0	1	2	3	4	5	6	7	8	9	10
\$0	\$32	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
32	34	1	0	0	0	0	0	0	0	0	0	0
34	36	1	0	0	0	0	0	0	0	0	0	0
36	38	1	0	0	0	0	0	0	0	0	0	0
38	40	1	0	0	0	0	0	0	0	0	0	0
40	42	2	0	0	0	0	0	0	0	0	0	0
42	44	2	0	0	0	0	0	0	0	0	0	0
44	46	2	0	0	0	0	0	0	0	0	0	0
46	48	2	0	0	0	0	0	0	0	0	0	0
48	50	2	0	0	0	0	0	0	0	0	0	0
50	52	3	0	0	0	0	0	0	0	0	0	0
52	54	3	1	0	0	0	0	0	0	0	0	0
54	56	3	1	0	0	0	0	0	0	0	0	0
56	58	3	1	0	0	0	0	0	0	0	0	0
58	60	4	1	0	0	0	0	0	0	0	0	0
60	62	4	1	0	0	0	0	0	0	0	0	0
62	64	4	2	0	0	0	0	0	0	0	0	0
64	66	4	2	0	0	0	0	0	0	0	0	0
66	68	5	2	0	0	0	0	0	0	0	0	0
68	70	5	2	0	0	0	0	0	0	0	0	0
70	72	5	3	0	0	0	0	0	0	0	0	0
72	74	5	3	0	0	0	0	0	0	0	0	0
74	76	6	3	1	0	0	0	0	0	0	0	0
76	78	6	3	1	0	0	0	0	0	0	0	0
78	80	6	4	1	0	0	0	0	0	0	0	0
80	82	6	4	1	0	0	0	0	0	0	0	0
82	84	7	4	2	0	0	0	0	0	0	0	0
84	86	7	4	2	0	0	0	0	0	0	0	0
86	88	7	4	2	0	0	0	0	0	0	0	0
88	90	8	5	2	0	0	0	0	0	0	0	0
90	92	8	5	2	0	0	0	0	0	0	0	0
92	94	8	5	3	0	0	0	0	0	0	0	0
94	96	8	6	3	1	0	0	0	0	0	0	0
96	98	9	6	3	1	0	0	0	0	0	0	0
98	100	9	6	3	1	0	0	0	0	0	0	0
100	105	9	7	4	1	0	0	0	0	0	0	0
105	110	10	7	4	2	0	0	0	0	0	0	0

110	115	11	8	5	3	0	0	0	0	0	0	0
115	120	12	9	6	3	1	0	0	0	0	0	0
120	125	12	9	6	4	1	0	0	0	0	0	0
125	130	13	10	7	4	2	0	0	0	0	0	0
130	135	14	11	8	5	2	0	0	0	0	0	0
135	140	15	11	9	6	3	1	0	0	0	0	0
140	145	15	12	9	6	4	1	0	0	0	0	0
145	150	16	13	10	7	4	2	0	0	0	0	0
150	160	17	14	11	8	5	3	0	0	0	0	0
160	170	19	16	13	10	7	4	1	0	0	0	0
170	180	20	17	14	11	8	5	3	0	0	0	0
180	190	22	19	16	12	9	6	4	1	0	0	0
190	200	24	20	17	14	11	8	5	2	0	0	0
200	210	25	22	19	15	12	9	6	4	1	0	0
210	220	27	24	20	17	14	11	8	5	2	0	0
220	230	29	25	22	18	15	12	9	6	4	1	0
230	240	31	27	23	20	17	14	11	8	5	2	0
240	250	32	29	25	22	18	15	12	9	6	4	1
250	260	34	31	27	23	20	17	14	10	8	5	2
260	270	36	32	29	25	22	18	15	12	9	6	3
270	280	38	34	30	27	23	20	17	13	10	7	5
280	290	40	36	32	28	25	21	18	15	12	9	6
290	300	43	38	34	30	27	23	20	16	13	10	7
300	310	45	40	36	32	28	25	21	18	15	12	9
310	320	47	42	38	34	30	26	23	20	16	13	10
320	330	49	45	40	36	32	28	24	21	18	15	12
330	340	52	47	42	38	34	30	26	23	19	16	13
340	350	54	49	45	40	36	32	28	24	21	18	15
350	360	56	52	47	42	38	34	30	26	23	19	16
360	370	59	54	49	44	40	36	32	28	24	21	18
370	380	62	56	51	47	42	38	34	30	26	23	10
380	390	64	59	54	49	44	40	36	31	28	24	21

**SINGLE PERSONS—WEEKLY PAYROLL PERIOD**

(For Wages Paid After December 1985)

And the wages are—

And the number of withholding allowances claimed is—

At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld shall be—										
\$390	\$400	\$67	\$61	\$56	\$51	\$46	\$42	\$38	\$33	\$30	\$26	\$22
400	410	69	64	59	54	49	44	40	35	31	28	24
410	420	72	67	61	56	51	46	42	37	33	29	26
420	430	75	69	64	58	53	49	44	39	35	31	27
430	440	77	72	66	61	56	51	46	41	37	33	29
440	450	80	74	69	64	58	53	48	44	39	35	31
450	460	82	77	72	66	61	55	51	46	41	37	33
460	470	85	80	74	69	63	58	53	48	43	39	35
470	480	88	82	77	71	66	61	55	51	46	41	37
480	490	91	85	79	74	69	63	58	53	48	43	39
490	500	94	88	82	77	71	66	60	55	50	46	41
500	510	97	91	85	79	74	68	63	58	53	48	43
510	520	100	94	87	82	76	71	66	60	55	50	45
520	530	103	97	90	84	79	74	68	63	57	52	48
530	540	106	100	93	87	82	76	71	65	60	55	50
540	550	109	103	96	90	84	79	73	68	63	57	52
550	560	112	106	99	93	87	81	76	71	65	60	55
560	570	115	109	102	96	90	84	79	73	68	62	57
570	580	118	112	105	99	93	87	81	76	70	65	60
580	590	121	115	108	102	96	90	84	78	73	68	62
590	600	125	118	111	105	99	93	86	81	76	70	65
600	610	128	121	114	108	102	96	89	84	78	73	67
610	620	131	124	117	111	105	99	92	86	81	75	70
620	630	135	128	121	114	108	102	95	89	83	78	73
630	640	138	131	124	117	111	105	98	92	86	81	75
640	650	142	134	127	120	114	108	101	95	89	83	78
650	660	145	138	131	124	117	111	104	98	92	86	80
660	670	148	141	134	127	120	114	107	101	95	89	83
670	680	152	145	138	131	124	117	110	104	98	92	86
680	690	155	148	141	134	127	120	113	107	101	95	89
690	700	159	151	144	137	130	123	116	110	104	98	92
700	710	162	155	148	141	134	127	120	113	107	101	95

710	720	166	159	151	144	137	130	123	116	110	104	98
720	730	170	162	155	148	141	133	126	119	113	107	101
730	740	174	166	158	151	144	137	130	123	116	110	104
740	750	177	170	162	154	147	140	133	126	119	113	107
750	760	181	173	166	158	151	144	137	130	122	117	110
760	770	185	177	169	162	154	147	140	133	126	119	113
770	780	188	181	173	165	158	150	143	136	129	122	116
780	790	192	184	177	169	161	154	147	140	133	126	119
790	800	196	188	180	173	165	157	150	143	136	129	122
800	810	199	192	184	176	169	161	154	147	139	132	125
810	820	203	196	188	180	172	165	157	150	143	136	129
820	830	207	199	192	184	176	168	161	153	146	139	132
830	840	211	203	195	188	180	172	164	157	150	143	136
840	850	214	207	199	191	184	176	168	161	153	146	139
850	860	218	210	203	195	187	180	172	164	157	149	142
860	870	222	214	206	199	191	183	176	168	160	153	146
870	880	225	218	210	202	195	187	179	172	164	156	149
880	890	229	221	214	206	198	191	183	175	168	160	153
890	900	233	225	217	210	202	194	187	179	171	164	156
900	910	236	229	221	213	206	198	190	183	175	167	160
910	920	240	233	225	217	209	202	194	186	179	171	163
920	930	244	236	229	221	213	205	198	190	182	175	167
930	940	248	240	232	225	217	209	201	194	186	178	171
940	950	251	244	236	228	221	213	205	198	190	182	174
950	960	255	247	240	232	224	217	209	201	194	186	178
960	970	259	251	243	236	228	220	213	205	197	190	182
970	970	262	255	247	239	232	224	216	209	201	193	186
980	990	266	258	251	243	235	228	220	212	205	197	189
990	1,000	270	262	254	247	239	231	224	216	208	201	193
1,000	1,010	273	266	258	250	243	235	227	220	212	204	197
1,010	1,020	277	270	262	254	246	239	231	223	216	208	200
1,020	1,030	281	273	266	258	250	242	235	227	219	212	204
1,030	1,040	285	277	269	262	254	246	238	231	223	215	208
37 percent of the excess over \$1,040 plus--												
\$1,040 and over	286	279	271	263	256	248	240	233	225	217	210	

<sup>1</sup>See Internal Revenue Code at Section 61-1

<sup>2</sup>See Internal Revenue Code Sections 151 and 152(e), as amended by the Tax Reform Act of 1984, Section 423

**(a)**

**General Assistance Manual  
Exemption from Work Requirement; Unemployables  
in Residential Drug Treatment Facilities**

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

Authority: N.J.S.A. 30:1-12, 30:1A-1, 44:8-108, 44:8-109, and 44:8-111(d).

Proposal Number: PRN 1986-446.

The agency proposal follows:

**Summary**

The proposed amendment clarifies the relationship between exemptions from the work requirement and the concept of unemployability in the General Assistance (GA) program as stipulated in N.J.S.A. 44:8-108 and 44:8-109. A distinction is drawn between General Assistance recipients who are employable but exempt from work registration and those who are determined unemployable.

The proposed amendment will align N.J.A.C. 10:85-3.2(g)3 with N.J.A.C. 10:85-3.3(f)2iii, which stipulates that the higher assistance standards of Schedule I apply only to unemployable individuals, defined as those persons who cannot work because of a physical, mental or emotional handicap. Inasmuch as persons over 65 or caretaker individuals are not necessarily handicapped, they cannot be automatically eligible for the higher level of assistance paid under Schedule I. Therefore, persons age 65 or over, and persons whose presence is required at home to care for children under age six or disabled family member(s) will not automatically be considered unemployable for purposes of determining the amount of assistance to be granted. However, the proposed amendment does not preclude individualized determinations of unemployability for GA recipi-

ents age 65 and older or caretaker individuals, based on medical evidence and specific case circumstances.

This proposed amendment also classifies as unemployable, those individuals in the first year of a residential drug abuse program. Individuals whose drug abuse problem is serious enough to justify residential treatment are likely to be physically or mentally unable to engage in employment. Medical evidence is still required in order to verify each case. After the first year, cases will revert to the need for individual determination of employable or unemployable.

**Social Impact**

GA applicants age 65 and over are customarily referred to the Supplemental Security Income (SSI) program for assistance, and few GA recipients are acting as caretaker individuals. Both groups will remain exempt from the GA work requirements. With regard to persons in residential drug treatment facilities, all drug centers operate under medical guidance. Attending physicians normally provide the evidence needed to certify to the unemployable status of those who are, in fact, unemployable. However, many of the programs for residents of drug treatment facilities include employment-like activity and/or trial periods of employment which tend to confuse the issue of employability for clients. This amendment will serve to clarify their status. By so doing, the danger of an uninterrupted program is diminished and a more uniform approach to the matter of employability is expected.

The proposed amendment will increase uniformity in eligibility determinations and program administration, since it will eliminate the ambiguity which has arisen between these sanctions.

**Economic Impact**

A small savings in assistance costs will be realized as a result of the proposed amendment, because of a uniform understanding and application of the governing statutory provision. All or nearly all persons in

residential drug treatment facilities are now classified as unemployable. This amendment tends to confirm their status but not to change it. Consequently, little or no change in assistance costs is expected.

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 [ / ] 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 age 65 or over; or**

**vi. The individual is required at home to care for one or more children under age six or for disabled family member(s). No more than one person in a household may be exempt for this reason without written authorization from DPW/BLO; or**

**[v.vii. 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) Persons age 65 or over;**

**(2) Persons whose presence is required at home to care for one or more children under age six or for disabled family member(s). No more than one person in a household may be exempt for this reason without written authorization from DPW/BLO;]**

**[(3)](1) Persons receiving [impatient] **inpatient** hospital care and treatment who were or would have been classified as unemployable prior to entering the hospital (persons who were or would have been listed as employable shall retain such status until hospital discharge):**

**Renumber (4) through (9) as (2) through (7) (No change in text.)**

**(8) Persons in the first 12 months of residential treatment in centers licensed by the New Jersey Department of Health for the treatment of drug abuse when medical evidence exists that the residential treatment is necessary. The 12 month period starts anew for each commencement of treatment, previous incomplete or unsuccessful courses of treatment notwithstanding.**

**(A)-(D) (No change.)**

**4.-8. (No change.)**

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

## LAW AND PUBLIC SAFETY

### (a)

#### BOARD OF MEDICAL EXAMINERS

#### Registration for Postgraduate Training Permits for Unlicensed Physicians

#### Proposed New Rule: N.J.A.C. 13:35-1.5

Authorized By: State Board of Medical Examiners,  
Edward W. Luka, M.D., President.

Authority: N.J.S.A. 18A:68-1 et seq., 45:1-14 et seq., 45:9-2,  
45:9-8, 45:9-21(d).

Proposal Number: PRN 1986-445.

Submit comments by December 3, 1986 to:

Edward W. Luka, M.D., President  
Board of Medical Examiners  
28 W. State Street  
Trenton, New Jersey 08608

The agency proposal follows:

#### Summary

The proposed new rule describes the responsibilities of persons who wish to practice medicine and surgery under the temporary exemption from licensure authorized by law for medical school graduates in hospital residency programs. The rule lists the kinds of inquiries that must be made by the hospital Director of Medical Education in order to assure eligibility of the graduate for such training, and provides, for the first time, that the Board of Medical Examiners shall issue a permit registering each unlicensed physician for the purpose of the exemption.

#### Social Impact

The social impact of this proposal is expected to be substantial in assisting hospitals to select more knowledgeably those persons who desire postgraduate medical training, thereby upgrading the level of care which will be provided by those hospital residents to patients at those institutions. The improved selection process is necessary because, until now, the Medical Board has had no official knowledge of the identities or backgrounds of those persons who have represented themselves to hospitals as eligible for the licensure exemption, until they have actually applied for licensure or until problems have been reported to the Board by hospital authorities or the police. Only then has the Board learned that some of these persons had histories which should have precluded their admission into residency programs in the first place, or should have required active treatment or educational intervention in order to assure protection of the public. A better screening mechanism has become essential and the Board believes that establishing a formal review procedure, culminating in the issuance of a postgraduate permit, is the method most likely to avoid many of the problems that have already come to light. The most expeditious way to accomplish this, without disrupting the traditional manner of matching applicants for hospital training with hospitals willing to employ them, is to have the hospital Director of Medical Education (hereafter abbreviated as D.M.E.), perform initial screening. The screening should increase the likelihood that persons accepted for postgraduate training will have demonstrated satisfaction of all prerequisites for ultimate licensure short of taking and passing the final written examination (FLEX) or providing eligibility for endorsement of passing scores from other acceptable examinations.

The statutory prerequisites for persons seeking licensure to practice medicine and surgery in this State include good character, adequate pre-professional education, thorough and satisfactory medical education, possession of a valid diploma, etc. Applicants must also demonstrate completion of a period of postgraduate work in a licensed institution where, under the general supervision of other physicians, they examine patients, order diagnostic tests, prescribe drugs, perform surgery, and have many occasions to make immediate and critical decisions affecting the health, and often the lives, of the patients in their charge. This period of postgraduate training, where the physician engages in the active practice of medicine and surgery without yet having been required to demonstrate the minimum level of competence shown by passing the FLEX written examination or each stage of the tests commonly known as the National Board, may by law continue for as long as five years. However, after a much shorter period (one year for graduates of medical schools accredited by nationally-recognized education agencies in the United States, and three years for graduates of schools which are not so accredited), the postgraduates may apply to the New Jersey Board for licensure.

A significant component of the licensure credentials process is the document from the D.M.E. certifying that the postgraduate has satisfactorily completed the prescribed period of postgraduate training in an institution approved for that purpose. This certification occurs at the last major opportunity for screening out physicians who do not possess the qualities of personal integrity and professional knowledge which the public expects from those who will be permitted to hold themselves out as physicians. All that remains after the D.M.E.'s screening is the passage of a written examination—which by its nature and extent, can hope only to test a mere sampling of the breadth and scope of medical knowledge a medical student is expected to acquire during the course of years of his or her didactic education and clinical training. The written examinations cannot test the physician's whole fund of medical knowledge, or ability to apply it appropriately to clinical situations, or to communicate constructively and efficiently with patients and other health care colleagues, or to be receptive to new developments in medicine and to incorporate them into practice, or to exemplify the characteristics of honesty and integrity which are basic to a proper medical practice. All of the above evaluative responsibilities devolve primarily on the D.M.E.

In recent years, the Board of Medical Examiners has seen an increasing incidence of licensure applications which were submitted by persons who had been employed in postgraduate training positions and presumably were supervised by the D.M.E.'s who signed certifications of good performance and good character of the applicants. Yet, it has been found that many of these applicants possessed severely deficient medical or other educational background, or had secured their diplomas in highly questionable ways, or produced letters of recommendation which were not authentic, or submitted transcripts from the graduating school which did not accurately reflect their real course work. The Board in some instances has also learned of postgraduates with significant psychiatric disorders which may or may not be controllable by appropriate treatment, and severe alcohol or drug dependency problems.

Many of these problems would have been readily discovered by D.M.E.'s who conducted a thorough inquiry and review of the essential data typically requested of physicians seeking postgraduate positions. Following are examples of recent matters coming before the Board which demonstrate the need for a more organized screening process:

(a) Transcripts showed apparent discrepancies in dates of schooling when compared with dates of clinical clerkships or graduation, especially in connection with some newly established medical schools.

(b) A request for authentication of letters of endorsement or asserting completion of clinical clerkships revealed that the hospital stationery was stolen and the letters forged.

(c) A demand to see the original ECFMG Certificate uncovered the fact that it was forged, and that the applicant had taken the exam more than once but had never passed the medical part or the English part or both.

(d) The transcript from the graduating school contained courses for which advanced credit had been given purportedly for courses taken at an earlier school, but which do not appear on the transcript of the transferor school.

(e) The transcript of the graduating school conferred academic credits which are substantially "enhanced" over those conferred by the earlier school for the same subjects.

(f) Non-academic documents in a foreign language were passed off as diplomas to unsuspecting and uncritical D.M.E.'s who apparently accepted them without translations, when an English translation disclosed that it was a souvenir certificate of appreciation—bearing a picture of the school's logo—for attending a dinner honoring a member of the school's faculty.

(g) A forged ECFMG Certificate was constructed by the technical marvels of a photocopy machine.

(h) A careful chronological review of the education history disclosed persons who were registered at more than one medical school concurrently.

(i) Some applicants began their studies at schools in Mexico or the Dominican Republic and then—in order to avoid the social service obligations considered mandatory by some of those schools—transferred to a new Caribbean school; these students were given academic credit for clerkships performed "under the auspices" of that new school and actually saw the school and faculty—if at all, for the first time when they flew down to attend "graduation." These same students were typically accepted as transfers with no competency testing in basic sciences until months after they had been actually working in the clinical clerkship setting.

(j) Police or the hospital reported the arrest of a hospital resident for buying or selling Controlled Dangerous Substances, or stealing drugs from hospital inventory, or being under the influence of such drugs while on duty.

(k) The Board belatedly learned that the resident had a history of significant antisocial, or even criminal, activity which was unknown to the hospital during the residency programs.

(l) Miscellaneous other problems which should have warranted intensive questioning before permitting some diploma-holders to render medical services.

The Board recognizes that not all deviations from the usual will necessarily be significant, and many will be remediable. Indeed, some may be commendable, such as a period of personal psychotherapy or analysis to increase the new physician's insight into his or her own personality structure to learn better ways of dealing with the stresses of practice and the sometimes unwitting manipulations of patients. Some document problems may be unavoidable, such as inability of political refugees to produce original diplomas and transcripts. A review provision is built into the proposed rule so that the Board may review individual cases to determine, in the sole discretion of the Board, if the applicant should be granted a postgraduate permit notwithstanding something questionable in the applicant's background. This opportunity for discretionary review may also be applied to persons with certain disabilities. For example, a person who has demonstrated proof of having overcome a prior substance abuse problem might be permitted to work in an institution with extra supervision or a limitation on the type of medical practice to be pursued, in conjunction with random urinalysis and a mandatory social support network. A person with a history of conviction or pretrial diversion, etc., for an offense relating adversely to the practice of medicine will have the opportunity, as required by the Rehabilitated Convicted Offender Act, to demonstrate rehabilitation. An applicant with an educational deficiency may be permitted to accept a residency position where extra training and supervision is expected to adequately remedy the deficiency without

exposing patients to an unreasonable risk. However, since matters of fraud or cheating, serious substance abuse or psychiatric disability, or serious educational deficiency are unlikely to be found correctable for purposes of licensure, persons with such problems are similarly unlikely to be eligible for a postgraduate permit. It is therefore appropriate that these persons be identified as soon as possible in the medical training sequence and diverted from actual medical practice in a hospital setting where unsuspecting colleagues are relying upon them for the care of unwitting patients. The proposed rule is not intended to conflict with the authority of the New Jersey Department of Higher Education in carrying out its responsibilities under the Medical and Dental Education Act of 1970 (N.J.S.A. 18A-64G) or of the Advisory Graduate Medical Education Council of New Jersey implementing N.J.S.A. 18A:64H, as both laws establish and fund medical education programs but neither sets eligibility criteria for individuals seeking residency training, a function reserved to the Board of Medical Examiners. The Board expects to work closely and cooperatively with the Department of Higher Education in all matters of mutual interest.

#### Economic Impact

To the extent that D.M.E.'s are not now providing careful review of the credentials of applicants for postgraduate training positions, the adoption of this rule will require an investment of time on the part of these hospital decision-makers. Additional postage and telephone and clerical assistance may be needed to verify the claims presented by the applicants. These costs might be absorbed in hospital overhead, or might be charged directly back to the applicants by the employing hospital. The cost of the postgraduate permit to be issued by the Board of Medical Examiners will be minimal, and will be determined by the estimated actual cost to the agency of administering the rule. (See companion rule proposal, N.J.A.C. 13:35-6.13.) The total costs are expected to be negligible, particularly in comparison with the benefit to all of the public of helping to screen out of the practice of medicine and surgery those persons who submit fraudulent credentials, or the separate category of those who have deficient medical education or other disabilities which would render them ineligible for independent licensure or for practice under the temporary exemption from licensure in this State.

Costs to the Board cannot readily be estimated at this time, but will certainly include more staff time and resources at the Board office and more time by Board members to review questionable credentials submitted by directors of medical education.

Full text of the proposed new rule follows.

#### 13:35-1.5 Registration for postgraduate training permits for unlicensed physicians

(a) The following terms shall have the following meanings unless the context in which they appear indicates otherwise.

"Applicant" means a person who appears to satisfy all prerequisites of the Medical Practice Act, N.J.S.A. 45:9-1 et seq., the Uniform Enforcement Law, N.J.S.A. 45:1-14 et seq., and applicable rules for eligibility for licensure as a physician and surgeon in this State, other than the period of approved postgraduate training required by N.J.S.A. 45:9-8 and N.J.A.C. 13:35-3.11, and who is seeking such training pursuant to the provisions of N.J.S.A. 45:9-21(d). Prerequisites include the requirements listed in N.J.S.A. 45:9-6, 9-7, 9-8, 9-13 and N.J.A.C. 13:35-1A et seq., as applicable.

"Director of Medical Education" (D.M.E.) means a physician with a plenary New Jersey license who is the person responsible for making the initial professional determination to employ a physician in training in postgraduate programs at a hospital licensed in this State, and for thereafter supervising the training and evaluating the performance of that physician.

"Hospital" means an institution which maintains a residency program affiliated with a medical college accredited by the Liaison Committee on Medical Education (LCME) or by the American Osteopathic Association (AOA). The residency program shall be one which is accredited by the Accreditation Council on Graduate Medical Education (ACGME) or by the American Osteopathic Association (AOA). The residency program shall have established a system for screening prospective residents in accordance with this rule.

"Permit" means a document issued by the New Jersey State Board of Medical Examiners enabling the holder to participate for a limited period in postgraduate medical training in this State. Review of an applicant's background for permit purposes is necessarily limited, and possession of a permit does not imply or assure that the holder will ultimately be found by the Board to meet and satisfy all requirements of the Medical Practice Act at the time of formal application for licensure.

(b) Prior to the commencement of any postgraduate medical training in a New Jersey hospital an applicant for admission to such training shall secure a permit from the New Jersey State Board of Medical Examiners.

(c) The New Jersey State Board of Medical Examiners shall register an applicant for participation in postgraduate medical training in this State and shall issue a postgraduate permit upon receipt and proof, to the satisfaction of the Board, of the accuracy and validity of the documents set forth in (d), (e) and (f) below.

(d) A certification from the D.M.E. shall identify the postgraduate position and its location(s) and inclusive dates being offered to the applicant contingent upon issuance of a postgraduate permit by the Board of Medical Examiners. The certification shall also attest that the D.M.E. has personally examined the originals of each document set forth in (e) below, listing any document for which the original was not produced and the reason a substitute was deemed acceptable. The certification shall further attest that a diligent and responsible good faith effort was made to verify the validity and accuracy of all documentation required by this rule to be submitted by the applicant to the hospital. Where originals are not presented, a waiver pursuant to (e)7. may be sought.

(e) The applicant shall produce for the D.M.E. proof of satisfactory education which meets at least the minimum requirements set forth in the Medical Practice Act, N.J.S.A. 45:9-1 et seq. Said proof shall demonstrate that:

1. The applicant has completed and been accredited with at least 60 earned academic credits at a college on the post-secondary school level, which college is accredited for educational purposes by the appropriate state or political jurisdiction. The academic credit shall include study of physics, chemistry and biology. An original transcript shall be produced from each school at which the applicant was registered, whether or not the student had received transfer credits from another institution.

2. The applicant has taken and completed at least four school years (32 months) of medical education at, and is a graduate of, a medical school which was listed or eligible for listing by the World Health Organization Directory during each of those years, and the school was authorized to conduct classes in the geographic jurisdiction where such instruction took place during the entire period of instruction. The original diploma shall be submitted for inspection, along with a certified translation into English if necessary. Original transcripts from each institution attended shall likewise be produced, along with translations if necessary.

3. The applicant, prior to seeking the postgraduate training, has taken and successfully completed a clinical clerkship in each of the following subjects: medicine, surgery, obstetrics-gynecology, pediatrics and psychiatry. The applicant shall have completed a minimum of 12 weeks in medicine, 12 weeks in surgery, 8 weeks in obstetrics-gynecology, 8 weeks in pediatrics and 8 weeks in psychiatry. If the applicant's medical school did not require clinical clerkships in these subjects at the pertinent time as a pre-requisite to graduation, special permission shall be sought from the Board of Medical Examiners. Clinical clerkships in these core subjects are mandatory for all applicants as of the effective date of this rule, but the number of weeks specified for each clerkship shall apply only to the applications of persons who commenced the third year of medical school on or after January 1, 1987.

4. The applicant took and successfully completed each clinical clerkship, whether in core subjects or electives, in a hospital under the following circumstances:

i. If located within the United States or Canada, the hospital was, during the entirety of the clerkship in a core subject, accredited by the Accreditation Council on Graduate Medical Education or the American Osteopathic Association to conduct a residency program in the subject of that particular clerkship. Psychiatry shall be considered a core subject, commencing two years from the effective date of the rule. Each clerkship in an elective subject shall have been taken in a hospital having the prior approval of the sponsoring medical school.

ii. If located outside of the United States or Canada, the hospital provided training in the subject of that clerkship at a level substantially equivalent to that of an A.C.G.M.E. approved institution, as shall be determined on a case-by-case basis by the New Jersey State Board of Medical Examiners. The burden of proving such equivalency to the satisfaction of the Board shall be on the applicant.

iii. A graduate of a foreign medical school shall present a certificate indicating a passing score on all applicable components of the examination administered by the Educational Commission on Foreign Medical Graduates (FMGEMS or ECFMG, as pertinent).

5. The applicant shall submit to the D.M.E. the affidavits or certifications of two persons who are not relatives or employees of the applicant,

attesting to the applicant's good moral character and setting forth the circumstances of the attestor's knowledge.

6. The applicant shall certify that he or she is not currently and has not previously been the subject of an administrative disciplinary proceeding by this or any other state professional licensing agency, nor has the applicant been denied eligibility for postgraduate training in this or any other state, nor has been terminated for cause by any hospital in this or any other state, whether before or after licensure. The applicant shall further certify that he or she is not currently the subject of criminal proceedings, nor has ever been convicted of a criminal offense of any grade, or been admitted to a pretrial diversionary program. The applicant shall further certify that he or she has not been a regular user or a recreational user of Controlled Dangerous Substances nor habituated to alcohol. An applicant who has received institutionalized psychiatric treatment, or regular treatment with psychoactive medications, shall so state and shall make available to the D.M.E. (and to the Board) such information as they shall deem necessary to evaluate current fitness to practice.

7. The Board may issue a waiver, to the extent permitted by law, from the requirements of (e)1. through 6. above for good cause shown.

(f) The Certification of the D.M.E., described in (d) above, shall be delivered along with the application fee listed in N.J.A.C. 13:35-6.13 and shall be received by the Board prior to the start of the applicant's formal postgraduate training program (or informal training, as permitted by N.J.A.C. 13:35-2.13). In the absence of any matter requiring inquiry by the Board, the Board office shall issue the permit to the applicant to allow employment of the applicant in postgraduate training at the named institution.

(g) In the event of question raised by the D.M.E. or the Board as to credentials submitted, all documentation submitted by the applicant to the hospital or secured by the hospital shall be made available to the Board. The applicant shall then be given reasonable opportunity to provide additional documentation or other proof to resolve the matter to the satisfaction of the Board. If not so resolved, the Board shall notify the applicant and the D.M.E. that the postgraduate permit is denied. Only after all questions are satisfactorily resolved for the limited purpose of the postgraduate training shall the applicant commence the training program, and the Board shall then issue the permit(s) authorizing the named applicant to engage in supervised postgraduate study for the profession of medicine and surgery limited to the institution(s), locations and inclusive dates named therein. The permit length may be extended by the Board for good cause shown.

(h) Termination of the permit holder's position in the hospital program either by the hospital or the permit holder shall be immediately reported to the Board of Medical Examiners both by the permit holder and by the D.M.E. For good cause shown, the Board may thereafter, in its sole discretion, issue a new permit for a new institution.

(i) The Board may, on notice to the permit holder and opportunity to be heard, withdraw an issued permit upon proof of conduct by the applicant which is deemed by the Board to be inimical to the public health, safety and welfare as set forth in N.J.S.A. 45:1-21 and not readily remediable by the usual methods of postgraduate instruction and supervision. The permit may be temporarily suspended by the Board on a showing of fraud, or of material misrepresentation on the application, or conduct which constitutes an imminent peril to the public, as provided in N.J.S.A. 45:1-22(3). Costs of investigation and hearing, and/or monetary penalty, may be assessed when deemed appropriate by the Board.

(a)

## STATE BOARD OF MORTUARY SCIENCE

### Itemization of Funeral Expenses

#### Proposed Amendment: N.J.A.C. 13:36-1.9

Authorized By: State Board of Mortuary Science,

Maurice W. McQuade, Executive Secretary.

Authority: N.J.S.A. 45:7-38.

Proposal Number: PRN 1986-440.

Submit comments by December 3, 1986 to:

Maurice W. McQuade, Executive Secretary

State Board of Mortuary Science

1100 Raymond Boulevard, Room 513

Newark, New Jersey 07102

The agency proposal follows:

**Summary**

In its current form, N.J.A.C. 13:36-1.9 requires, among other things, that the itemization of funeral expenses provided by a licensee be on a single sheet of paper and signed by the person making arrangements. The rule prohibits the inclusion on the itemization sheet of promissory notes or other unrelated items.

Since the effective date of the rule, August 6, 1984, the Board has become aware of practical problems this prohibition has engendered. Funeral directors have noted that individuals making arrangements often do not read more than one of the papers they are asked to sign. The presentation of multiple forms is often viewed by the consumer as confusing "red tape." In addition, the requiring of a separate sheet for the contract for services results in increased paperwork for the funeral director.

The Board, therefore, is proposing that the rule be amended to permit the inclusion of the contract at the bottom of the funeral itemization form. Currently, Board regulations require a funeral director to obtain the signature of the consumer making arrangements on the itemization form. By his or her signature, the consumer acknowledges the fees and services have been disclosed by the funeral director. The original regulation requiring all other items be on a separate sheet of paper was an attempt to avoid confusion of the consumer who may have been led to believe that State law required signing of the contract or promissory note. However, the Board believes such potential confusion can be successfully avoided by this proposal, which establishes separation, bold faced headings, disclaimer, and minimum type size requirements and signature lines on each part of the form. Promissory notes would continue to be banned from the itemization form.

The Board notes that many states permit the placement of the contract on the itemization sheet and also that such practice is sanctioned by the Federal Trade Commission.

**Social Impact**

The Board believes the proposed amendment will have a positive social impact in that it believes individuals making funeral arrangements are more apt to read a one page form than multiple forms. Thus, to the extent paperwork is reduced giving fewer pages for the consumer to read, the individual will be better informed of the services and financial obligations connected with the funeral.

**Economic Impact**

The Board does not believe there will be any significant economic impact on the consuming public as a result of this proposal. A slight economic benefit might result from the fact that funeral directors who take advantage of the one page option will have less paperwork. This increased efficiency, could, theoretically, inure to the benefit of the consumer.

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

13:36-1.9 Itemization of funeral expenses

(a) (No change.)

(b) Such itemization form shall be on a single sheet of paper and shall include the full name, legal address and date of death of the deceased and at least the five general categories as listed below. All charges relative to the funeral are to be listed on the itemization form with sub totals and grand totals as indicated, and the name and address of the person making funeral arrangements. It shall be exclusive of promissory notes and other non-related items[.] **except that a contract may appear at the bottom of the itemization form. If such contract is included on the itemization form:**

1. **It shall be separated from the itemization section by a horizontal line extending across the face of the page;**

2. **The statement, "The State of New Jersey Does Not Require You to Sign the Below Contract" shall appear immediately below the horizontal line and shall be printed in bold face letters no less than one-quarter inch in height and;**

3. **The heading "Contract" shall appear immediately below the statement of as required by 2 above and shall be printed in bold face letters no less than one-quarter inch in height.**

(c)-(f) (No change.)

**ENERGY**

**(a)**

**DIVISION OF ENERGY PLANNING AND CONSERVATION**

**Energy Conservation in State Buildings**

**Proposed New Rule: N.J.A.C. 14A:13**

Authorized By: Charles A. Richman, Acting Commissioner,  
Department of Energy.

Authority: P.L. 1980 c.68.

Proposal Number: PRN 1986-442.

Submit comments by December 3, 1986 to:

Edward J. Linky  
Chief Regulatory Officer  
Division of Energy Planning and Conservation  
New Jersey Department of Commerce  
101 Commerce Street  
Newark, New Jersey 07102

The agency proposal follows:

**Summary**

The rules on energy conservation in State buildings expired November 2, 1986, and are being proposed as new. The **full text** of the rules can be found at N.J.A.C. 14A:13. The agency's proposed changes to the expired text are included in this proposal.

N.J.A.C. 14A:13 implements the Energy Conservation Bond Act of 1980, P.L. 1980 c. 68 and provides for energy audits and energy conserving renovations of State buildings, in order to achieve a net reduction in energy consumption. The rules set forth procedures for departments to submit requests for funding of energy audits and energy-conservation renovations; establish criteria for ranking these requests; list the renovations eligible for funding; and prescribe the contents of energy audits.

The proposed amendments to the Energy Conservation Bond Fund regulations are required to conform the program to the requirements of the recently enacted State Colleges Contracts Law, c. 43 L. 1986 (N.J.S.A. 18A:64-52 et seq.). That law was part of a legislative package designed to implement the recommendations of the Commission on the Future of the State Colleges. A principal recommendation of the Commission was that the State Colleges have greater operational autonomy. The State Colleges were subject to the requirements of the State Public Contracts Law, P.L. 1954, c. 48. The contracting provisions of the new law recognize the need for, and provide, greater contracting flexibility to these institutions of higher learning.

The purpose of the Energy Conservation Bond Fund is to provide a mechanism by which all state facilities can obtain energy audits and install energy conservation renovations to achieve a net reduction in the amount of energy consumed.

**Social Impact**

By conforming the Energy Conservation Bond Program to the requirements of the new law allowing greater autonomy to the State Colleges, the administrative procedures for the processing of funds for energy audits and renovations should be streamlined, resulting in quick implementation of the energy conserving measure. The result will lower overall operating energy costs to the State Colleges, with a better utilization of taxpayer dollars.

**Economic Impact**

These regulations will have a positive economic impact by allowing funds designated for energy conservation renovation projects to be committed to contract in a more expeditious manner than previously existed. It will also reduce administrative costs to the Division of Energy Planning and Conservation.

**Environmental Impact**

The regulations will have a positive indirect effect on the environment by more quickly implementing energy conservation measures in State buildings. Energy conservation has a positive effect on the environment by reducing the amount of fossil fuels used to provide heat and light to State facilities.

**Full text** of the expired rules proposed as new appears in the New Jersey Administrative Code at N.J.A.C. 14A:13-1.

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

14A:13-1.2 Definitions

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

“Autonomous agency” means any state department, division, or facility such as Rutgers—the State University, the New Jersey Institute of Technology (NJIT), the New Jersey Department of Defense (NJDOD), the University of Medicine and Dentistry of New Jersey (UMDNJ), the state colleges upon approval of the Department of Higher Education (DHE), or any other agency which uses its own procurement and contract administration procedures.

“Commissioner” means the Commissioner of the Department of [Energy] Commerce and Economic Development.

“Energy audit” means a study of a building or facility conducted by an engineer or an architectural/engineering firm to determine operating and maintenance procedures and renovations which will result in reduced energy consumption. The energy audit shall provide the estimated costs of implementation and the expected dollar and energy savings for the recommended operation and maintenance procedures. The energy audit shall include but not be limited to the energy conserving renovations listed in N.J.A.C. 14A:13-1.11. The energy audit shall provide the estimated cost of implementation and the expected dollar and energy savings for the recommended energy conserving renovations.

“Energy conserving renovation” or “renovation” means the planning, improvement, reconstruction[,] and rehabilitation [and equipment] of public buildings, institutions and educational facilities for the purpose of accomplishing a net reduction in the amount of energy consumed.

Payback = Total capital cost of renovation(s) divided by Net energy cost savings per year.

14A:13-1.3 Submission of plan to the treasurer and the commission

[(a) As soon as practicable, the Commissioner shall submit to the State Treasurer and the commission for their review and recommendation a plan for the expenditure of funds from the Energy Conservation Fund for fiscal year 1981. This plan shall include the following information:

1. A description of programs planned during the remainder of fiscal year 1981;

2. A copy of the regulations in force governing the operation of programs that are financed, in part or in whole, by funds from the Energy Conservation Fund; and

3. An estimate of expenditures for the remainder of fiscal year 1981.

(b) As soon as practicable, the Commissioner shall submit to the State Treasurer and the commission for their review and recommendation a plan for the expenditure of funds from the Energy Conservation Fund for fiscal year 1982. This plan shall include the following information:

1. A description of programs planned during fiscal year 1982;

2. A copy of the regulations in force governing the operation of programs that are financed, in part or in whole, by funds from the Energy Conservation Fund; and

3. An estimate of expenditures for fiscal year 1982.]

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

14A:13-1.4 Submission of plan to the Legislature

[(a) As soon as practicable, the Commissioner shall submit to the relevant standing committees of the Legislature, as designated by the President of the Senate and the Speaker of the General Assembly, and to the special joint legislative committee created pursuant to Assembly Concurrent Resolution No. 66 of the 1968 Legislature, as reconstituted and continued by the Legislature from time to time a copy of the plan called for under N.J.A.C. 14A:13-1.3(a).

(b) As soon as practicable, the Commissioner shall submit to the relevant standing committee of the Legislature, as designated by the President of the Senate and the Speaker of the General Assembly, and to the special joint legislative committee created pursuant to Assembly Concurrent Resolution No. 66 of the 1968 Legislature, as reconstituted and continued by the Legislature from time to time, a copy of the plan called for under N.J.A.C. 14A:13-1.3(b).]

[(c)] Beginning with fiscal year 1983, immediately following the submission to the Legislature of the Governor's Annual Budget Message and the Commissioner shall submit to the relevant standing committees of the Legislature, as designated by the President of the Senate and the Speaker of the General Assembly and to the special joint legislative committee created pursuant to Assembly Concurrent Resolution No. 66

of the 1968 Legislature, as reconstituted and continued by the Legislature from time to time a copy of the plan called for under section 24 of the act, together with such changes therein as may have been required by the Governor's budget message.

14A:13-1.6 Project submittal procedure

(a) The chief executive officer of each department which has supervision and control over public buildings, institutions or educational facilities shall submit the following to NJDOE, the State Treasurer and the commission by the deadline prescribed by the Commissioner [June 15 of each year].

1-2. (No change.)

3. All requests for funding to perform energy audits for the upcoming fiscal year. These requests shall include:

i-ii. (No change.)

4-6. (No change.)

14A:13-1.8 Project authorization: Energy audits

(a) Upon encumbrance of funds, the NJDOE shall submit to the DBC a list of the energy audits to be performed. However, the autonomous agencies [Rutgers—the State University, the New Jersey Institute of Technology (NJIT), the New Jersey Department of Defense (NJDOD), or the University of Medicine and Dentistry of New Jersey (UMDNJ)] shall use their own procurement procedure, provided that they use the auditors on NJDOE's approved list and that the contents of the audit are consistent with N.J.A.C. 14A:13-1.13.

(b) (No change.)

(c) The DBC shall select and retain an engineer or architectural/engineering firm which meets the auditor qualifications set forth in N.J.A.C. 14A:13-1.14 and shall perform the energy audits in accordance with the DBC's Architect/Engineer Selection Procedures, N.J.A.C. 17:19-10.

(d) (No change.)

(e) The consultant shall submit the audit to the DBC, the using agency, and the NJDOE. When the using agency is autonomous [Rutgers, NJIT, NJDOD, or UMDNJ], the consultant shall submit the audit to the using agency and the NJDOE. [Prior to final acceptance of the audit, the DBC, or when applicable Rutgers, NJIT, NJDOD, or UMDNJ, shall forward the audit to NJDOE for revision or acceptance.] The NJDOE or when applicable, the autonomous agency and the using agency shall have 15 working days after receipt of the audit to notify the DBC, [or when applicable Rutgers, NJIT, NJDOD, or UMDNJ], of acceptance or of any deficiencies in the audit with regard to conformance with general auditing procedure, completion of specific tasks in the work assignment and compliance with the audit requirements contained in N.J.A.C. 14A:13-1.13. If there are any deficiencies, the DBC, or when applicable the autonomous agency [Rutgers, NJIT, NJDOD, or UMDNJ], shall return the work product to the contractor marked unacceptable.

(f) Upon acceptance of the completed audit, the NJDOE shall transmit written approval of the audit to the using agency and the DBC. Final payment may not be made until NJDOE approval is on record.

14A:13-1.9 Project ranking: Energy conserving renovations

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

(d) Maximum payback established for any [year] renovation shall not exceed 10 years.

(e) (No change.)

14A:13-1.10 Project authorization: Energy conserving renovations

(a) Upon selection and approval of energy conserving renovations for funding, the NJDOE shall notify the using agency in writing and provide the funds for the renovation. For projects with a construction cost estimate (CCE) less than \$500,000, the NJDOE shall provide the funds for design (planning, programming, design and preparation of plans and specifications), and construction (acquisition, installation and construction). For projects with a CCE of \$500,000 or greater, the NJDOE shall provide funds for design only. Funds for construction shall be provided based on the CCE at the end of the schematic design phase.

(b) The using agency shall encumber the funds for the [following:] renovations.

[1. Estimated costs of planning, programming, design and preparation of plans and specifications; and

2. Cost of acquisition, installation and construction of the energy conserving renovation.]

(c) The using agency shall submit the initial scope of work to the NJDOE for approval. The using agency and the DBC shall be responsible for ensuring that the scope of work does not deviate from that approved by the NJDOE. Revision of the scope of work without NJDOE written approval shall result in the using agency being responsible for the funds. [Upon encumbrance of funds, the using agency shall submit to the DBC a list

of renovations to be performed. However, Rutgers, NJIT, NJDOD, or UMDNJ shall use their own procurement procedures, provided that they use the designers on NJDOE's approved list. In the event Rutgers, NJIT, NJDOD, or UMDNJ do not use the DBC for procurement, they shall be subject to (l), (m) and (n) below and N.J.A.C. 14A:13-1.11.]

(d) The DBC shall select and retain an engineer or architectural/engineering firm for the design of energy conserving renovations in accordance with the DBC's Architect/Engineer Selection Procedures, N.J.A.C. 17:19-10. **If the using agency is autonomous, it may use its own procurement procedures, provided the architectural/engineering firm is pre-qualified with the DBC for projects of similar scope.**

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

(g) Those projects with an aggregate cost of **\$25,000** or less [than \$10,000 and procured through DBC shall be exempt from the requirements of this section and] shall be carried out in accordance with the [DBC's] rules **the Administrator of the General Services Administration.**

(h) Renovation projects shall be advertised and bid by the DBC or **when applicable, the autonomous agency**, in accordance with its established procedures. All contractors bidding on renovation projects shall be pre-qualified in accordance with applicable law and DBC regulation.

(i) In the event the lowest responsible bid or sum of low bids exceeds the construction cost estimate by more than five percent, the bid(s) shall be subject to rejection by the Director of the DBC. The DBC shall consider the effect of the bids on projected payback, and other related factors.

1. The DBC shall coordinate with the appropriate Using Agency **and the NJDOE** to determine if the project should be reduced in scope and rebid to meet available funds **and NJDOE payback requirements** or should be abandoned.

2. (No change.)

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

(l) When the Using Agency is Rutgers, NJIT, NJDOD, or UMDNJ, the NJDOE shall have 15 working days from receipt of the plans and specifications prepared by the consultant to review and comment.]

[(m)](l) When [the Using Agency is Rutgers, NJIT, NJDOD, or UMDNJ, and the Using] **an autonomous** Agency determines that the scope of the project should be changed, the Using Agency shall notify the NJDOE, in writing, of the proposed change in scope and describe in detail the proposed change. The NJDOE shall have 15 working days from receipt of said notice to determine whether the project sufficiently conforms with the objectives of the original project to be funded.

[(n)](m) (No change in text.)

#### 14A:13-1.11 Project review and control

(a) Renovation projects authorized for funding (or for which funding has been obligated) shall be monitored in accordance with the following procedure:

1.-2. (No change.)

3. Prior to final acceptance of the project the NJDOE and the using agency shall be notified by the DBC in writing within a reasonable time prior to closeout and final acceptance of the project in order that NJDOE may participate therein. Both the NJDOE and the Using Agency shall have 15 days from the receipt of the notice from DBC to sign the final acceptance certificate (DBC Form 20) or to provide reasons for objection. When the using agency is **autonomous** [Rutgers, NJIT, NJDOD or UMDNJ prior to final acceptance of the project], the Using Agency shall notify the NJDOE in writing within a reasonable time prior to closeout and final acceptance of the project in order that NJDOE may participate therein. **No project may be closed out without the written approval of the NJDOE.**

4. (No change.)

5. **The using agency shall be responsible for keeping the NJDOE informed throughout all stages of the project. This shall include sending the NJDOE copies of all Requisition Encumbrance forms (DBC 2), Requisition Change forms (DBC 2A), Refund of Disbursement forms, Transfer of Appropriation forms and all relevant correspondence in a timely fashion. The autonomous agencies shall send the NJDOE copies of the equivalent forms, according to their own procurement procedures.**

6. **The DBC shall consider the NJDOE as a co-using agency and as such shall place the NJDOE on its distribution list for all documents that the NJDOE deems necessary to fulfill its statutory obligation to monitor projects funded by the Energy Conservation Fund.**

(b) **The using agency shall be responsible for operating, maintaining, and servicing all equipment in accordance with the manufacturer's recommendations to obtain the maximum energy savings over its useful life.**

(c) **The using agency shall be responsible for pursuing all legal and administrative channels to ensure that the architect and/or engineering firms and contractors' obligations to the State are met.**

(d) **The using agency shall be held financially liable for failing to comply with (b) and/or (c) above.**

(e) **The using agency shall be responsible for any design fees paid to the architect and/or engineering firm if the agency makes changes which adversely affect the original architect and/or engineering estimate and cause the project to be cancelled. This shall include escalations due to delays caused by the using agency.**

(f) **All change orders shall be subject to NJDOE review and approval in accordance with guidelines agreed upon by the NJDOE and the DBC.**

(g) **The using agency shall begin construction within 18 months from the date funds are transferred. Failure to meet this deadline shall result in funds being returned to the Energy Conservation Fund.**

(h) **The using agency shall return all unused funds to the Energy Conservation fund after project closeout or at the request of NJDOE.**

(i) **The using agency must petition the NJDOE in writing for any funds in addition to those originally authorized. Unauthorized expenditures shall result in funds being returned to the Energy Conservation Fund.**

(j) **The using agency shall be responsible for reporting its monthly energy consumption to the NJDOE in the form prescribed by the NJDOE. This shall include manual and computerized reporting procedures. The NJDOE will not consider funding requests for using agencies which do not comply with this provision.**

#### 14A:13-1.13 Energy audits: Contents

(a) The energy audits shall be submitted to the DBC, or when applicable to **the autonomous agencies** [Rutgers, NJIT, NJDOD, or UMDNJ], in a final report in a format prescribed by NJDOE. The energy audit shall include the following:

1. (No change.)

2. A description and analysis of all potential energy conserving operating and maintenance procedures including each of the following.

i. (No change.)

ii. An estimate of the annual energy and energy cost savings (using energy prices [for the period] designated by NJDOE) expected from the implementation of each procedure.

(1) (No change.)

iii. (No change.)

3. A description and analysis of all potential renovations setting forth the following.

i.-v. (No change.)

vi. An estimate of the annual energy and energy cost savings (using energy prices [for the period] designated by NJDOE) expected from the acquisition and installation of each renovation. In calculating the potential energy and energy cost savings and analyst shall:

(1)-(4) (No change.)

4.-6. (No change.)

#### 14A:13-1.14 Auditor and designer qualifications

(a) In order to be qualified to perform energy audits and design projects pursuant to this subchapter an individual must meet the following requirements:

1. Be a New Jersey licensed professional engineer or architect, or a member of an architect-engineer team, the principal team members of which are licensed in New Jersey;

2. Be free from any financial interests which may conflict with the proper performance of his/her duties; and

3. In the case of an auditor, the auditor must have completed a prior analysis which is substantially the same as the study required under the Institutional Building Grants Program as specified in 10 C.F.R. Part 455.42 (50 FR 18353, April 30, 1985), or have completed an NJDOE approved Technical Assistance Analyst Training Course.

## TRANSPORTATION

(b)

### TRANSPORTATION OPERATIONS

The following proposals are authorized by Hazel Frank Gluck, Commissioner, Department of Transportation.

Submit comments by December 3, 1986 to:

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

(a)

### Speed Limits

#### Frontage Road Number 1 and Number 2 in Passaic County

##### Proposed New Rule: N.J.A.C. 16:28-1.24

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

Proposal Number: PRN 1986-436.

The agency proposal follows:

#### Summary

The proposed new rule will establish speed limits along Frontage Roads Number 1 and Number 2 in the City of Paterson, Passaic County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon requests from the local officials, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of speed limits along Frontage Roads Number 1 and Number 2 was warranted.

The Department therefore proposes new rule N.J.A.C. 16:28-1.24 based upon the request from local officials and the traffic investigation.

#### Social Impact

The proposed new rule will establish speed limits along Frontage Roads Number 1 and Number 2 in the City of Paterson, Passaic County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

#### Economic Impact

The Department and local officials will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of speed limit zones signs. Motorists who violate the rules will be assessed the appropriate fine.

Full text of the proposed new rule follows.

16:28-1.24 Frontage Road Number 1 and Number 2

(a) The rate of speed designated for the certain part of Frontage Road Number 1 and Number 2 under State jurisdiction described in this section shall be established and adopted as the maximum legal rate of speed for the counterclockwise direction of traffic in the City of Paterson, Passaic County:

1. Frontage Road Number 1:
  - i. 35 miles per hour between 23rd Street and Beckwith Avenue.
2. Frontage Road Number 2:
  - i. 40 miles per hour between Beckwith Avenue and Kentucky Avenue.

### Restricted Parking and Stopping Routes U.S. 46 in Morris County and Route 175 in Mercer County

#### Proposed Amendment: 16:28A-1.32

#### Proposed New Rule: N.J.A.C. 16:28A-1.107

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

Proposal Number: PRN 1986-435.

The agency proposal follows:

#### Summary

The proposed amendment and new rule will establish "no parking bus stop" zones along Route U.S. 46 in Mountain Lakes Borough, Morris County and Route 175 in Ewing Township, Mercer County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on/off loading of passengers at established bus stops.

Based upon requests from the local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no parking bus stop" zones along Route U.S. 46 in Morris County and Route 175 in Mercer County were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.32 and add new rule N.J.A.C. 16:28A-1.107 based upon the requests from local officials and the traffic investigations.

#### Social Impact

The proposed amendment and new rule will establish "no parking bus stop" zones along Route U.S. 46 in Mountain Lakes Borough, Morris County and Route 175 in Ewing Township, Mercer County, for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on/off loading of passengers of established bus stops. Appropriate signs will be erected to advise the motoring public.

#### Economic Impact

The Department and local officials will incur direct and indirect costs for mileage, personnel and equipment requirements. The local officials will bear the costs for "no parking bus stops" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

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

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 shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:

1.-11. (No change.)

#### 12. Within Mountain Lakes Borough, Morris County:

##### i. Along the eastbound (southerly) side:

(1) Near side bus stop beginning at the prolongation of the westerly curb line of the Boulevard and extending 105 feet westerly therefrom.

16:28A-1.107 Route 175

(a) The certain parts of State highway Route 175 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops within Ewing Township, Mercer County:

##### 1. Along (River Road) southbound on the westerly side:

###### i. Far side bus stops:

(1) W. Upper Ferry Road beginning at the southerly curb line of W. Upper Ferry Road and extending 200 feet southerly therefrom.

(2) Mathew Drive beginning at the southerly curb line of Mathew Drive and extending 100 feet southerly therefrom.

###### ii. Near side bus stop:

(1) Lower Ferry Road beginning at the northerly curb line of Lower Ferry Road and extending 105 feet northerly therefrom.

##### 2. Along (River Road) northbound on the easterly side:

###### i. Near side bus stop:

(1) Mathew Drive beginning at the southerly curb line of Mathew Drive and extending 105 feet southerly therefrom.

**(a)****Traffic and Parking on DOT Property  
Route 52 in Cape May County****Proposed New Rule: N.J.A.C. 16:30-5.3**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-208.

Proposal Number: PRN 1986-437.

The agency proposal follows:

**Summary**

The proposed new rule will establish a Department of Transportation Parking Lot along Route 52, Beach Thorofare Bridge, Ocean City, Cape May County for the use of Department of Transportation personnel in the performance of their duty, the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the Department of Transportation personnel.

Based upon a request from the local officials to preclude parking along Route 52 by Department personnel, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of a parking lot was warranted.

The Department therefore proposes new rule N.J.A.C. 16:30-5.3 based upon the request from local officials and the traffic investigation.

**Social Impact**

The proposed new rule will establish a Department of Transportation Parking Lot along Route 52, Beach Thorofare Bridge, Ocean City, Cape May County restricted to the use of Department of Transportation personnel in the performance of their duty, for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the Department personnel in the performance of their duties. Appropriate signs will be erected to advise the motoring public.

**Economic Impact**

The Department and local officials will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of signs restricting parking to Department personnel. Motorists who violate the rules will be assessed the appropriate fine.

Full text of the proposed new rule follows.

16:30-5.3 Route 52, Beach Thorofare Bridge parking lot

(a) The following certain parts of State property along State highway Route 52 described in this section shall be designated and established as a Department of Transportation Parking Lot and restricted to the use of Department of Transportation personnel in the performance of their duty.

1. Along the northbound side, Beach Thorofare Bridge, Ocean City, Cape May County, beginning at the Thorofare Bridge northerly bulk head extending to a point 100 feet northerly therefrom and at a point eight feet east of the easterly lateral line of Route 52 and extending easterly to the adjacent right-of-way line.

**TREASURY-GENERAL****(b)****STATE TREASURER****Urban Enterprise Zone Authority****Proposed New Rules: N.J.A.C. 17:30**

Authorized By: Feather O' Connor, State Treasurer.

Authority: N.J.S.A. 52:18A-30(d) and N.J.S.A. 52:27H-88.

Proposal Number: PRN 1986-447.

Submit comments by December 3, 1986 to:

Caren Raphael  
State Treasurer's Office  
Department of the Treasury  
State House—CN002  
State Street  
Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

The New Jersey Urban Enterprises Zones Act, N.J.S.A. 52:27H-88, was enacted on August 15, 1983 to permit the establishment of enterprise zones in qualifying municipalities. The New Jersey Urban Enterprise Zone Authority was established to administer the act, a provision of which is to authorize disbursements from the enterprise zone assistance fund. The fund shall be used for the purpose of assisting qualifying municipalities in which enterprise zones are designated in undertaking public improvements and in upgrading eligible municipal services in designated enterprise zones. The proposed new rules will clarify the procedure for qualifying municipalities to apply for the funds.

**Social Impact**

The proposed new rules will provide the procedure for assisting qualifying municipalities in which Enterprise Zones are designated in undertaking public improvements, and, in upgrading eligible municipal services in designated Enterprise Zones. The rules will afford the qualifying municipalities with an avenue to financial assistance for the purposes of enhancing the quality of municipal services and projects in the areas of public safety, including improved police and fire protection in the enterprise zones. Further, the rules will assist the qualifying municipalities in obtaining the necessary financial assistance in the formulation and implementation of projects designed to reverse the negative social impacts of blight and urban decay.

Finally, the rules have been drafted in order to encourage the submission of proposals from the qualifying municipalities to the Urban Enterprise Zone Authority for the purpose of maximizing their potential for success.

**Economic Impact**

The rules could have a positive significant impact on the financial resources of the qualifying municipalities. In fact, the rules should have the effect of relieving the stress on the qualifying municipalities' financial reserves by implementing their goals and objectives for public improvements and in upgrading municipal services.

Full text of the proposed new rule follows:

CHAPTER 30  
URBAN ENTERPRISE ZONE AUTHORITY

**SUBCHAPTER 1. GENERAL PROVISIONS****17:30-1.1 Purpose**

(a) The enterprise zone assistance fund shall be used for the purpose of assisting qualifying municipalities in which enterprise zones are designated in undertaking public improvements and in upgrading eligible municipal services in designated enterprise zones.

**17:30-1.2 Compliance**

(a) No disbursements shall be made from the enterprise zone assistance fund unless the governing body of the qualifying municipality and the zone development corporation created by the municipality comply with the requirements of this chapter.

**17:30-1.3 Definitions**

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

"Eligible municipal services" means the hiring of additional policemen or firemen who are assigned duties in the enterprise zone, or the purchasing or leasing of additional police or fire vehicles, equipment or apparatus to be used for the provision of augmented or upgraded public safety services in the enterprise zone.

"Project" means:

1. The purchasing, leasing, condemning, or otherwise acquiring of land or other property, or an interest therein, in the enterprise zone or as necessary for a right-of-way or other easement to or from the enterprise zone;

2. The relocating and moving of persons displaced by the acquisition of land or property;

3. The rehabilitation and redevelopment of land or property including demolition, clearance, removal, relocation, renovation, alteration, construction, reconstruction, installation or repair of a land or a building, street, highway, alley, utility, service or other structure or improvement;

4. The acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements, except buildings and facilities for the general conduct of government and schools; and

5. The associated costs including the costs of an administrative, appraisal, economic and environmental analysis or engineering, planning design, architectural, surveying or other professional services necessary to effectuate the project.

SUBCHAPTER 2. ENTERPRISE ZONE ASSISTANCE FUND

17:30-2.1 Application procedure

(a) The governing body of a qualifying municipality in which an enterprise zone is designated and the zone development corporation created by the municipality for that enterprise zone may, by resolution jointly adopted after public hearing, propose to undertake a project for the public improvement of the enterprise zone or to increase eligible municipal services from moneys deposited in the enterprise zone assistance fund and credited to the account maintained by the State Treasurer for the enterprise zone. Proposals may be submitted to the Urban Enterprise Zone Authority by the qualifying municipality and the zone development corporation at any time during the calendar year.

(b) The proposal adopted shall set forth a plan for the project or for the increase in eligible municipal services and shall include:

1. A description of the proposed project or of the municipal services to be increased;
2. An estimate of the total project costs, or of the total costs of increasing the municipal services, and an estimate of the amounts of funding necessary annually from the enterprise zone account;
3. A statement of any other revenue sources to be used to finance the project or to fund the increase in eligible municipal services;
4. A statement of the time necessary to complete the project or of the time during which the increased municipal services are to be maintained; and
5. A statement of the manner in which the proposed project or increase in municipal services furthers the municipality's policy and intentions for addressing the economic and social conditions existing in the area of the enterprise zone as set forth in the zone development plan approved by the authority.

17:30-2.2 Evaluation process

(a) Upon adoption by the governing body of the qualifying municipality and by the zone development corporation, the proposal shall be sent to the authority for its evaluation and approval. The authority shall approve the proposal as soon as practicable if it finds that:

1. In the case of a proposed project:
  - i. The proposed project furthers the policy and intentions of the zone development plan approved by the authority; and
  - ii. The estimated annual payments for the project from the enterprise zone account to which the proposal pertains are not likely to result in a deficit in that account.
2. In the case of an increase in eligible municipal services:
  - i. The proposal furthers the policy and intentions of the zone development plan approved by the authority;
  - ii. The qualifying municipality has furnished satisfactory assurances that the additional policemen or firemen to be hired, or the additional vehicles, equipment or apparatus to be purchased or leased,
    - (1) Shall be used to augment or upgrade public safety in the enterprise zone, and
    - (2) Shall not be used in other areas of the municipality;
  - iii. The qualifying municipality shall annually appropriate for the increased eligible municipal services an amount equal to 20 percent of the amount of annual payments for the eligible municipal services from the enterprise zone account; and,
  - iv. The estimated annual payments for the eligible municipal services from the enterprise zone account to which the proposal pertains are not likely to result in a deficit in that account.

17:30-2.3 Disbursement of funds

(a) If the authority approves the proposal, it shall annually, upon its receipt of a written statement from the governing body of the qualifying municipality and the zone development corporation, certify to the State Treasurer the amount to be paid in that year from the enterprise zone account in the enterprise zone assistance fund with respect to each project or license in eligible municipal services approved.

1. No money shall be disbursed unless the written statement has been submitted and approved by the authority.
  2. The authority may at any time revoke its approval of a project or an increase in eligible municipal services if it finds that the annual payments made from the enterprise zone assistance fund are not being used as required by this section.
  3. For the purposes of this Section, a "written statement" shall include:
    - i. A detailed account of the money disbursed in the preceding year; and
    - ii. A request for payments for the succeeding year.
- (b) Upon certification by the authority of the annual amount to be paid to a qualifying municipality with respect to any project or increase in eligible municipal services, the State Treasurer shall pay in each year

to the qualifying municipality from the amounts deposited in the enterprise zone assistance fund an amount of money not to exceed the amount certified by the authority, within the limits of the amounts credited to the enterprise zone account of the qualifying municipality. Monies distributed by the State Treasurer shall be paid out in such a manner and in such increments as shall be determined by the authority, which may include periodic payments as work proceeds on the project.

## TREASURY-TAXATION

### (a)

#### DIVISION OF TAXATION

##### Sales and Use Tax

##### Sales and Use Tax Act Forms Enumerated

##### Proposed Repeal and New Rule: N.J.A.C. 18:24-1.1

Authorized By: John R. Baldwin, Director, Division of Taxation.

Authority: N.J.S.A. 54:32B-24.

Proposal Number: PRN 1986-451.

Submit comments by December 3, 1986 to:

Nicholas Catalano  
Assistant Chief Tax Counselor  
Division of Taxation  
50 Barrack Street, CN 269  
Trenton, NJ 08646

The agency proposal follows:

#### Summary

This proposal relates to the Sales and Use Tax Act, N.J.S.A. 54:32B-1, et seq., and particularly N.J.A.C. 18:24-1.1, which is being revised to reflect sales and use tax forms currently available for use under the various provisions of the taxing statute. The proposed new rule should better acquaint the taxpaying public with all the numerous sales tax forms by designation and thereby further taxpayer compliance with the statute and rules.

#### Social Impact

The proposed new rule lists all sales and use tax forms in current use for taxpayers. The Division hopes that needless correspondence between taxpayers and Division personnel can thus be avoided. The forms themselves and their instructions can assist taxpayers in compliance with the Sales and Use Tax Act.

#### Economic Impact

There is no economic impact attributable to the proposed new rule. State revenue is not affected by this proposal, which is only intended for taxpayer assistance.

**Full text** of the proposed repeal and new rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]).

#### 18:24-1.1 Sales and Use Tax Act forms enumerated

[(a) ST-1 and ST-2T. Application for Registration, and temporary Certificate of Authority.

(b) ST-1A. Instructions for Completion of ST-1

(c) ST-3. Resale Certificate

(d) ST-4. Exempt Use Certificate

(e) ST-5. Exempt Organization Certificate

(f) ST-6A. Direct Payment Certificate

(g) ST-6B. Application for Direct Payment Permit

(h) ST-7. Farmer's Exemption Certificate

(i) ST-8. Certificate of Capital Improvement

(j) ST-10.

1. Motor Vehicle Dealer Sales and Use Tax Exemption Report

2. Motor Boat Dealer Sales and Use Tax Report

(k) ST-10A. Instructions for Motor Vehicle Dealers

(l) ST-11.

1. Report of Motor Vehicle Casual Sale

2. Report of Motor Boat Casual Sale

(m) ST-13 and ST-13T.

1. Contractor's Exempt Purchase Certificate

2. Contractor's Exempt Purchase Certificate (transitional)

(n) ST-50A. Instructions for Completing New Jersey Sales and Use Tax Quarterly Return

- (o) ST-101. Record Keeping Instructions for Sales Tax Vendors
- (p) ST-301. Application for Credit or Refund]
- (a) The following list reflects sales and use tax forms currently available for use under N.J.S.A. 54:32B-1, et seq.

**REGISTRATION APPLICATIONS**

- CIS-1 Application for Registration with Division of Taxation
- ST-2 Sales Tax Certificate of Authority
- ST-5B Application for Exempt Organization Permit
- UZ-1 Urban Enterprise Zone Application for Reduced Sales Tax Collection

**SPECIALIZED USE FORMS**

- ST-3 Resale Certificate
- ST-4 Exempt Use Certificate
- ST-5 Exempt Organization Certificate
- ST-6 Direct Payment Permit
- ST-6A Direct Payment Certificate
- ST-7 Farmers Exemption Certificate
- ST-8 Certificate of Capital Improvement
- ST-10 Motor Vehicle Dealer Sales and Use Tax Exemption Report
- ST-10A Aircraft Dealer Sales and Use Exemption Report
- ST-10V Vessel Dealer Sales and Use Tax Exemption Report
- ST-10V Supplement 1—Supplement for a Foreign Corporation
- ST-11 Report of Sales Tax on Motor Vehicles
- ST-13 Contractor's Exempt Purchase Certificate
- ST-16 Exemption Certificate for Student Text Books

**SALES AND USE TAX RETURNS**

- ST-18 Use Tax Return
- ST-50 Sales and Use Tax Quarterly Return
- ST-51 Monthly Remittance Statement

**ATLANTIC CITY LUXURY TAX**

- ST-250 Atlantic City Luxury Tax/State Sales Tax Monthly Return
- ST-252 Atlantic City Luxury Tax Certificate of Authority

**NEW JERSEY/NEW YORK COOPERATIVE TAX PROGRAM**

- ST-20 New Jersey/New York Combined State Sales and Use Tax Return
- ST-20A Deduction Worksheet for Computing New Jersey Deductions
- ST-21 New Jersey/New York Combined State Sales and Use Tax Remittance

**URBAN ENTERPRISE ZONE FORMS**

- UZ-2 Urban Enterprise Sales Tax Certificate of Authority
- UZ-4 Urban Enterprise Zone Contractor's Exempt Purchase Certificate
- UZ-4A Urban Enterprise Zone Contractor's Exempt Purchase Permit
- UZ-5 Urban Enterprise Exempt Purchase Certificate
- UZ-5A Urban Enterprise Exempt Purchase Permit
- UZ-50 Combined Sales and Use Tax/Urban Enterprise

**EXEMPTION STATUS**

- ST-5A Exempt Organization Permit

# RULE ADOPTIONS

## COMMUNITY AFFAIRS

### (a)

#### DIVISION OF HOUSING AND DEVELOPMENT

#### Uniform Construction Code

#### Barrier Free Subcode

#### Adopted Amendment: N.J.A.C. 5:23-3.2

#### Adopted New Rules: N.J.A.C. 5:23-7.1 through 7.99

Proposed: April 21, 1986 at 18 N.J.R. 757(a).

Adopted: October 10, 1986, by Leonard S. Coleman, Jr.,

Commissioner, Department of Community Affairs.

Filed: October 10, 1986, as R.1986 d.448 with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3) and with portion of the proposal not adopted but still pending.

Authority: N.J.S.A. 52:27D-123.

Effective Date: November 3, 1986.

Expiration Date: April 1, 1988.

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

NOTE: Certain sections have been renumbered. Accordingly, please refer to the adoption printed below for new section numbers as used in this summary.

#### N.J.A.C. 5:23-7.2

COMMENT: It was noted that there was a need to establish percentages of individual patient/inmate/resident rooms in Use Group I which must be made accessible. With respect to health care facilities of Use Group I-2, the proposal called for 100 percent accessibility to all building areas and patient rooms. Commentors, including the Department of Health, objected to this provision on the basis that it would increase substantially the cost of constructing health care facilities.

RESPONSE: The Department worked with representatives of the Department of Health to establish standards for accessibility in facilities of Use Groups I-1 and I-2. It should be noted here that while the Department believes that there is a greater need for accessibility in health care facilities than that reflected by the requirements adopted, both the Department of Health and the members of the handicapped community and their advocates consulting in the drafting of these regulations find the standards adopted reasonable and acceptable. These requirements appear at 5:23-7.9, which has been added as a new section. To address the question of requirements for accessibility in Use I-3, the Department consulted with staff members of the Department of Corrections. Because prisoners are in a separate category inasmuch as they are under confinement, it was decided that adequate accommodation of disabled prisoners should be the responsibility of the government agency involved. These requirements also appear at new section 5:23-7.9.

#### N.J.A.C. 5:23-7.3

COMMENT: A problem was noted with using the distinction between rental and sale which is subject to change as a criterion for determining the exemption of housing units.

RESPONSE: The language in 5:23-7.3(a)1 and 2 has been modified to clarify.

COMMENT: A second problem was noted in using the term "separate entrance" to differentiate between types of housing units.

RESPONSE: The phrase "directly from the exterior" has been added to 5:23-7.3(a)1 and 2 to clarify what is meant by "separate entrance."

COMMENT: Concern was expressed with the exemption of townhouses inasmuch as this is currently the primary form for residential construction.

RESPONSE: No change has been made to this exemption inasmuch as this exemption reflects the Department's interpretation of the statute which exempts "one- to four-family private residences."

COMMENT: Exemption for Use Group S should be for "areas" of Use Group S and not for entire building.

RESPONSE: The words "used for storage" have been added to 5:23-7.3(a)3 to clarify.

COMMENT: Exemption should be for "office buildings" and not for all buildings of Use Group B.

RESPONSE: The words "used as offices" have been added to 5:23-7.3(a)4 to clarify.

COMMENT: Same exemption should be allowed for mezzanines and balconies in buildings of Use Group A-4 as is allowed in buildings of Use Groups A-1 and A-5.

RESPONSE: Use Group A-4 has been added to 5:23-7.3(a)7.

COMMENT: Should state that historic sites, as well as historic buildings are exempt as indicated.

RESPONSE: The words "and sites" have been added to 5:23-7.3(a)7.

#### N.J.A.C. 5:23-7.4

COMMENT: Should state clearly that all conditions (1-3) must be met and that variations and exceptions are granted only for specific provisions and not for the entire Code.

RESPONSE: Section 5:23-7.4 has been amended to clarify, including the addition of language to state that a complete waiver of the subcode cannot be granted.

COMMENT: 5:23-7.4(a)4 should be redesignated as (b) to separate variations for children from the first three points.

RESPONSE: This suggestion has been incorporated in the amendment of the section.

#### N.J.A.C. 5:23-7.5

COMMENT: The Board of Appeals and not the construction official should be charged with contacting a disabled individual or advocate for the handicapped to testify. Also, the Code should define what constitutes a "good faith" attempt to issue this invitation.

RESPONSE: This section has been modified to clarify the procedure to be followed in an appeal. It is incumbent upon the Board of Appeals to contact a disabled individual or advocate to testify.

#### N.J.A.C. 5:23-7.6

COMMENT: In the definition of "project", the requirement that the buildings be "designated or advertised as a common entity" should be deleted.

RESPONSE: The suggested change has been made.

#### N.J.A.C. 5:23-7.11

COMMENT: Many comments were received supporting the concept of adaptability as this type of construction would facilitate adaption of the unit to suit the needs of the individual. Also, the provision of adaptable dwelling units would enable individuals who become disabled later in life to remain in their homes. Comments were also received objecting to the requirement that 100 percent of the units be made adaptable. Statements from several builders were presented stating that designated accessible units are currently going unclaimed and that the requirements for accessible and adaptable housing should be reexamined. It was noted that the requirements for these units creates a mismatch in the marketplace between accessible dwelling units and members of the handicapped community who desire and can afford such units. The issue of subsidizing the outfitting of units for occupancy by the handicapped was also raised.

RESPONSE: No change has been made to this requirement as the Department believes that the requirement for the construction of adaptable housing will make dwelling units available to the disabled on an "as needed" basis without fostering a mismatch in the marketplace as is created by requiring the construction of accessible units as a given percentage of dwelling units constructed.

#### N.J.A.C. 5:23-7.12

COMMENT: Questions were raised regarding the need to increase the number of accessible parking spaces required. While some individuals stated that accessible parking is currently underused and that the designation of additional spaces would lead to disregard for the law, others praised the increase in the number of parking spaces required for the handicapped as a necessary step.

RESPONSE: The Department has decided to return to the number of accessible parking spaces required under the existing regulations.

#### N.J.A.C. 5:23-7.14

COMMENT: The requirement for eight feet six inches vertical clearance may be problematic for parking garages.

RESPONSE: Language has been amended to permit the placement of accessible spaces on the exterior of the garage if other configurations are impractical.

#### N.J.A.C. 5:23-7.18(a)3

COMMENT: Objections were raised by manufacturers regarding the restrictions on the use of platform lifts. Members of the handicapped community, however, spoke in favor of these restrictions.

RESPONSE: The regulations have been amended to permit the use of platform lifts on accessible routes. (See companion changes to 5:23-7.81.)

COMMENT: It was suggested that for changes in level of greater than 60 inches on the exterior of a building, ramps should be allowed, provided that the distance between ramps in a series is at least 20 feet.

RESPONSE: An amendment has been made to restrict the 60 inch change in level limitation on the use of ramps to the interior of the building. While it was recognized that any change in this requirement would make access difficult for certain segments of the population, it was also noted that accommodation must be made for the building site and/or outdoor recreation area when those standards become effective.

**N.J.A.C. 5:23-7.25**

COMMENT: The allowance for a slope of 1:10 for a horizontal projection of eight feet zero inches should be deleted as a ramp of this slope is prohibitively steep for many.

RESPONSE: This provision has been deleted. The maximum slope allowed will remain 1:12 as it is under the existing regulations.

**N.J.A.C. 5:23-7.31**

COMMENT: Curb ramps should be tangential to the primary direction of travel for the safety of the blind and visually impaired.

RESPONSE: Because the diagrams depicting curb ramps show safe placement of the ramps, no language has been added at this time. It should be noted that this safety provision is of concern primarily on public streets which are outside the purview of this Code. If, in the future, it is deemed necessary to add language describing the figures included in the Code, an amendment will be proposed.

**N.J.A.C. 5:23-7.33**

COMMENT: The sections on stairs should be reviewed and made to conform with the most recent requirements of BOCA if it does not.

RESPONSE: Requirements which duplicate requirements contained in BOCA have been deleted from 5:23-7.33 and proposed 5:23-7.35. Other requirements specific to this subcode have been adopted.

**N.J.A.C. 5:23-7.37(a)**

COMMENT: Suggestion that the language "fixing the exterior grade level" be replaced with "adjusting the exterior grade level to coincide with the entrance."

RESPONSE: This suggested change has been incorporated.

**N.J.A.C. 5:23-7.39**

COMMENT: Comments were received supporting the provisions of this section as it would prohibit barriers which discriminate against the handicapped.

N.J.A.C. 5:23-7.50 has been amended to cross-reference to the requirements in 5:23-7.9 Use Group I.

**N.J.A.C. 5:23-7.57**

COMMENT: Grab bar should be provided near the urinal.

RESPONSE: A new proposal will be made to require a vertical grab bar adjacent to a urinal of standard height.

**N.J.A.C. 5:23-7.61(a)3**

COMMENT: Bathtubs should have second grab bars where seat is shown.

RESPONSE: No change to this requirement has been made as the Department is advised that the seat is necessary and that the provision of a second grab bar would make use of the tub uncomfortable.

**N.J.A.C. 5:23-7.73**

COMMENT: The requirement for both visual and audible signals was praised as recognizing the needs of the deaf.

**N.J.A.C. 5:23-7.81**

COMMENT: Commentors indicated that this section should apply to inclined as well as to platform lifts. ANSI standard for lift safety should be cited. Additionally, commentors stated that key operation may be necessary for safety as well as for security reasons. However, comments were also received praising the prohibition of key operation inasmuch as the lack of a key may become an impediment to travel for the handicapped.

RESPONSE: The ANSI standard for lift safety has been adopted. In connection with this adoption, all technical requirements contained in the ANSI standard have been deleted from these regulations to avoid repetition. In addition, a companion change will be proposed to add lifts to the list of ongoing inspection in Subchapter 2 of the Uniform Construction Code. The regulations have also been amended to permit key operation under limited circumstances where the user population is known and keys may be issued.

**N.J.A.C. 5:23-7.83**

COMMENT: It was suggested that at least one telephone in every bank of public phones should be a TTY for use of the deaf and hearing impaired.

RESPONSE: In investigating the possibility of implementing this suggestion, the Department learned that there is a considerable problem with vandalism in placing this equipment in public facilities. Accordingly, this requirement has not been incorporated at this time. The Department will, however, follow current development efforts aimed at protecting such equipment and will amend the regulations at some future time when technology makes the placement of this equipment in public facilities more feasible.

**N.J.A.C. 5:23-7.84**

COMMENT: A question was raised as to the rationale for using five percent for tables, seating, work areas, etc.

RESPONSE: The requirement has been changed to four percent to conform with other requirements contained in the subcode.

**N.J.A.C. 5:23-7.88**

COMMENT: The requirement for accessible fitting rooms was praised as a needed addition.

**N.J.A.C. 5:23-7.94**

COMMENT: The section from ANSI requiring that one room or space of each type should be accessible should be incorporated. In units with more than one bedroom, at least two bedrooms must be accessible.

RESPONSE: The section from ANSI has been incorporated with appropriate modifications. In multilevel units, only one bedroom is required to be on an accessible route of travel.

**N.J.A.C. 5:23-7.95(a)3, 6, 7**

COMMENT: A question was raised regarding requirement for special sinks and for self-cleaning ovens and self-defrosting refrigerators in adaptable units.

RESPONSE: These provisions have been deleted as unnecessary for adaptable units.

**N.J.A.C. 5:23-7.96(a)4ii**

COMMENT: A question was raised regarding the requirement for seat in tub in adaptable bathrooms.

RESPONSE: This requirement has been eliminated for adaptable dwelling units.

**N.J.A.C. 5:23-7.99**

COMMENT: The requirement for visual as well as audible alarms was supported as necessary to provide for the safety of the deaf and visually impaired.

**N.J.A.C. 5:23-7.100 through 7.116**

Because of the public comments received, these sections, which constitute the standards for recreational facilities, have been held for future adoption as an integral part of this subchapter and once adopted will be enforced in the same manner as the rest of the subchapter. These sections will be revised for adoption as soon as possible.

**Full text** of the adoption follows (additions shown in boldface with asterisks **\*thus\***; deletions shown in brackets with asterisks **\*[thus]\***).

5:23-3.2 Matter covered; exceptions

(a) (No change.)

(b) Rules concerning exceptions are:

Renumber 2.-3. as 1.-2. (No change in text.)

**SUBCHAPTER 7. BARRIER-FREE SUBCODE**

**5:23-7.1 Intent and purpose**

This subchapter shall be interpreted to mandate access for the physically handicapped and aged whether they be in the status of occupant, employee, consumer, student, spectator, participant, or visitor.

**5:23-7.2 Scope and Applicability**

(a) The provisions of this subchapter shall apply to all buildings, building sites, and portions thereof unless exempted by N.J.A.C. 5:23-7.3 **\*[in Use Groups A, B, E, F, I, M, R, and S]\***.

(b) Curb ramps shall comply with separate standards promulgated by the New Jersey Department of Transportation relating to Curb Ramps for the physically handicapped. (see N.J.A.C. 16:41-2.5).

**5:23-7.3 Exemptions**

(a) The following are exempt from the provisions of this subchapter:

1. Buildings or projects of Use Group R-2 or R-3 with four or fewer dwelling units, having common or separate entrances **\*directly from the exterior\***, whether **\*[offered]\*** for rental or **\*arranged\*** for sale shall be exempt. **\*A dwelling unit shall be deemed to be "arranged for sale" if it**

is located on a separate lot or is part of a condominium project for which a Master Deed has been filed and which has been approved for registration as a planned real estate development by the Department at the time that the building permit is issued.\*

2. Buildings or projects of Use Group R-2 or R-3 which have dwelling units \*[offered]\* **\*arranged\*** for sale each of which has a separate entrance **\*directly from the exterior\*** shall be exempt. **\*A dwelling unit shall be deemed to be "arranged for sale" if it is located on a separate lot or is part of a condominium project for which a Master Deed has been filed and which has been approved for registration as a planned real estate development by the Department at the time that the building permit is issued.\***

3. Buildings or portions thereof of Use Group S **\*used for storage\***, other than parking garages, shall be exempt.

4. Buildings or portions thereof of Use Group H shall be exempt.

5. Use Group B buildings **\*used as offices\*** with a total enclosed building area of all floors combined of 10,000 square feet or less shall be exempt.

6. Mezzanines and Balconies in Use Groups A-1, **\*A-4\*** and A-5 shall be exempt, provided that the integrated seating and requirements of this subchapter are met and provided that all services available on the exempted mezzanines and balconies are provided identically on accessible levels.

7. Historic buildings **\*and sites\*** shall be exempt with regard to those provisions of this subchapter which would change the historic character of the building.

8. Mechanical and incidental storage spaces\*[, warehouse and storage buildings]\* shall be exempt.

#### 5:23-7.4 Variations and exceptions

(a) Where it can be demonstrated that one or more of the provisions of this subchapter present practical difficulties, variations or exceptions **\*to those specific provisions\*** may be granted if:

1. The spirit and intent of the law are observed; **\*and\***

2. Public welfare and safety are assured; **\*and\***

3. It is clearly evident that equivalent facilitation and protection for the handicapped are secured;

**\*[4]\* \*(b)\* \*In\* \*[B]\*\*b\*uildings, facilities, or portions thereof **\*which\*** primarily serve children\*]\* **\*[In this case]\***, variations and exceptions **\*[should be granted]\* **\*are not required\*** for adjustments of dimensions to make them suitable for children.****

**\*[c) In no case may a complete waiver of this subchapter be granted.\***

**\*[d) Procedures for granting variations and exceptions shall be in accordance with the State Uniform Construction Code.\***

#### 5:23-7.5 **\*[Procedure for granting variations and exceptions]\***

##### **\*Construction Boards of Appeals\***

**\*[(a) Procedures for granting variations and exceptions shall be in accordance with the State Uniform Construction Code.]\***

**\*[(b)\* \*(a)\* \*A good faith attempt shall be made by the construction official to]\* **\*Prior to any hearing on an appeal of a requirement of this subchapter, the Construction Board of Appeals shall\*** invite qualified disabled citizens or their advocates to testify during Construction Board of Appeals hearings. Where the attendance of disabled persons is anticipated the hearings shall be held in accessible facilities.**

**\*[(c)\* \*(b)\*** The New Jersey Department of Community Affairs (DCA) shall maintain a list, available to construction officials, of qualified handicapped persons and their advocates who may be called upon to provide testimony as specified in (a) above.

**\*[(d)\* \*(c)\*** DCA shall sponsor and provide training to qualified handicapped persons and their advocates for inclusion on the list specified in (c) above.

#### 5:23-7.6 Definitions

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

"Accessible" means an environment that will permit a handicapped person to operate independently with comparative ease under normal circumstances and with little or no other assistance. This term is synonymous with the term "barrier-free."

"Accessible route" means a continuous unobstructed path connecting all accessible elements and spaces in a building or facility that can be negotiated by a handicapped person. Interior accessible routes may include corridors, floors, ramps, elevators, lifts and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps, and lifts.

"Adaptability" means the ability of certain building elements, such as kitchen counters, sinks, and grab bars, to be raised, lowered, added or otherwise altered so as to accommodate the needs of either the disabled

or non-disabled, or to accommodate the needs of persons with different types or degrees of disability.

"Alteration" means as applied to a building or structure, a change or rearrangement in the structural parts or in the means of access or enlargement whether by extending on a side or by increasing in height or by the moving from one location or position to another.

"Mechanical space" means space housing equipment incident to the utility services of the building, for example: plumbing, HVAC, electrical distribution, and elevator equipment.

"Minimally accessible" means an environment that will afford a handicapped person access with difficulty. Some assistance may be required.

"Physically handicapped" means a person with a physical impairment which confines a person to a wheelchair, causes a person to walk with difficulty or insecurity, affects the sight or hearing to the extent that a person functioning in public areas is insecure or exposed to danger, causes faulty coordination, or reduces mobility, flexibility, coordination and perceptiveness to the extent that facilities are needed to provide for the safety of that person.

"Project" means a group of buildings which are under common ownership and which stand on a single parcel of land or parcels of land which are contiguous **\*[and are named, designated or advertised as a common entity.]\*** The contiguity of such parcels shall not be adversely affected by public rights-of-way incidental to such buildings.

#### 5:23-7.7 Additions

(a) Additions meeting criteria as specified in N.J.A.C. 5:23-2.5 are considered new construction and shall meet all requirements of this subchapter. Additions shall also meet the following requirements:

1. The addition shall comply with N.J.A.C. 5:23-7.37 (Entrances) unless it can be shown that all criteria of N.J.A.C. 5:23-7.37(a)3 have been met in the existing building or facility.

2. If the only accessible entrance to the addition is located in the existing building or facility, then at least one accessible route shall comply with N.J.A.C. 5:23-7.\*[16]\*\*17\* (Accessible routes, walks and floors), and shall provide access through the existing building or facility to all rooms, elements, and spaces in the new addition.

3. If there are no toilet rooms in the addition and such facilities are provided in the existing building, then at least one toilet room per sex or at least one unisex toilet in the existing building shall be made to comply with N.J.A.C. 5:23-7.51 (Toilet and bathing facilities). In addition, there shall be an accessible route of travel between such toilet rooms and all rooms, elements, and spaces in the new addition.

#### 5:23-7.8 Alterations

(a) No alterations shall be made which reduce or diminish the degree to which any building or facility meets the criteria of this subchapter.

(b) When existing entrance, stairs, elevators, or toilet rooms are altered, such changes are to be constructed in accordance with this subchapter without regard to percentage relationship between cost of alterations and the physical value of the building or facility. However, this requirement shall not apply where it would necessitate alterations of existing load-bearing structural members.

#### **\*5:23-7.9 Use Group I**

(a) **Buildings or portions thereof of Use Group I-1 shall be made accessible as follows:**

1. **Residential Health Care Facilities licensed by the Department of Health shall be made accessible as follows:**

i. **Four percent of the resident bedrooms, but not less than one, shall be accessible or all resident bedrooms shall be made adaptable.**

ii. **Four percent of the toilets and bathing facilities provided for residents, but not less than one, shall be accessible or all resident toilet and bathing facilities shall be made adaptable.**

iii. **All public or common areas and employee areas shall be made accessible.**

2. **All other buildings or portions thereof of Use Group I-1 shall be made accessible as follows:**

i. **Four percent of the resident bedrooms, but not less than one, shall be accessible or all resident bedrooms shall be made adaptable.**

ii. **Four percent of the toilet and bathing facilities provided for residents, but not less than one, shall be accessible or all resident toilet and bathing facilities shall be made adaptable.**

iii. **All public or common areas and employee areas shall be made accessible.**

(b) **Buildings or portions thereof of Use Group I-2 shall be made accessible as follows:**

1. **Hospitals licensed by the Department of Health shall be made accessible as follows:**

i. Ten percent of patient bedrooms, rounded to the next higher whole number, shall be accessible.

(1) Accessible patient bedrooms shall have a minimum 5 feet x 5 feet clear turning area.

(2) Each patient bedroom that is required to be accessible shall have an accessible toilet room.

(3) Accessible patient bedrooms shall be proportionately distributed among all patient care areas.

ii. All public or common areas and employee areas shall be accessible.

2. Special Purpose Hospitals licensed by the Department of Health that treat conditions that affect mobility shall be made accessible as follows:

i. All patient bedrooms shall be accessible.

(1) Accessible patient bedrooms shall have a minimum 5 feet x 5 feet clear turning area.

(2) Each patient bedroom that is required to be accessible shall have an accessible toilet room.

ii. All public or common areas and employee areas shall be accessible.

3. Long Term Care Facilities (skilled nursing homes) licensed by the Department of Health shall be made accessible as follows:

i. Fifty percent of patient bedrooms, rounded to the next higher whole number, shall be accessible.

(1) Accessible patient bedrooms shall have a minimum 5 feet x 5 feet clear turning area.

(2) Each patient bedroom that is required to be accessible shall have an accessible toilet room.

(3) Accessible patient bedrooms shall be proportionately distributed among all patient care areas.

ii. All public or common areas and employee areas shall be accessible.

4. Outpatient Facilities licensed by the Department of Health shall be made accessible as follows:

i. All areas, including waiting rooms, examining rooms, patient toilets, public or common use areas, and employee areas shall be made accessible.\*

\*[5:23-7.9]\*\*5:23-7.10\* Use Group R-1

(a) Buildings of Use Group R-1 shall be made accessible to handicapped persons as follows:

1. All public facilities shall be made accessible including, but not limited to, entrances, parking lots, lobbies, vending machine areas, laundry areas, game rooms, conference facilities, exercise rooms, locker rooms, restrooms and swimming pools.

2. Four percent (rounded off to the next whole number) of units and the route of travel to each unit shall be made accessible. Units for the handicapped shall be proportionately distributed throughout all types and classes of units. The remaining units shall comply with the minimal accessibility requirements of this subchapter.

\*[5:23-7.10]\*\*5:23-7.11\* Use Group R-2 and R-3

(a) Buildings of Use Group R-2 or R-3, which are not exempted by N.J.A.C. 5:23-7.3, shall be made accessible to handicapped persons as follows:

1. All public facilities shall be made accessible including, but not limited to, entrances, parking lots, lobbies, vending machine areas, laundry areas, game rooms, exercise rooms, swimming pools, conference facilities, community rooms, mailbox areas, locker rooms, restrooms and storage facilities.

2. The route of travel to each unit in an elevator serviced building shall be accessible. The route of travel to each first or grade level unit in a non-elevator serviced building shall be accessible except as specified in N.J.A.C. 5:23-7.3(a).

3. All units in elevator serviced buildings and all entry and/or grade level units in non-elevator serviced buildings shall be made adaptable in accordance with N.J.A.C. 5:23-7.94.

4. All units on other than entry or grade level of non-elevator serviced buildings shall be made minimally accessible.

5. Each dwelling unit which has two or more levels of living space with an elevation difference of more than 24 inches and which does not have an internal elevator, is exempt from the requirements of N.J.A.C. \*[5:23-7.10(a)3]\* \*5:23-7.11(a)3\*. However, in each project containing such multi-level units, at least four percent of the total number of units, (rounded to the next whole number) shall be accessible or 100 percent of the units shall be adaptable.

6. Where an entrance and/or platform serves two or more units, it shall be made accessible. Where an entrance and/or entrance platform serves one unit only and is at, or not more than 24 inches above, grade level, it shall be constructed as accessible or adaptable. If it is made adaptable, it shall meet the following criteria:

i. The door(s) shall meet N.J.A.C. 5:23-7.40 through 5:23-7.49;

ii. If a level platform entrance is provided, it shall have minimum dimensions of 5 feet x 5 feet;

iii. Construction documents for the unit shall also include a design for the future modification of the entrance to provide accessibility. Any level platform(s) or ramp(s) included in the design shall meet provisions of N.J.A.C. \*[5:23-7.23]\* \*5:23-7.24\*.

\*[5:23-7.11]\*\*5:23-7.12\* Parking lots and parking garages

(a) Every parking lot or parking garage servicing an accessible entrance as described in this subchapter shall have at least the number of accessible parking spaces for the handicapped as set forth in Table \*[7.11]\* \*7.12\*.

\*1. Parking lots or parking garages servicing buildings of Use Group I-2 licensed by the Department of Health shall have at least the number of accessible parking spaces for the handicapped as set forth below:

i. In parking lots or parking garages servicing a hospital, two percent of the parking spaces, but not less than two, shall be accessible.

ii. In parking lots or parking garages servicing a special purpose hospital that treats conditions that affect mobility, 20 percent of the parking spaces, but not less than two, shall be accessible.

iii. In parking lots or parking garages servicing a long term care facility, two percent of the parking spaces, but not less than two, shall be accessible.\*

(b) Where parking is provided, at least the number of accessible parking spaces for the handicapped as shown in Table \*[7.11]\* \*7.12\* shall be provided. Where there are multiple lots, the accessible parking spaces shall be proportionately divided among those lots which are within 200 feet of an accessible entrance.

(c) In Use Group R, where parking spaces are reserved for occupants of specific units, the spaces associated with accessible units shall meet the criteria of N.J.A.C. \*[5:23-7.12 and]\* 5:23-7.13 \*and 5:23-7.14\*. Additionally, Table \*[7.11]\* \*7.12\* shall be applied to spaces available for visitors to determine the number of additional accessible spaces required.

TABLE \*[7.11]\* \*7.12\*  
ACCESSIBLE PARKING SPACES

Total Parking in Lot	Required Number of Accessible Spaces
*[ up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	Two percent of total
Over 1000	20 plus 1 for each 100 over 1000]*
*Up to 50	1
51 to 200	2
Over 200	Two plus one percent of the number of spaces over 200 rounded to the next higher whole number.*

\*[5:23-7.12]\*\*5:23-7.13\* Parking spaces

(a) Parking spaces for the handicapped shall be located as close as possible to elevators, ramps, walkways, and the accessible entrance they serve. They shall be no more than 200 feet from an accessible entrance. They shall be as level as possible with surface slopes not exceeding 1:48 (1/4 inch per foot) in any direction.

(b) Each parking space shall be identified with a sign displaying the International Symbol of Accessibility and appropriate wordage to include "DISABLED PERSONS WITH VALID ID ONLY."

1. Each sign shall be a minimum of 12 inches by 18 inches and shall be mounted with its bottom edge approximately 60 inches above the parking lot surface.

(c) There shall be four acceptable configurations for accessible parking spaces as illustrated in Figures \*[7.12a. through 7.12d]\* \*7.13 through 7.13d\*.

1. Parking spaces each not less than 12 feet wide.

2. Parking spaces each not less than 8 feet wide with an adjacent access aisle at least 5 feet wide.

3. Curb side parking, provided that the curb has been indented at least 4 feet so that a handicapped person does not exit from a vehicle into a traffic lane.

4. Conventional curb side parking is permitted in modification and/or renovation work only.

(d) In all configurations, to the degree feasible, accessible parking spaces shall be located so that handicapped persons are not compelled to wheel or walk behind parked cars. Additionally, in all configurations, ramps or curb ramps shall be provided to permit handicapped persons access from the parking lot level to the servicing walkway. A curb ramp shall never be located where it would be blocked by a parked vehicle. In all configurations, provisions such as curbs or bumpers should be included to prevent parked vehicles from blocking accessible walkways.

**\*[5:23-7.13]\*\*5:23-7.14\*** Parking spaces for vans

(a) At least 10 percent of accessible parking spaces, or at least one, whichever is greater, shall have a minimum vertical clearance of 8 feet 6 inches. See Figure **\*[7.13]\* \*7.14\***.

**\*1. In parking garages where eight feet six inches vertical clearance is unavailable, such spaces may be located on the exterior of the garage. Such spaces shall meet the applicable requirements of N.J.A.C. 5:23-7.12 and 7.13.\***

**\*[5:23-7.14]\*\*5:23-7.15\*** Passenger loading zones

(a) If passenger loading zones are provided, they shall:

1. Have access aisles at least 4 feet wide by 20 feet long adjacent, parallel, and level with the vehicle standing spaces;

2. Have curb ramps if there are curbs between the access aisle and servicing walkway;

3. Have vehicle standing spaces and access aisle with surface slopes not exceeding 1:48 (1/4 inch per foot) in any direction;

4. Have minimum vertical clearance of 8 feet 6 inches.

**\*[5:23-7.15]\*\*5:23-7.16\*** Service canopies

(a) Service canopies, for the purpose of this section, are defined as covers over vehicular driveways to protect the occupants of vehicles while being discharged or while conducting business at drive-in windows of banks, fast food establishments, etc.

(b) To allow for the passage of vans for the handicapped with high tops, there shall be a minimum clearance of 8 feet 6 inches between the highest point of the roadway crown and the lowest point of the canopy or any hanging appendage.

**\*[5:23-7.16]\*\*5:23-7.17\*** Accessible routes, walks, and floors

(a) At least one accessible route shall comply with N.J.A.C. **\*[5:23-7.17 through 5:23-7.22]\* \*5:23-7.18 through 5:23-7.23\*** and shall connect each accessible building entrance to the following:

1. Accessible building entrances are not required to be connected to one another on the exterior of the building.

2. Transportation facilities located within the property line of a building site, including passenger loading zones, public transportation facilities, and parking spaces for the handicapped.

3. Public streets and sidewalks.

4. Other buildings and facilities on the same site other than those exempted by N.J.A.C. 5:23-7.3.

5. All **\*[accessible]\*** spaces and rooms **\*required to be accessible\*** within each building or facility **\*[except as exempted by 5:23-7.4]\***.

6. Courts and plazas.

**\*[5:23-7.17]\*\*5:23-7.18\*** Accessible routes: change in level

(a) All changes in level or grade on accessible routes, walks, or floors, shall comply with the following:

1. Changes in level of up to 1/4 inch vertical dimension may be made without edge treatment. See Figure **\*[7.17a]\* \*7.18a\***.

2. Changes in level of 1/4 inch to 3/4 inch must be beveled with slope not exceeding 1:2 (30 degrees). See Figure **\*[7.17b]\* \*7.18b\***.

3. Changes in level of greater than 3/4 inch are to be connected by ramp, curb ramp, elevator, or platform lift meeting criteria of this subchapter. However, the maximum change in level **\*within a building\*** which may be bridged by a ramp shall be 60 inches. **\*[Platform lifts may be used to bridge any level differential in modification and/or renovation work. In new construction, platform lifts shall be utilized only for access to special purpose areas and shall not be used on accessible routes between major floor areas or accessible entrances.]\***

4. Stairs shall not be the sole means of vertical access along an accessible route.

(b) The following are exceptions to the requirements of (a) above:

1. Floor areas not normally opened or used by the general public may be raised or depressed if necessary for the performance of specific functions such as security or display.

2. In Use Groups A-2 and A-3, raised or depressed areas not exceeding 32 inches in height shall be allowed provided they encompass less than ten percent of the usable net area and provided that identical facilities and services are available on accessible levels.

3. Single step platform seating may be utilized in Use Groups A-1 and A-5 when necessary to allow the serving of food to persons also requiring a sight line to view a theatrical performance or sports event. Such single step platform seating shall meet the following technical criteria:

i. 20 percent of total seating area shall be fully accessible;

ii. Each platform shall be a minimum of 6 feet 6 inches in depth and a maximum of 7-1/4 inches in height;

iii. Areas normally used by the general public, dance floors for example, shall be made accessible.

**\*[5:23-7.18]\*\*5:23-7.19\*** Accessible routes: width

(a) Accessible routes, walks, and floors, shall provide clearances for moving wheelchairs as follows:

1. Minimum clear width for passage of 3 feet. Such width may, however, be reduced to 2 feet 8 inches for a distance not to exceed 2 feet at points such as doorways. See Figure **\*[7.18a]\* \*7.19a\***.

2. Minimum maneuvering clearances as shown in Figures **\*[7.18b and 7.18c]\* \*7.19b and 7.19c\*** if the accessible route requires a turn around an obstruction.

3. In situations where considerable traffic of wheelchairs is expected, a minimum clear width for passage of 5 feet is recommended. See Figure **\*[7.18d]\* \*7.19d\***.

**\*[5:23-7.19]\*\*5:23-7.20\*** Accessible routes: protruding objects

(a) No protruding objects shall reduce the clear width of an accessible route or maneuvering space below the minimums required by N.J.A.C. **\*[5:23-7.18]\* \*5:23-7.19\***. See Figure **\*[7.19a]\* \*7.20a\***.

1. Objects less than 2 feet long that are fixed to wall surfaces shall not project into accessible routes more than 4 inches if mounted with their leading edges between 2 feet 3 inches and 6 feet above the finished floor. See Figure **\*[7.19b]\* \*7.20b\***.

2. Objects fixed to wall surfaces may project more than 4 inches if mounted with the lower extreme of their leading edge less than 2 feet 3 inches above the finished floor. These objects shall not project, however, into the minimum required clear width specified in N.J.A.C. **\*[5:23-7.18]\* \*5:23-7.19\***. See Figure **\*[7.19c]\* \*7.20c\***.

3. Free standing objects mounted on posts or pilons may overhang 1 foot maximum from 2 feet 3 inches to 6 feet 8 inches above the ground or the finished floor. These objects shall not project, however, into the minimum required clear width specified in N.J.A.C. **\*[5:23-7.18]\* \*5:23-7.19\***. See Figure **\*[7.19d]\* \*7.20d\***.

**\*[5:23-7.20]\*\*5:23-7.21\*** Accessible routes: vertical clearance

There shall be a minimum vertical clearance (head room) of 6 feet 8 inches throughout accessible routes. If the vertical clearance of an area adjoining an accessible route is reduced to less than 6 feet 8 inches, a barrier to warn blind or visually-impaired persons shall be provided. See Figure **\*[7.20]\* \*7.21\***.

**\*[5:23-7.21]\*\*5:23-7.22\*** Accessible routes: slope

Floors, walks, and accessible routes with running slopes of 1:20 or steeper shall be considered ramps and shall comply with the appropriate portions of this subchapter. Cross-slopes on floors, walks, and accessible routes shall not exceed 1:48 (1/4 inch per foot).

**\*[5:23-7.22]\*\*5:23-7.23\*** Accessible routes: ground and floor surfaces

(a) Surface conditions of paving and floors shall be stable, firm, and slip-resistant. Irregular paving and flooring materials which may cause tripping or difficult wheelchair passage because of height differentials shall not be permitted on accessible routes.

(b) Accessible routes shall be designed so that their surfaces will not collect water. Gratings located on accessible routes shall have openings no greater than 1/2 inch when measured in the predominant direction of travel. Gratings with elongated openings shall be placed so that the long dimension is perpendicular to the predominant route of travel. See Figure **\*[7.22a and 7.22b]\* \*7.23a and 7.23b\***.

(c) If carpet or carpet tile is used on a ground or floor surface, then it shall be securely attached, have a firm cushion, pad, or backing or no cushion or pad, and have a level loop, textured loop, level cut pile, or level cut/uncut pile texture. The maximum pile height shall be 1/2 inch. Exposed edges of carpet shall be fastened to floor surfaces and have trim along the entire length of the exposed edge. Carpet edge trim shall comply with N.J.A.C. **\*[5:23-7.17]\* \*5:23-7.18\***.

**\*[5:23-7.23]\*\*5:23-7.24\*** Ramps and curb ramps

All ramps and curb ramps on accessible routes shall comply with N.J.A.C. **\*[5:23-7.24 through 5:23-7.31]\* \*5:23-7.25 through 5:23-**

**7.32\***, except that those ramps and curb ramps within a public street are not covered by this subchapter. Instead they shall meet the requirements of the respective public, city, county or state agency having jurisdiction.

**\*[5:23-7.24]\*\*5:23-7.25\*** Ramps: slope and rise

(a) The least practical slope for any ramp or curb ramp shall be provided subject to the following maximums:

1. The maximum slope shall not exceed 1:12 (8.33 percent).

**\*[i]**. Exception: For ramps with a maximum horizontal projection of 8 feet the slope shall not exceed 1:10.**]**\*

2. Slope is the ratio of a ramp's rise to its horizontal projection. See Figure **\*[7.24]\* \*7.25\***.

**\*[5:23-7.25]\*\*5:23-7.26\*** Ramps: width

Ramps and curb ramps shall have a minimum clear width of 3 feet exclusive of edge protection or flared sides.

**\*[5:23-7.26]\*\*5:23-7.27\*** Ramps: cross-slope

Cross-slope of ramp surfaces and of curb ramp surfaces exclusive of flared sides shall not exceed 1:48 (1/4 inch per foot).

**\*[5:23-7.27]\*\*5:23-7.28\*** Ramps: surface

Surfaces of ramps and curb ramps shall be stable, firm, and slip-resistant. Irregular surface materials which may cause tripping or difficult wheelchair passage because of height differentials shall not be permitted.

**\*[5:23-7.28]\*\*5:23-7.29\*** Ramps: drainage

Ramps and curb ramps shall be designed so that their surfaces will not collect water. Gratings should be avoided on ramps and curb ramps if at all possible. If gratings are absolutely necessary, they shall comply with N.J.A.C. **\*[5:23-7.22(b)]\* \*5:23-7.23(b)\***.

**\*[5:23-7.29]\*\*5:23-7.30\*** Ramps: additional requirements

(a) In addition to the requirements of N.J.A.C. **\*[5:23-7.23 through 7.28]\* \*5:23-7.24 through 7.29\***, all ramps shall meet the following requirements:

1. Provide landings at the top, bottom, at all changes of direction, and after each 30 feet of projection. Landings shall:

- i. Have a width which shall be at least as wide as the widest ramp run approaching it;
- ii. Have a minimum length of 5 feet;
- iii. Have a minimum size of 5 feet by 5 feet at direction changes;
- iv. Have a minimum size which will fulfill the latchside and hingeside provisions of this **\*[section]\* \*subchapter\*** as specified in N.J.A.C. 5:23-7.43.

2. Provide handrails that comply with N.J.A.C. **\*[5:23-7.31]\* \*5:23-7.32\*** on both sides of any ramp run exceeding a 9 inch rise.

3. Provide curbs, walls, vertical guards or projected edges at ramps and landings with drop-offs exceeding 6 inches. Minimum curb height shall be 2 inches. See Figures **\*[7.29a through 7.29c]\* \*7.30a through 7.30c\***.

**\*[4]**. The maximum change in level on an accessible route which may be bridged by a ramp is 60 inches. The provision of rest areas does not alter this section. If an accessible route contains a change in level greater than 60 inches, such change shall be bridged by a walkway, elevator, or platform lift.**]**\*

**\*[5:23-7.30]\*\*5:23-7.31\*** Curb ramps: special requirements

(a) In addition to the requirements of N.J.A.C. **\*[5:23-7.23 through 7.29]\* \*5:23-7.24 through 5:23-7.30\*** above, curb ramps shall comply with the following requirements:

1. Provide flared sides if curb ramps are located where pedestrians might walk across the ramp. The flared sides shall have a slope not exceeding 1:10 where a 4 foot landing or greater is provided at the top. If less than a 4 foot landing is provided, the flared slope shall not exceed 1:12. Where pedestrians will not normally walk across the ramp and where a landing of at least 4 feet is provided, returned curbs may be used. See Figures **\*[7.30a through 7.30c]\* \*7.31a through 7.31c\***.

2. If built-up curb ramps are used as an alternative to standard curb ramps, such ramps must be located so that they do not project into vehicular traffic lanes. See Figure **\*[7.30d]\* \*7.31d\***.

3. Diagonal or corner type curb ramps having returned curbs shall have the edges of these curbs parallel to the direction of pedestrian flow. See Figure **\*[7.30e]\* \*7.31e\***.

4. Diagonal or corner-type curb ramps having flared sides shall have at least a 2 foot long segment of straight curb located on each side of the curb ramp and within the marked crossings. See Figure **\*[7.30f]\* \*7.31f\***.

5. Each curb ramp shall have a clear and level space with a minimum depth of 4 feet at its top and bottom for discharge. If marked crossings are provided, the bottom discharge area shall be located entirely within the marked area. See Figure **\*[7.30g]\* \*7.31g\***.

6. Where safety islands are provided, such islands shall either be cut through flush with the street surface or ramped on each side to permit crossing. If the ramp alternative is used, the island shall be sufficiently wide to provide for appropriately sloped ramps and a 4 foot long rest area. See Figure **\*[7.30h]\* \*7.31h\***.

7. Curb ramps having less than a 9 inch rise do not require handrails.

8. Transitions from ramps to walks, gutters, or streets shall be flush and free of abrupt changes.

**\*[5:23-7.31]\*\*5:23-7.32\*** Ramps: handrails

(a) Required handrails shall comply with this section:

1. The handgrip portion of the handrail, if round, shall be not less than 1-1/4 inches nor more than 2 inches in diameter. If the shape of the handrail is not round, then the larger dimension shall not be more than 2 inches. See Figure **\*[7.31a]\* \*7.32a\***.

2. If handrails are mounted adjacent to walls or other surfaces, a 1-1/2 inch clear space must be provided between the surface and the handrail. The handrail and the surfaces adjacent to the handrail shall be free of any sharp or abrasive elements. Any edges shall have a minimum radius of 1/8 inch. Free standing rails located further than 6 inches from a wall or other vertical surface are not subject to this provision. See Figures **\*[7.31b through 7.31d]\* \*7.32b through 7.32d\***.

3. Handrails may be located in recesses if the recesses comply with the Figure **\*[7.31e]\* \*7.32e\*** below.

4. Handrails shall be continuous, including rest areas, landings and level areas required at turns.

5. Gripping surfaces shall not be interrupted by newel posts, balusters, or other obstructions.

6. Handrail projections shall be provided as follows:

i. At the top and bottom of each ramp, handrails shall project parallel with the landing surface for a length of 1 foot beyond the top and the bottom of the ramp surfaces. See Figure **\*[7.31f]\* \*7.32f\***.

ii. Full extension of handrails shall not be required in alterations where such extensions would be hazardous or impossible due to plan configurations. In such situations, extension of the handrails around a corner is permissible.

7. Handrails shall be mounted at a height of 2 feet 8 inches to 2 feet 10 inches above ramp surfaces.

8. Handrails shall be designed to resist a simultaneous vertical and horizontal thrust of 50 pounds per lineal foot applied at the top of the railing. Handrails of materials other than metal are permitted if they meet these structural requirements.

9. Handrails shall not rotate in their fittings.

10. Ends of free-standing handrails shall be rounded and returned smoothly to the post. See Figure **\*[7.31f]\* \*7.32f\***.

**\*[5:23-7.32]\*\*5:23-7.33\*** Stairs

All stairs, connecting levels that are not connected by an elevator or other means of accessibility and other than those leading to elevator pits, mechanical rooms, equipment catwalks, and similar spaces shall comply with N.J.A.C. 5:23-7.33 through 5:23-7.36.

**\*[5:23-7.33]\*\*5:23-7.34\*** Stairs: risers

**\*[Risers that do not exceed 7 inches in height shall be provided.]\*** Open risers are not permitted.

**\*[5:23-7.34]\*\*5:23-7.35\*** Stairs: nosings

(a) Nosings shall project a maximum of 1-1/2 inches.

(b) Nosings shall have a leading edge with a maximum radius of curvature of 3/4 inch.

(c) Nosings shall be formed by risers that are sloped, or shall have undersides of the nosings which form an angle not less than 60 degrees from the horizontal. See Figure **\*[7.34a]\* \*7.35a\***.

**\*[5:23-7.35 Stairs: handrails**

Continuous handrails must be provided at both sides of stairways.]\*

**5:23-7.36 Stairs: gratings**

Gratings shall not be permitted on stair treads. Gratings **\*[should be avoided]\* \*used\*** on stair landing surfaces **\*[but, if absolutely necessary, they]\*** shall comply with N.J.A.C. **\*[5:23-7.22]\* \*5:23-7.23\***.

**5:23-7.37 Accessible entrances**

(a) The following entrances to a building or facility shall be constructed in a manner that makes them accessible either through **\*[fixing the exterior grade level with the entrance]\* \*adjusting the exterior grade level to coincide with the entrance\*** or providing walkways, ramps, elevators, or platform lifts which comply with this subchapter:

1. One principal entrance frequently used by the general public;

2. Each entrance servicing a parking lot containing parking spaces for the handicapped, public transportation facility, or passenger loading zone;

3. For additions to existing buildings, the above requirements shall apply except if it can be shown that they have all been appropriately met in the structure to which an addition is being made and there is an accessible route of travel from such entrances to the addition. Such entrances and accessible route must be available during all hours of operation of functions within the addition;

4. Additional accessible entrances shall be provided if necessary to assure access to all activities within a building if free circulation is not possible due to considerations of security, limited internal circulation routes, hours of operation, etc.

(b) When considering the number of accessible entrances required, one entrance may be considered as serving more than one of the above functions.

5:23-7.38 Accessible entrances: marking

All accessible entrances shall be identified by the international symbol of accessibility.

5:23-7.39 Accessible entrances: obstructions

(a) No obstructions to the passage of a wheelchair shall be placed at an accessible entrance. Turnstiles, vertical posts spaced less than 32 inches apart, and any chain or other mechanical device requiring opening or removal by other than the handicapped person attempting to accomplish passage are prohibited at accessible entrances.

1. Exception: Barriers, such as gates, operated mechanically or by an employee, shall be allowed where such barriers control access for the receipt of money, tickets, security clearance, etc., and where such mechanical or other employee operation is required for all members of the population.

i. Accessible entrances blocked by such barriers must meet width and other applicable requirements for accessible entrances to allow free passage when the barrier is removed.

5:23-7.40 Doors and doorways

(a) The following doors are required to be accessible and shall comply with N.J.A.C. 5:23-7.41 through 5:23-7.49.

1. At least one door or a single door of a multiple entry at each accessible entrance to the building or facility.

2. At least one door at each accessible entrance to each space within the building or facility unless exempted by N.J.A.C. 5:23-7.3.

3. Each door that is an element of an accessible route.

4. Gates, including ticket gates, on an accessible route are considered as doors and shall comply with this section.

5:23-7.41 Doors and doorways: technical criteria

(a) In double-leaf doorways, at least one leaf shall comply with this section and it shall be the active leaf. Double-leaf automatic doors are exempted from the one leaf provision if both leaves are automatic.

(b) Revolving doors or turnstiles are not accessible doors and shall not be the sole means of access at any accessible entrance or on any accessible route. In such cases, an accessible door shall be provided immediately adjacent to the turnstile or revolving door. If such door is providing an accessible route of travel around a revolving door or turnstile, it shall be operable at all times that the revolving door or turnstile is operable.

5:23-7.42 Doors and doorways: clear width

(a) Accessible doorways shall provide a clear opening of 2 feet 8 inches as measured with the door open 90 degrees between the face of the door and the latch side stop. See Figures 7.42a, b, and c.

(b) Doors into closets, other than walk-in closets, may be a minimum of 1 foot 8 inches wide.

5:23-7.43 Doors and doorways: maneuvering space

(a) The following space at non-automatic and non-power assisted doors shall be provided:

1. At doors allowing front approach only, maneuvering space shall be as shown in Figure 7.43a. The minimum latchside clearance required on pull side is 18 inches, but 24 inches is recommended. In addition, if the door is equipped with both a latch and a closer, then a minimum 1 foot latch side clearance is required on the push side. See Figure 7.43a.

2. At doors allowing hingeside approach only, maneuvering space shall be as shown in Figure 7.43b.

**\*3. At doors allowing latchside approach only, maneuvering space shall be as shown in Figure 7.43c.\***

4. Floor and surface areas within the required maneuvering space shall be clear and comply with N.J.A.C. \*[5:23-7.22]\* **\*5:23-7.23\*** (Ground and floor surfaces). They shall not have a slope in any direction greater than 1:48 (1/4 inch per foot.)

5:23-7.44 Doors in Series

Between any two hinged or pivoted doors in a series, a minimum of 4 feet plus the width of any door swinging into the space must be provided. Opposing doors shall not swing toward each other into the intervening space. See Figures 7.44a and b.

5:23-7.45 Doors and doorways: thresholds

Raised thresholds, if provided, shall be beveled with a slope not to exceed 1:2 if the height is greater than 1/4 inch. The maximum height for raised thresholds shall be 3/4 inch.

5:23-7.46 Doors and doorways: hardware

Handles, pulls, latch sets, and other operating hardware that are easy to grasp with one hand and do not require twisting of the wrist, tight grasping, or tight pinching to operate must be provided. Acceptable designs include, but are not limited to, lever-operated hardware, push-type hardware, and U-shaped handles. Operating hardware shall be exposed and usable from both sides. No operating hardware shall be mounted more than 4 feet above finished floor. In Use Groups R-1 and R-2, this requirement applies only to units designated as accessible and to common use spaces.

5:23-7.47 Doors to hazardous areas

Doors to loading platforms, mechanical equipment rooms, stages and similar spaces shall be provided with a textured surface on any door handle, knob, pull, or other piece of operating hardware on doors that lead to such areas. Textured surfaces may be achieved by knurling, roughening, or applying materials on the hand contact surface.

5:23-7.48 Doors and doorways: closers and opening forces

(a) Door closers, if provided, shall have sweep periods adjusted so that it will take a door a minimum of five seconds to move from a position of 70 degrees opened to a position where the leading edge of the door is 3 inches from the jamb.

(b) Maximum pushing or pulling opening forces for doors shall be eight pounds.

5:23-7.49 Automatic doors

(a) If automatic pedestrian doors are provided they shall:

1. Not open to back check in less than five seconds;

2. Not require more than 15 pounds to stop door movement;

3. Comply with the latest version of ANSI A156.10, American National Standard for Power-Operated Pedestrian Doors.

5:23-7.50 Toilet and bathing facilities

(a) Toilet and bathing facilities shall be made accessible to handicapped persons as follows:

**\*1. In Use Group I:**

i. **Those toilet and bathing facilities which are required to be accessible as delineated at N.J.A.C. 5:23-7.9 and public facilities shall meet the requirements of N.J.A.C. 5:23-7.51.**

ii. **Those toilet and bathing facilities which are required to be adaptable as delineated at N.J.A.C. 5:23-7.9 shall meet the requirements of N.J.A.C. 5:23-7.96.**

iii. **All other toilet and bathing facilities shall be minimally accessible and shall meet the requirements of N.J.A.C. 5:23-7.63.\***

**\*[1.]\*\*2.\*** In Use Groups R-1 and R-2/R-3:

i. Those toilet and bathing facilities in **\*public or common areas and in\* units** which are required to be accessible **\*as delineated at N.J.A.C. 5:23-7.10 and 7.11\* \***[ and public facilities]\* shall meet the requirements of N.J.A.C. 5:23-7.51.

ii. Those toilet and bathing facilities in units which are required to be minimally accessible **\*as delineated at N.J.A.C. 5:23-7.10 and 7.11\* shall meet the requirements of N.J.A.C. 5:23-7.63.**

iii. Those toilet and bathing facilities in units which are required to be adaptable **\*as delineated at N.J.A.C. 5:23-7.94\* shall meet the requirements of N.J.A.C. 5:23-7.96.**

**\*[2.]\*\*3.\*** In all other Use Groups:

i. Each toilet or bathing facility containing any fixture required to meet the minimum fixture count of the plumbing subcode **\*adopted at N.J.A.C. 5:23-3.15\*** shall be made accessible and shall comply with paragraph N.J.A.C. 5:23-7.51. Each toilet or bathing facility not containing any such required fixture shall be made minimally accessible and shall comply with N.J.A.C. 5:23-7.63.

**\*(1) Exception: Each toilet or bathing facility containing any fixture required to meet the minimum fixture count of the plumbing subcode adopted at N.J.A.C. 5:23-3.15 which serves an area or floor which is not required to be on an accessible route of travel shall be made minimally accessible and shall comply with N.J.A.C. 5:23-7.63.\***

5:23-7.51 Technical criteria for accessible toilet and bathing facilities  
Each toilet or bathing facility required to be accessible shall meet the technical criteria of N.J.A.C. 5:23-7.52 through 5:23-7.67.

5:23-7.52 Accessible toilet and bathing facilities: marking

Doors to toilet rooms and bathing facilities and to accessible water closet stalls, except in individual units of Use Groups R and I, shall be identified by the international symbol of accessibility. See N.J.A.C. 5:23-7.86 (Signs).

5:23-7.53 Accessible toilet and bathing facilities: doors

(a) Doors to toilet rooms and bathing facilities shall:

1. Comply with N.J.A.C. 5:23-7.40 (Doors and doorways);
2. Not swing into clear floor spaces required at fixtures;
3. Not swing into clear floor spaces required by N.J.A.C. 5:23-7.54.

5:23-7.54 Accessible toilet and bathing facilities: clear turning space  
(a) Each toilet room and bathing facility shall have an unobstructed turning space that:

1. Contains the minimum clear space required to make the 180 degree turn, as shown in Figure 7.54a.

2. Adjoins an accessible route complying with N.J.A.C. \*[5:23-7.16]\* **\*5:23-7.17\***, (accessible routes, walks, and floors).

3. May overlap the accessible route and clear floor space at fixtures, and the knee space as specified in Figure 7.58a and b.

5:23-7.55 Accessible toilet and bathing facilities: Water closets

(a) At least four percent (rounded off to the next higher whole number) but not less than one water closet in each toilet room shall:

1. Be provided with clear floor access space complying with Figures 7.55a and 7.55b for fixtures not mounted in stalls. Clear floor space may be provided to allow either left hand or right hand approach. Water closets shall be mounted with their centerlines 18 inches from the adjacent wall. For fixtures mounted in stalls, see Figures 7.56a and b.

2. Have top of flood rims mounted 14 inches to 15 inches (industry standard) above finished floor. Seats shall not be sprung to return to a lifted position when not in use.

3. Have automatic or hand operated flush controls. Controls shall be mounted on the wide side of the access area no higher than 44 inches above finished floor.

4. Have grab bars mounted as shown in Figures 7.55c and d.

5. Have toilet paper dispensers mounted as shown in Figure 7.55d. Height measured from the bottom of the dispenser to the finished floor shall be 1 foot 9 inches. Dispensers shall not project beyond the front edge of the water closet. Dispensers that control delivery or do not permit continuous paper flow shall not be used.

5:23-7.56 Accessible toilet and bathing facilities: toilet stalls

(a) In toilet rooms containing toilet stalls, at least four percent, rounded off to next higher whole number, but not less than one stall shall be made accessible.

1. Accessible toilet stalls shall have a water closet complying with N.J.A.C. 5:23-7.55.

2. Accessible toilet stalls shall be of the size and arrangement as shown in Figure 7.56a. Stall configuration may be reversed for left or right hand approach. In alteration work, where the provision of the standard stall (Figure 7.56a) is structurally impractical or plumbing fixture code requirements prevent combining existing stalls to provide necessary space, the alternate stall configuration of Figure 7.56b may be utilized.

3. Accessible toilet stalls shall have toe clearances at the front partition and at least one side partition of 9 inches above finished floor. If such space is not provided, length and width of stall shall be increased by 9 inches in each direction.

4. Accessible toilet stalls shall have doors that comply with N.J.A.C. 5:23-7.40 (Doors and doorways). However, if the toilet stall approach is from the latch side of the stall door, clearance between the door side of the stall and any obstruction may be reduced from the normal standard of 48 inches to a minimum of 42 inches.

5. Accessible toilet stalls shall have doors that are out-swinging. The following additional requirements apply:

i. Coat hook(s), if provided, shall be mounted at 48 inches above finished floor.

ii. Interior latch shall be slide bolt style or comply with N.J.A.C. 5:23-7.46.

iii. Loop-type door handle shall be provided on the interior of the door at maximum height of 42 inches from finished floor.

6. Accessible toilet stalls shall have grab bars mounted as shown in Figures 7.56c and d.

7. Accessible toilet stalls shall have toilet paper dispensers mounted as shown in Figure 7.56d. Height measured from the bottom of the dispenser to the finished floor shall be 1 foot 9 inches. Dispensers shall not project beyond the front edge of the water \***\*closed\*** \***\*closet\***. Dispensers that control delivery or do not permit continuous flow shall not be used.

5:23-7.57 Accessible toilet and bathing facilities: urinals

(a) Four percent (rounded off to next higher whole number) of urinals in any toilet room, but not less than one, shall be made accessible. Accessible urinals shall:

1. Have a clear floor space that complies with Figure 7.57a. Urinal shields shall not extend beyond the front edge of the urinal rim.

2. Be wall-hung with an elongated rim mounted at 17 inches maximum above the finished floor. See Figure 7.57b.

3. Have automatic or hand operated controls. Controls shall be mounted no higher than 44 inches above the finished floor.

5:23-7.58 Accessible toilet and bathing facilities: lavatories

(a) Four percent (rounded off to next higher whole number) in each toilet room or bathing facility, but not less than one, shall be accessible. Accessible lavatories shall meet the following requirements:

1. Lavatories with the rim or counter surface shall be mounted no higher than 2 feet 11 inches above finished floor. Knee space between bottom of apron and finished floor shall be at least 2 feet 6 inches high, 2 feet 6 inches wide, and 1 foot 7 inches deep. Toe space of at least 9 inches high shall be provided. See Figure 7.58a.

2. Clear space permitting frontal approach as specified in figure 7.58b shall be provided. Clear floor space and knee space may overlap a maximum of 1 foot 7 inches.

3. Hot water and drain lines shall be insulated or covered unless delivered water temperature is controlled to be less than 105 degrees Fahrenheit. No sharp or abrasive surfaces shall remain exposed under accessible lavatories.

4. Faucet controls shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate faucet controls shall be no greater than five pounds of force.

5. If self-closing faucet valves are used, they must be adjusted to remain open for a minimum of 10 seconds.

5:23-7.59 Accessible toilet and bathing facilities: mirrors

Mirrors at each accessible lavatory position and any other mirrors provided for general use shall be mounted with the bottom of the reflecting surface no higher than 3 feet 4 inches above finished floor.

5:23-7.60 Accessible toilet and bathing facilities: controls, dispensers, receptacles or other equipment

All controls, dispensers, receptacles and operating equipment shall be mounted within the reach of handicapped persons and shall comply with N.J.A.C. 5:23-7.85 (Controls and Operating Mechanisms).

5:23-7.61 Accessible toilet and bathing facilities: bathtubs and showers  
(a) At least one fixture of each type provided shall be made accessible in each toilet or bathing facility (where required). Accessible bathtubs or showers shall:

1. Have clear access space as shown in Figures 7.61 a, b, c, d and e.

2. Have seats provided as shown in Figures 7.61 a, b, c and d. Seats and their attachments shall safely support a 250 pound continuous live load without sustaining permanent deflections. Seats in showers shall be mounted 18 inches above finished floor. Seats shall not move when mounted during use. In-tub seats may be portable.

3. Have grab bars mounted as shown in Figures 7.61a through 7.61e. See specifications for grab bars in N.J.A.C. 5:23-7.62.

4. Have faucets and operating controls complying with N.J.A.C. 5:23-7.85 (Controls and operating mechanisms). Faucet and controls shall be mounted as shown in Figures 7.61 f, g and h.

5. Except in unmonitored facilities where vandalism is a concern, have a shower spray unit with a flexible hose a minimum of 60 inches long that is usable as a fixed showerhead and as a hand held shower.

6. Have enclosures, if provided, that do not obstruct transfer from wheel chairs onto seats or into tubs or access to controls from clear floor spaces. Bathtub enclosures shall not have tracks mounted on the bathtub rims.

7. Shower curbs and threshold shall comply with N.J.A.C. **\*[5:23-7.17]\* \*5:23-7.18\***.

5:23-7.62 Accessible toilet and bathing facilities: grab bars

(a) Grab Bars for accessible toilet and bathing facilities shall:

1. Have a diameter or width of the gripping surface that is 1¼ inches to 1½ inches.

2. Have a 1½ inch \*[(maximum/minimum)]\* clear space between the bar and the mounting surface. See Figure 7.62.
3. As installed, support a minimum concentrated load of 250 pounds.
4. Not rotate in their fittings.

5:23-7.63 Technical criteria for minimally accessible toilet and bathing facilities

Each toilet or bathing facility required to be minimally accessible shall meet the technical criteria of N.J.A.C. 5:23-7.63 through 5:23-7.67.

5:23-7.64 Minimally accessible toilet and bathing facilities: doors

(a) Doors to minimally accessible toilet rooms and bathing facilities shall:

1. Provide a clear width of not less than 30 inches as measured with the door open 90 degrees between the face of the door and the latch side stop.
2. Not swing into clear spaces required by N.J.A.C. 5:23-7.65.

5:23-7.65 Minimally accessible toilet and bathing facilities: clear spaces

(a) Each toilet room and bathing facility shall have an unobstructed clear space that:

1. Is a minimum of 60 inches long and 32 inches wide, with the door opening onto the 32 inches side. See Figure 7.65.

\*[Note: Position of water closet and lavatory are interchangeable.]\*

2. Adjoins an accessible route complying with N.J.A.C. \*5:23-7.16\* \*5:23-7.17\*, (Accessible routes, walks and floors) or, in minimally accessible units in Use Group R, a corridor with a minimum width of 36 inches.

5:23-7.66 Minimally accessible toilet and bathing facilities: water closets

(a) Each water closet shall:

1. Be mounted with its centerline 18 inches from the adjacent wall;
2. Be mounted with its flood rim 14 inches to 15 inches (industry standard) above the finished floor.

5:23-7.67 Minimally accessible toilet and bathing facilities: grab bars

\*[(a)]\* Each toilet room and bathing facility required to be minimally accessible shall have grab bars meeting criteria of N.J.A.C. 5:23-7.62 mounted at the foot and back of tubs of the length and positioning shown in Figures 7.67a and b.

5:23-7.68 Elevators

(a) Every multi-storied building shall provide elevator(s) that are accessible to and usable by physically handicapped people with the following exceptions:

1. In Use Group B, buildings with less than 6,000 square feet of total gross area at other than the principal entrance level.
2. In Use Groups B and F, mezzanines of less than 10,000 square feet total gross area.
3. Use Group R:
  - i. One to four family residences;
  - ii. In use group R-2, buildings which are less than four stories and which have four or fewer dwelling units per floor;
  - iii. In use group R-2, buildings less than three stories;
  - iv. In use group R-1, two and three story buildings with fewer than 80 units where the first floor provides required barrier-free accommodations.

(b) In Use Group A-5, elevator(s) between decks in grandstands, stadia, and arenas shall be provided.

(c) Freight elevators shall not be considered as meeting the requirements of this section.

5:23-7.69 Technical criteria for elevators\*[:]\*

(a) Elevators \*shall be designed and constructed in accordance with ANSI/ASME A17.1 "Safety Code for Elevators and Escalators" and\* shall meet the technical criteria of N.J.A.C. 5:23-7.70 through 5:23-7.79. \*For additional information see the American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, A17.1, and see also National Elevator Industry, Inc. (NEII) Suggested Minimum Elevator Requirements for the Handicapped.]\*

(b) Elevators shall provide stops at each story of the building, including parking levels, except that stops are not required for stories containing only mechanical equipment.

(c) Elevators shall be of the automatic type and shall not be key operated except if a full time operator is in attendance during all hours that the building is open.

5:23-7.70 Elevators: operation and leveling

Elevators shall be automatic and shall be provided with a self-leveling feature that will automatically bring the car to the floor landing within a tolerance of 1/2 inch under normal loading and unloading conditions. The self-leveling feature shall, within its zone, be entirely automatic and

independent of the operating device and shall correct for over-travel or under-travel and shall maintain the car approximately level irrespective of loading conditions.

5:23-7.71 Elevator door operation

(a) Elevator doors shall be a minimum of 3 feet wide and automatic door controls shall comply with the following requirements:

1. The minimum acceptable time from notification that a car is answering a hall call until the doors of the car start to close shall be as indicated in Table 7.71a.

Table 7.71a  
DOOR TIMING

Distance		Time	
Feet	Meters	(In Seconds)	
0 to 5	1.5	5	
10	3	7	
15	4.5	10	
20	6	13	

i. The travel distance shall be established from a point in the center of the corridor or lobby (maximum of 5 feet) directly opposite the farthest hall button to the centerline of the farthest hoistway entrance. See Figure 7.71b.

2. Doors shall remain fully open for a minimum of five seconds.

3. Doors shall have a reopening device which will function to stop and reopen the car door and adjacent hoistway door in case the car door is obstructed when the door is closing. This reopening device shall also be capable of sensing an object or person in the path of a closing door without requiring contact for activation at a nominal height of 5 inches and 2 feet 5 inches above finished floor. Such devices shall remain effective for a period of not less than 20 seconds. For additional information, see ANSI A17.1 as referenced in Appendix A of the building subcode.

5:23-7.72 Elevator car

(a) The minimum floor areas of elevator cars shall comply with Figures 7.72a and b.

1. Exception: Where existing shaft or structural elements prohibit strict compliance in alteration work, these dimensions may be reduced by the minimum amount necessary, but in no case shall they be less than 4 feet by 4 feet clear minimum car size with a 2 feet and 8 inches minimum door opening.

(b) Car floors shall comply with N.J.A.C. \*5:23-7.16\* \*5:23-7.17\* (Accessible routes, walks and floors). The clearance between the car platform and sill and the edge of any hoistway landing shall be no greater than 1½ inches.

5:23-7.73 Elevators: car controls

(a) Car controls shall be readily accessible from a wheelchair.

(b) Buttons, exclusive of border, shall have a minimum dimension of 3/4 inch, and shall be raised or flush with the operating panel.

(c) Both a visual and audible signal indicating when each call is registered and answered shall be provided.

(d) The highest floor buttons shall be mounted at a maximum 4 feet above the floor and the lowest buttons at a minimum of 2 feet 11 inches above the floor. See Figure 7.73a.

1. Exception: If there is a substantial increase in cost as a result of the 4 foot requirement, the highest floor buttons may be mounted at a maximum of 4 feet 6 inches.

(e) Emergency buttons shall be grouped at the bottom of the panel with their centerlines no lower than 2 feet 11 inches.

(f) All control buttons shall be designated by raised standard alphabet characters for letters, arabic characters for numerals, or standard symbols as shown in Figure 7.73b. For additional information see ANSI A17.1 as referenced in Appendix A of building subcode and see also NEII Suggested Minimum Elevator Requirements for the Handicapped. Raised designations shall be placed to the immediate left of the button to which they apply. Permanently attached or applied plates are acceptable. The call button for the main entry floor shall be located in the left-most column designated with a raised star as shown in Figure 7.73b.

(g) Control panels shall be located as shown in Figure 7.37c and d.

5:23-7.74 Elevators: door jamb markings

(a) Floor designation markings shall be provided at each hoistway entrance on both jambs in compliance with the following:

1. The center lines of characters shall be located 5 feet above finish floor; and

2. Characters shall be a minimum of 2 inches high and shall comply with N.J.A.C. 5:23-7.86 (Signs).

3. Permanently applied plates are acceptable. See Figure 7.74.

## 5:23-7.75 Elevators: lobby call buttons

(a) Lobby call buttons shall:

1. Be mounted with centerlines at 3 feet 6 inches above finish floor. See Figure 7.74.
2. Be a minimum of 3/4 inch in diameter;
3. Have both visual and audible signals indicating when a call is registered and answered;
4. Be raised or flush; and
5. Have the button designating "up" mounted on top.
6. Objects mounted beneath lobby call buttons shall not project into the elevator lobby more than four inches.

## 5:23-7.76 Elevators: hall lanterns

(a) Audible and visual signals shall be provided at each hoistway entrance to indicate car arrival and its travel direction.

1. Audible signals shall sound once for the up direction and twice for the down direction or shall enunciate the words "up" or "down".
2. Visual signs shall:
  - i. Be mounted with their centerlines a minimum 6 feet above finished floor. Refer to Figure 7.74.
  - ii. Have a minimum dimension of 2 1/2 inches;
  - iii. Distinguish between up and down travel directions; and
  - iv. Be visible from the vicinity of call buttons.
3. In-car lanterns mounted on car door jambs and that comply with N.J.A.C. 5:23-7.74 are acceptable.

## 5:23-7.77 Elevators: car position indicator and signal

(a) Audible and visual car position indicators shall be provided within each elevator car as follows:

1. Audible indicators shall:
  - i. Signal as the car passes or stops at each landing. The signal shall exceed the ambient noise level by at least 20 decibels with a frequency below 1,500 Hz; or
  - ii. Provide an automatic verbal announcement.
2. Visual indicators shall:
  - i. Be located above the car operating panel or over the car door;
  - ii. Visually display the floor number as the car passes or stops at a landing;
  - iii. Have characters that are a minimum of 1/2 inch high and that comply with N.J.A.C. 5:23-7.86, except for N.J.A.C. 5:23-7.86(d)2.

## 5:23-7.78 Elevators: illumination levels

Car controls, platform, car threshold, and landing sill shall be illuminated to a minimum of 5 foot-candles.

## 5:23-7.79 Elevators: intercommunication systems

(a) If provided, emergency intercommunication systems shall comply with the following:

1. The highest operable part of the system shall be located no higher than 4 feet above car floor;
2. The system shall be identified with raised lettering or symbols complying with N.J.A.C. 5:23-7.86 (Signs);
3. If the system employs a handset, a 2 foot 5 inch cord length shall be provided;
4. If the system is located in a closed compartment, the compartment door hardware shall conform to N.J.A.C. 5:23-7.85 (Controls and operating mechanisms);
5. Provide a momentary contact button to allow hearing-impaired individuals to summon assistance.

## 5:23-7.80 Platform lifts

(a) Platform lifts shall:

1. Accommodate an occupied wheelchair \*[within the space provision of N.J.A.C. 5:23-7.100 (Human engineering data)]\*. See Figure 7.80.
2. Adjoin an accessible route of travel as specified in N.J.A.C. \*5:23-7.16]\* \*5:23-7.17\*, (Accessible routes, walks and floors), and have a five foot long and five foot wide level, clear area meeting the criteria of N.J.A.C. \*5:23-7.16]\* \*5:23-7.17\* immediately adjacent to the entry and exit points for the lift on each level it serves.
3. Have accessible controls complying with N.J.A.C. 5:23-7.85, (Controls and operating mechanism\*s\*)).
4. Shall meet the technical criteria of N.J.A.C. 5:23-7.81.

## 5:23-7.81 Technical criteria for platform lifts

**\*(a) Platform lifts shall be designed and constructed in accordance with ANSI/ASME A17.1, Part XX, "Inclined Stairway Chairlifts and Inclined and Vertical Wheelchair Lifts" and shall meet the additional technical criteria of this section.\***

\*[(a)] The capacity of a platform lift shall not exceed one person. The rated load of the lift shall not be less than 350 pounds.

(b) The rated speed of lift shall not exceed 40 feet per minute.]\*

\*[(c)]\*\*\*(b)\* The platform shall comply with N.J.A.C. \*5:23-7.22]\* \*5:23-7.23\* (Floor surfaces). If required, a ramp shall be provided for access to the platform. Such ramp shall comply with N.J.A.C. \*5:23-7.23]\* \*5:23-7.24\*.

\*[(d)]\*\*\*(c)\* The device shall be supported in place and maintained so as to prevent any part from becoming loose or displaced. Adequate support shall be provided to maintain the platform of the device in a level position at all times.

\*[(e)] The frame and platform of a device shall be constructed of substantial material capable of withstanding stresses of five times the rated load of the device.]

\*[(f)]\*\*\*(d)\* Guarding around the lift shall be provided as follows:

\*[1.] The area around the top and bottom landings of a lift shall be protected by a barrier at least 42 inches high and shall be equipped with an entrance door or gate;]\*

\*[2.]\*\*1.\* The barrier may be solid, or of open work material less than 2 inches in its longer dimension, and shall be of substantial strength to withstand a lateral force of 250 pounds;

\*[3.] Entrance doors or gates shall be self-closing and self-locking and shall be equipped with an electric contact that will stop the device if the gate is opened;

4. Entrance doors or gates shall be at least 42 inches in height;]\*

\*[5.]\*\*2.\* Maximum pressure required to open the doors or gates shall not exceed eight pounds.

\*[(g)]\*\*\*(e)\* The landings shall be so lighted that the illumination at the landings, when the lift is in service, shall be not less than 5 foot-candles.

\*[(h)]\*\*\*(f)\* The following controls and electrical equipment are required:

1. The operating control shall be of the constant pressure type;

\*[2.] Where suspended by wire rope or chain, a slack rope safety switch shall be provided;

3. Limit switches shall be provided to stop the device at upper and lower terminal landings;]\*

\*[4.]\*\*2.\* Where the device is exposed to the outside elements all operating components shall be enclosed in a weatherproof enclosure;

\*[5.]\*\*3.\* The device shall not be key-operated \*except in the following cases:

i. In buildings or portions thereof of Use Group E, I-1 or I-2, key operation shall be permitted provided that keys are distributed upon request to all physically handicapped occupants and that a key shall be made available at a constantly-attended, accessible location at all times that the building is open to the public.

ii. In buildings or portions thereof of Use Group I-3, key operation shall be permitted only in those buildings or areas not open to the public.

iii. In buildings or portions thereof of Use Group R-2, key operation shall be permitted in buildings or areas open only to residents and their guests provided that keys are distributed upon request to all physically handicapped residents. Key operation shall not be permitted in those buildings or areas designated as common areas.\*

## 5:23-7.82 Drinking fountains and water coolers

(a) If drinking fountains or water coolers are provided, 50 percent of those provided on each accessible floor, but not less than one, shall comply with this section. Accessible drinking fountains and water coolers shall be dispersed throughout the floor.

(b) Accessible drinking fountains and water coolers shall be mounted in clear floor spaces as follows:

1. Cantilevered units shall have a clear space allowing a forward approach as specified in Figures 7.82a and b. Such units shall also be designed and mounted to provide knee space under the unit, that is at least 27 inches high, 30 inches wide, and 17 inches deep.

2. Free standing or built-in units shall have clear space allowing a parallel approach as specified in Figures 7.82c (1 and 2) and d. Knee space is not required for this type of unit.

3. Cantilevered units shall not reduce the clear floor space as required by N.J.A.C. \*5:23-7.19]\* \*5:23-7.20\*.

(c) Water spouts on accessible drinking fountains shall:

1. Be mounted no higher than 3 feet above the finished floor, measured to the water outlet of the spout;

2. Be at the front of the unit and shall direct water flow trajectory to provide easy access to the water flow;

3. Direct water flow at least 4 inches above the unit basin to facilitate cup or glass insertion.

(d) Unit controls shall be front mounted or side mounted near the front edge and shall comply with N.J.A.C. 5:23-7.85 (Controls and operating mechanisms).

5:23-7.83 Telephones

(a) On accessible floors, each separately located public telephone and at least one public telephone in each bank (two or more telephones) shall comply with this section.

(b) Clear floor space shall be provided at each accessible telephone in compliance with Figures 7.83a, b, and c. These clear spaces shall not be restricted by installation of bases, fixed seats, or enclosures.

(c) Telephone equipment shall:

1. Be mounted so that the highest operating control or coin slot is located at a maximum of 54 inches above the finished floor if the phone can be reached by a person in a wheelchair using a parallel approach. If a telephone can only be reached using a forward approach, the highest operating control shall be located at a maximum of 4 feet. See Figures 7.83d, e, f, and g for minimum space requirements and mounting heights;

2. Be equipped with push button controls;

3. Have minimum hand set cord length of 29 inches.

(d) One public telephone in each bank of public telephones shall be equipped with an adjustable volume control for the hearing impaired with instructions for its use.

5:23-7.84 Seating, tables, and work surfaces

(a) If fixed seating or tables are provided, at least **\*[five]\* \*four\*** percent of each shall comply with this section. If work stations are provided, **\*[five]\* \*four\*** percent of the stations and/or **\*[five]\* \*four\*** percent of the lineal footage work surface shall comply with this section.

(b) Seating spaces for people in wheelchairs and tables, counters, or work surfaces shall:

1. Provide a clear floor space to accommodate a single occupied wheelchair, the minimum dimensions of which shall be 2 feet 6 inches and 4 feet long. See Figure 7.84a.

2. Have knee spaces that are at least 30 inches high, 30 inches wide, and 19 inches deep. The clear access space requirement and the knee space requirement may overlap 19 inches. See Figure 7.84b.

3. Have table tops or work surfaces mounted no higher than 34 inches above the finished floor.

4. Adjoin an accessible route of travel or another clear accessible floor space for at least one full, unobstructed side.

5:23-7.85 Controls and operating mechanisms

(a) If controls and operating mechanisms **\***, including any of those found in kitchens and/or on kitchen appliances, **\*** are provided for use by the general public or by building occupants, each shall comply with this section.

(b) Accessible controls and operating mechanisms shall adjoin clear accessible floor space or accessible routes of travel. Controls and operating mechanisms shall be mounted in accordance with approach direction and reach limitations as specified in Figures 7.85a and b.

(c) Controls and operating mechanisms shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than five pounds.

(d) If specialized mechanical, electrical, or process equipment has inherent functional requirements which dictate location or force requirements other than those specified in this section, the provisions of this section **\*[are excepted]\* \*are not applicable\***.

5:23-7.86 Signs

(a) The International Symbol of Accessibility shall be displayed in a manner complying with this section at the following locations:

1. Parking spaces designated as reserved for the handicapped;
2. Passenger loading zones;
3. Accessible entrances;
4. Accessible toilet and bathing facilities, except in individual units in Use Groups I and R.

(b) All informational signs provided shall comply with this section.

(c) Letters and numbers on sign systems shall:

1. Have a width-to-height ratio of between 3:5 and 1:1;
2. Have a stroke width-to-height ratio of between 1:5 and 1:10;
3. Contrast in value with their backgrounds, **\*[preferable]\* \*preferably\*** light letters on a dark background;
4. Have a matte finish on a matte finish background.

(d) Characters on signs shall be:

1. Raised or incised from the background surface 1/32 inch. Symbols and pictographs shall be incised or raised in this manner;
2. Between 5/8 inch and 2 inches high;
3. Block type with sharply defined edges;
4. Provided with at least 1/4 inch stroke width, if incised.

(e) Signs shall be placed in a standardized location throughout a building or facility as follows:

1. Interior signs shall be located alongside of the door on the latch side and shall be mounted at between 4 feet 6 inches and 5 feet 6 inches above finished floor. See Figure 7.86a.

2. Exterior signs shall be installed at entrances and walks to direct individuals to accessible routes and entrances;

3. Exterior signs shall be installed at vehicular entrances to direct disabled motorists to accessible parking areas.

(f) Identification of accessible facilities shall be by means of display of the International Symbol of Accessibility. The symbol shall be displayed as shown in Figures 7.86b and c.

Minimum dimensions for the symbol shall be as follows:

Location	Minimum Size
Interior	2 1/2 inches
Exterior	8 inches

5:23-7.87 Assembly areas

(a) Assembly areas shall comply with this section. Assembly areas shall provide the number of accessible viewing positions as specified in Table 7.87.

1. Size and location of viewing positions. Accessible viewing positions shall:

i. Provide minimum level clear floor or ground areas as shown in Figures 7.87a and b;

ii. Accommodate one occupied wheelchair or one portable seat to accommodate persons with crutches or leg braces;

iii. Be in an adjoining configuration if only two positions are provided. If additional positions are provided, these additional positions may be in single position configurations;

iv. Be an integral part of the seating plan and shall be dispersed throughout the assembly area providing sight lines comparable to those for all seating;

v. Adjoin an accessible route of travel to an accessible entrance;

vi. Have surfaces that comply with N.J.A.C. **\*[5:23-7.22]\* \*5:23-7.23\*** (Ground and floor surfaces);

vii. Exception: In alteration work where it is structurally impossible to alter seating locations to disperse seating throughout, seating may be located in congregate areas as structurally feasible. Seating must adjoin an accessible route.

2. Accessible routes that comply with N.J.A.C. **\*[5:23-7.16]\* \*5:23-7.17\*** (Accessible routes, walks and floors) must be provided to performing areas, including but not limited to stages, arena floors, dressing rooms, locker rooms, and other rooms and spaces required for use of the assembly area.

i. Exception: In alteration work where it is structurally impracticable to alter all performing areas to be on an accessible route, at least one of each type shall be made accessible.

3. Assembly areas shall be provided with a listening system to assist no fewer than two persons with severe hearing loss.

i. If the listening system serves individual seats, such seats shall be located within 50 feet of the **\*[state]\* \*stage\*** or arena. Such locations shall provide a complete view of the stage or arena.

ii. Acceptable types of listening systems include, but are not limited to, audio loops, laser, and radio frequency systems.

TABLE 7.87

Assembly Area Seating Capacity	No. of Accessible Viewing Positions
1-25	1
26-50	2
51-75	3
76-100	4
101-1000	Two percent of total rounded off to next higher whole number, but not less than 5.
Over 1000	20 plus one for each additional 100.

5:23-7.88 Mercantile-fitting/dressing rooms

In each department (for example, sportswear, swimsuits, lingerie, etc.) where fitting rooms are provided, at least one fitting/dressing room shall be made accessible and of a size 5 feet by 5 feet (minimum) with a clear opening of 43 inches minimum. Hardware on fitting room doors shall comply with N.J.A.C. 5:23-7.46.

5:23-7.89 Residential occupancy

\*(a)\* Buildings in Use Groups R-1 and R-2, except as exempted by N.J.A.C. 5:23-7.3, shall be made accessible to handicapped persons as specified in N.J.A.C. \*5:23-7.9 and 7.10\* **\*5:23-7.10 and 7.11\***. N.J.A.C. 5:23-7.90 through 5:23-7.98 delineate technical criteria for accessible units, minimally accessible units and adaptable units.

5:23-7.90 Residential \*accessibility\* **\*accessible\*** units

Residential \*accessibility\* **\*accessible\*** units shall meet all technical criteria of other sections of this subchapter plus the specific requirements of N.J.A.C. 5:23-7.91 through 5:23-7.98.

5:23-7.91 Accessible units: kitchens

(a) Kitchens shall contain a minimum of 5 feet by 5 feet clear floor space that allows either a forward or a parallel approach by a person in a wheelchair to all appliances provided in the kitchen. Toe spaces under cabinets may be counted as clear floor space if such clear space is a minimum of 8 3/4 inches high.

(b) There shall be at least one work station a minimum of 30 inches wide by 24 inches deep meeting knee clearance criteria of N.J.A.C. 5:23-7.84.

(c) All controls for appliances, sinks, and other equipment shall comply with N.J.A.C. 5:23-7.85 (Controls and operating mechanisms).

(d) Sink cabinet\*[s](s) shall be provided with a removable assembly which, when removed, will provide appropriate knee clearance as specified in N.J.A.C. 5:23-7.84. The sink and the counter of the sink cabinet shall be adjustable to a height of 32 inches, measured from the top of the counter to the finished floor.

1. There shall be no sharp or abrasive surfaces under sinks. Hot water and drain pipes under sinks shall be insulated or otherwise covered.

(e) Refrigerators/freezers, if provided, shall be fully self-defrosting.

(f) Ovens shall be self-cleaning.

(g) Wall cabinets shall be installed 15 inches above the counter tops of base cabinets. Shelving within wall cabinets shall be adjustable.

5:23-7.92 Accessible units: closets

Within closets of accessible units, any shelving or clothes rods provided shall be mounted at or adjustable to positions as specified in Figure 7.92.

5:23-7.93 Accessible units: bathrooms

All bathrooms within accessible units shall comply with N.J.A.C. 5:23-7.51.

5:23-7.94 Residential adaptable units

(a) Adaptable units shall meet the following technical criteria:

1. Interior passage and bathroom doors shall provide a clear opening of not less than 30 inches when the door is open 90 degrees as measured between the edge of the door and the latch side stop.

2. The corridor widths within the units shall be a minimum of 36 inches.

**\*3. The following spaces shall be on an accessible route of travel:**

i. **The living area;**

ii. **The kitchen and dining area;**

iii. **One full bathroom;**

iv. **In single level units, a bedroom in one bedroom dwelling units, or two bedrooms in dwelling units having more than one bedroom.**

v. **In multilevel units, a bedroom.\***

5:23-7.95 Adaptable units: kitchens

(a) Kitchens in adaptable units shall be on an accessible route and shall meet the following criteria:

1. Clearances between all opposing base cabinets, counter tops, appliances, or walls shall be 40 inches minimum, except in U-shaped kitchens, where such clearances shall be 60 inches minimum.

\*(b)\*\*2.\* A clear floor space at least 30 inches by 48 inches complying with N.J.A.C. \*5:23-7.16\* **\*5:23-7.17\*** that allows either a forward or a parallel approach by a person in a wheelchair to all appliances in the kitchen shall be provided.

\*(c)\*\*3.\* All controls for appliances, sinks and other equipment shall comply with N.J.A.C. 5:23-7.85 (Controls and operating mechanisms).

\*(d)\*\*4.\* At least one 30 inch section of counter shall provide a work surface that complies with the following requirements:

i. The counter shall be adjustable or replaceable as a unit to provide alternative heights of 28 inches, 32 inches, and 36 inches measured from the floor to the top of the counter surface;

ii. Base cabinets, if provided, shall be removable under the full 30 inches minimum frontage of the counter. The finished floor shall extend under the counter to the wall;

iii. Counter thickness and supporting structure shall be two inches maximum over the required clear area;

iv. A clear floor space 30 inches by 48 inches shall allow a forward approach to the counter. Nineteen inches maximum of the clear floor space required may extend underneath the counter. The knee space shall have a minimum clear width of 30 inches and a minimum clear depth of 19 inches;

v. There shall be no sharp or abrasive surfaces under such counters.

\*(e)\*\*5.\* The sink and surrounding counter shall comply with the following requirements:

i. The sink and surrounding counter shall be adjustable or replaceable as a unit to provide alternative heights of 28 inches, 32 inches, and 36 inches, measured from the floor to the top of the counter surface or sink rim. The total width of sink and counter area shall be 30 inches minimum;

ii. Rough-in plumbing shall be located to accept connections of supply and drain pipes for sinks mounted at the height of 28 inches;

\*[3. The depth of a sink bowl shall be no greater than 6 1/2 inches. Only one bowl of double- or triple-bowl sinks must meet this requirement;]\*

iii. Base cabinets, if provided, shall be removable under the full 30 inch minimum frontage of the sink and surrounding counter. The finished flooring shall extend under the counter to the wall;

iv. Counter thickness and supporting structure shall be 2 inches maximum over the required clear space;

v. A clear floor space 30 inches by 48 inches shall allow forward approach to the sink. Nineteen inches maximum of the clear floor space may extend underneath the sink. The knee space shall have a minimum clear width of 30 inches and a clear depth of 19 inches;

vi. There shall be no sharp or abrasive surfaces under sinks. Hot water and drain pipes under sinks shall be insulated or otherwise covered.

\*(f) Refrigerator/freezers, if provided, shall be fully self-defrosting.

(g) Ovens shall be self-cleaning.]\*

5:23-7.96 Adaptable units: bathrooms

(a) Each bathroom **\*required to be adaptable\*** shall be on an accessible route and shall meet the requirements of this section.

\*(b)\*\*1.\* Doors shall not swing into the clear floor space required for any fixture.

\*(c)\*\*2.\* Water closets shall have the following features:

i. Clear floor space at the water closet shall be as shown in Figure 7.96a. The water closet may be located with the clear area at either the right or left side of the toilet;

ii. The water closet shall be mounted with the top of the flood rim 14 to 15 inches (industry standard) above the finished floor;

iii. Structural reinforcement or other provisions that will allow installation of grab bars shall be provided in the locations shown in Figure 7.96b. If provided, grab bars shall be installed as shown in Figure 7.55c and d;

iv. The toilet paper dispenser shall be installed within reach as shown in Figure 7.96b.

\*(d)\*\*3.\* Lavatory, mirrors, and medicine cabinets shall have the following features:

i. The lavatory and mirrors shall comply with N.J.A.C. 5:23-7.58 and 7.59;

ii. If a cabinet is provided under the lavatory, then it shall be removable to provide the clearances specified in N.J.A.C. 5:23-7.58;

iii. If a medicine cabinet is provided above the lavatory, then the bottom of the medicine cabinet shall be located with a usable shelf no higher than 44 inches above the floor.

\*(e)\*\*4.\* If a bathtub is provided, then it shall have the following features:

i. Clear floor space at bathtubs shall be as shown in Figures 7.61a, b and c;

\*[2. An in-tub seat or a seat at the head of the tub shall be provided as shown in Figures 7.61a, b and c. Seats shall be mounted securely and shall not slip during use;]\*

ii. Structural reinforcement or other provisions that will allow installation of grab bars shall be provided in the locations shown in Figures 7.96c and d. If provided, grab bars shall be installed as shown in Figures 7.67a and b.

iii. Faucets and other controls shall be located as shown in Figure 7.61h and shall comply with N.J.A.C. 5:23-7.85.

\*(f)\*\*5.\* If a shower is provided, it shall have the following features:

i. Shower stall size and clear floor space shall comply with either Figure 7.61d or 7.61e. The shower stall shall be a minimum of 36 inches by 36 inches;

ii. Structural reinforcement or other provisions that will allow installation of grab bars shall be provided in the locations shown in Figure 7.96e or 7.96f;

iii. Faucets and other controls shall be located as shown in Figure 7.96e or 7.96f, and shall comply with 5:23-7.85.

5:23-7.97 Adaptable units: consumer information

(a) To ensure that the existence of adaptable features will be known to the owner or occupant of a dwelling, the following consumer information shall be provided in each accessible dwelling unit for rent or sale:

1. Notification of the alternate heights available for the kitchen counter and sink, and the existence of removable cabinets and bases, under counters, sinks, and lavatories;

2. Notification of the provisions for the installation of grab bars at toilets, bathtubs, and showers;

\*[3. Notification that the dwelling unit is equipped to have a visual emergency alarm installed;]\*

\*[4.]\*\*3.\* Identification of the location where information and instructions are available for changing the height of counters, removing cabinets and bases, installing a visual emergency alarm system, and installing grab bars, and installing a ramp where appropriate;

\*[5.]\*\*4.\* In addition, the renters and buyers of \*[accessible]\* \*adaptable\* dwelling units shall be provided with the following information:

i. Instruction for adjusting or replacing kitchen counter and sink heights and for removing cabinets;

ii. A scale drawing showing the location of adjustable or replaceable counter areas and removable cabinets;

iii. Identification of the location of any equipment and parts required \*[to]\* \*for\* adjusting or replacing counter tops, cabinets, and sinks;

iv. A scale drawing showing methods and locations for the installation of grab bars;

v. Instructions for installing a visual emergency alarm system, if the dwelling unit is equipped for such an installation.

\*[6.]\*\*5.\* Construction documents for the unit shall also include a design for the future modification of the entrance to provide accessibility. Any level platform(s) or ramp(s) included in the design shall meet provisions of N.J.A.C. \*[5:23-7.23]\* \*5:23-7.24\*.

5:23-7.98 Residential minimally accessible units

(a) Units required to be minimally accessible shall be required to meet the following technical criteria:

1. Interior passages and bathroom doors shall provide a clear opening of not less than 30 inches when the door is open 90 degrees as measured between the edge of the door and the latch side stop;

2. The corridor widths within the units shall be a minimum of 36 inches;

3. Kitchens shall have a clear floor space of at least 30 inches by 48 inches adjoining an accessible route of travel or a hallway at least 36 inches wide. This space shall be arranged to allow either a forward or a parallel approach by a person in a wheelchair to all appliances in the kitchen including, but not limited to, the sink, range, oven, refrigerator/freezer;

4. Bathrooms shall comply with the minimal accessibility criteria of N.J.A.C. 5:23-7.63.

5:23-7.99 Alarms

(a) If alarm systems are provided, each shall comply with the following:

1. Audible alarms shall produce a sound pressure level that exceeds ambient room or space noise by 15 decibels or any maximum noise level of 30 second duration by 5 decibels, whichever is greater. Sound levels for alarm signals shall not exceed 120 decibels.

2. If audible alarms are provided, then in addition, a visual alarm device adjacent to or within each exit sign which flashes in conjunction with audible alarms and operates from the same power source shall also be provided. Flash frequency of visual alarms shall be less than 5 Hz. If such alarms use electricity from the building as a power source, then they shall be installed on the same system as the audible emergency alarms. Specialized systems utilizing advanced technology such as tactile alarms may be substituted for visual alarms if equivalent protection is afforded handicapped users of the building or facility.

3. All hotels and motels, regardless of the number of units, shall have available at least one portable visual alarm type smoke detector for the deaf or hearing impaired for each 50 units or less. The proprietor may require a refundable deposit for such portable smoke detector not to exceed the value of the smoke detector. Visual notification of availability shall be provided.

4. Alarm pull stations shall comply with N.J.A.C. 5:23-7.85 (Controls and operating mechanisms).

\*[5:23-7.100 Human Engineering Data]\*

\*[5:23-7.101]\*\*5:23-7.100\* Recreation  
Held for future adoption.

\*[5:23-7.102]\*\*5:23-7.101\* Recreation: definitions  
Held for future adoption.

\*[5:23-7.103]\*\*5:23-7.102\* Recreation: exceptions  
Held for future adoption.

\*[5:23-7.104]\*\*5:23-7.103\* Recreation: route of travel  
Held for future adoption.

\*[5:23-7.105]\*\*5:23-7.104\* Recreation: pools  
Held for future adoption.

\*[5:23-7.106]\*\*5:23-7.105\* Recreation: swimming and skating areas  
Held for future adoption.

\*[5:23-7.107]\*\*5:23-7.106\* Recreation: boating areas  
Held for future adoption.

\*[5:23-7.108]\*\*5:23-7.107\* Recreation: fishing areas  
Held for future adoption.

\*[5:23-7.109]\*\*5:23-7.108\* Recreation: court games  
Held for future adoption.

\*[5:23-7.110]\*\*5:23-7.109\* Recreation: ice rinks and roller rinks  
Held for future adoption.

\*[5:23-7.111]\*\*5:23-7.110\* Recreation: playing fields  
Held for future adoption.

\*[5:23-7.112]\*\*5:23-7.111\* Recreation: golf facilities  
Held for future adoption.

\*[5:23-7.113]\*\*5:23-7.112\* Recreation: ski lifts, aerial tramways, and conveyors  
Held for future adoption.

\*[5:23-7.114]\*\*5:23-7.113\* Recreation: trails  
Held for future adoption.

\*[5:23-7.115]\*\*5:23-7.114\* Recreation: camping sites  
Held for future adoption.

\*[5:23-7.116]\*\*5:23-7.115\* Recreation equipment  
Held for future adoption.

\*[5:23-7.117]\*\*5:23-7.116\* Recreation: equestrian facilities  
Held for future adoption.

All diagrams, except figures 7.95a, b, c, d, and those in section 7.100 Human Engineering Data, (Figures 7.100a through p), have been adopted as part of this subchapter but have not been reproduced herein. Figures 7.12a through 7.34a have been redesignated as Figures 7.13a through 7.35a to correspond with section renumbering.

## EDUCATION

### (a)

#### STATE BOARD OF EDUCATION

##### Curriculum and Instruction

##### Health, Safety and Physical Instruction

##### School Health Services Procedures

##### Adopted New Rule: N.J.A.C. 6:29-4.4

Proposed: August 4, 1986 at 18 N.J.R. 1509(a).

Adopted: October 6, 1986, by State Board of Education,

Saul Cooperman, Secretary.

Filed: October 7, 1986 as R.1986 d.445, **with substantive and technical changes** not requiring additional public notice and comment (See N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 18A:1-1, 18A:4-15, 18A:16-2, 18A:40-3, 18A:40-4 and 18A:40-16.

Effective Date: November 3, 1986.

Expiration Date: March 25, 1990.

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

The department received written commentary concerning the proposed amendment from two individuals. One individual expressed full support for the proposal. The other individual opposed the regulations in their entirety based upon the individual's perception of the nature of HIV infection and the manner of transmission. The writer felt that the proposed regulations are not in accord with the best medical and epidemiological evidence and the advice of the New Jersey Department of Health and the National Center for Disease Control in Atlanta, Georgia. These comments are summarized below:

1. AIDS can be transmitted by insect bites.
  2. Medical staff treating AIDS patients have become infected themselves.
  3. AIDS children can attend school through television without risking infection to other children or themselves.
- The agency disagreed. The proposed new rule was developed in cooperation with the New Jersey Department of Health with the guidance of the Center for Disease Control in Atlanta, Georgia and is expressly based upon the most current knowledge and information regarding HIV infection.

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

6:29-4.4 Attendance at school by HIV (**\*Human Immunodeficiency Virus\***; also known as HTLV-III or LAV) infected children

(a) For pupils with HIV infection who are enrolled or seeking enrollment in a school program, the regulations and procedures in this section shall apply.

(b) Pupils with HIV infection shall not be excluded from attending school unless they manifest those exceptional conditions identified by the State Department of Health and contained in N.J.A.C. 8:61-1.1.

(c) In accordance with N.J.A.C. 8:61-1.1:

1. The presence of HIV infection in a pupil does not constitute reason for exclusion of such pupil from school, nor may a pupil so infected be excluded for reason of his or her own protection against possible exposure to the infectious diseases of others.

2. The presence of HIV infection in and of itself may not serve as a basis **\*[of]\* \*for\*** excluding a pupil by way of classification as eligible for home instruction in accordance with N.J.A.C. 6:28-3.5(e)2.ii.

3. No sibling or other person in the same household as a pupil who has been diagnosed to have HIV infection shall be excluded from attendance at school.

(d) A district board of education must reach a determination on the admissibility of a pupil to school no later than 10 days after the request to admit such pupil.

(e) A district board of education may act to exclude a pupil with HIV infection only when:

1. The district medical inspector, the pupil's parent(s) or guardian(s) and physician agree that he or she manifests those exceptional conditions delineated in N.J.A.C. 8:61-1.1. In such cases, the pupil must be provided an appropriate education pursuant to N.J.A.C. 6:28-1.1 et seq.

2. Conflicting medical opinion exists between the district medical inspector and the pupil's personal physician as to whether the pupil manifests those exceptional conditions set forth in N.J.A.C. 8:61-1.1. In such instances, the procedures delineated in (f) below must be immediately followed. A district board of education may not avoid compliance with the procedures in (f) below by excluding a pupil for reasons other than those listed herein.

(f) If, based upon advice of the district medical inspector, the pupil is deemed to manifest any of the exceptional conditions contained in N.J.A.C. 8:61-1.1 and the pupil's personal physician is in disagreement, the district board of education shall immediately submit a request for a review by the Medical Advisory Panel established by the Department of Health in accordance with the following procedures:

1. When conflicting medical opinion as to the admissibility of a pupil with HIV infection exists, the district board of education shall submit the entire medical record of the pupil and other pertinent information to the county superintendent of schools for transmission to the Department of Education which shall include but not be limited to:

i. All information and data submitted to the district board of education by the pupil's parent(s) or guardian(s) and physician.

ii. A written statement of reasons for denying admission under the exceptional conditions for exclusion contained in N.J.A.C. 8:61-1.1.

iii. An evaluation of current behaviors which specifically **\*[address]\* \*addresses\*** those characteristics which might be a basis for exclusion as contained in N.J.A.C. 8:61-1.1. An evaluation conducted within six months from **\*the\*** date of submission of information to the county superintendent shall be considered as being current.

iv. All medical information, both current and historical, which is available to the district board of education from its medical inspector and the pupil's physician and upon which the district board of education made its determination to exclude the pupil.

(l) A statement of the qualifications/credentials, including board certification, of all experts whose evaluations/reports were reviewed by the district board of education/medical inspector shall be provided.

v. In the case of a classified pupil, full child study team evaluation reports, recommendations, the Individualized Education Program (IEP) and any other pertinent information which is available.

vi. All references to the names of the pupil and parent(s) or guardian(s) must be obliterated when submitted to the county superintendent. The Department of Education shall assign a numerical code number and advise the district board of education of such for all reference purposes.

vii. The district board of education shall provide the parent(s), guardian(s) or other legally responsible party**\*(ies)\* \*with\*** a list of all documents submitted to the county superintendent of schools. Any document so listed and not already in the possession of the parent(s), guardian(s) or legally responsible party**\*(ies)\*** shall be provided by the district board **\*of education\***.

2. Home instruction shall be provided as specified below during the pendency of a commissioner's determination.

i. Home instruction shall commence immediately upon the district board of education's determination to exclude the pupil.

ii. The teacher providing instruction shall be appropriately certified for the subject or level in which instruction is given.

iii. The pupil shall receive a program that meets the requirements of the district board of education for promotion and graduation.

iv. Instruction shall be provided for no fewer than five hours per week. The five hours of instruction per week shall be accomplished in no fewer than three visits by a teacher on three separate days. When instruction is provided by direct communication to a classroom program by telephone or television, such instruction shall be in addition to the basic five hours of instruction by a teacher.

3. Upon receipt of the information required above, the county superintendent shall immediately notify the assistant commissioner, Executive Services of the need for a review by the Medical Advisory Panel and shall transmit to him or her the information submitted by the district medical inspector.

4. The assistant commissioner shall immediately request the designated official within the State Department of Health to convene the Medical Advisory Panel according to N.J.A.C. 8:61-1.1**\*(c)\*** at the earliest possible time and shall transmit the information required in (f)l above to the designated official for panel consideration.

5. The Medical Advisory Panel shall consider all written information submitted by the district board of education and such testimony as may be necessary to render its determination.

i. The district board of education shall be responsible for demonstrating that the pupil exhibits the behavior or manifests the symptoms deemed justifiable for exclusion contained in N.J.A.C. 8:61-1.1(b).

ii. The panel shall call for any oral and/or written information it deems necessary for it to reach a determination.

iii. Each party shall be permitted to submit to the panel any additional written information to provide support for its position.

6. The Medical Advisory Panel shall render a written determination to the commissioner as to whether the district board of education has demonstrated that the exclusion is warranted.

i. The Medical Advisory Panel's written determination shall include, but not be limited to, its conclusions, a statement as to how it reached those conclusions and its reasons for so concluding.

ii. The full details of the Medical Advisory Panel's determination shall be confidential, except to the parties, but a general summary of the conclusions shall be available.

7. The written determination of the Medical Advisory Panel shall be transmitted to the commissioner who shall forward the determination to the parties.

8. Within 10 days of the receipt of the Medical Advisory Panel's written determination the parties may file with the commissioner written exceptions to those findings of the panel which the parties believe to be based upon disputed issues of fact or conclusions of law.

9. The commissioner shall review the determination of the Medical Advisory Panel and the exceptions of the parties and within ten days of the receipt of the exceptions or the expiration of the time for so filing issue a written determination which shall:

i. Direct the immediate enrollment of the pupil into an appropriate educational setting; or

ii. Confirm the district board of education's determination to exclude the pupil from such setting and direct an alternative program of education; or

**\*[iii]**. Direct that the matter be transmitted to the Office of Administrative Law for further determinations which are limited to those areas of material fact in dispute, if the commissioner shall determine that the exceptions raise questions as to disputed material facts. Any hearing into these matters shall be conducted on an expedited basis.]\*

\*iii. Determine that the matter is a contested case and direct that it be transmitted to the Office of Administrative Law for further determinations. If the commissioner determines the matter is a contested case, the exceptions filed by the parties to the Medical Advisory Panel's determination shall constitute the pleadings which shall establish the issues for the proceeding before the Office of Administrative Law. The hearing in the matter shall be conducted on an expedited basis.\*

10. Copies of the commissioner's determination shall be forwarded to the parties, the Commissioner of Health, the Medical Advisory Panel and the county superintendent of schools.

6:29-4.[4]5 Record and reports  
(No change in text.)

6:29-4.[5]6 Nursing services  
(No change in text.)

## HEALTH

### DRUG UTILIZATION REVIEW COUNCIL

(a)

#### Interchangeable Drug Products

##### Adopted Amendment: N.J.A.C. 8:71

Proposed: December 2, 1985, at 17 N.J.R. 2842(a).

Adopted: September 30, 1986 by the Drug Utilization Review Council, James Perhach, Ph.D., Chairman.

Filed: October 3, 1986 as R.1986 d.442 with portions of the proposal **not adopted** and portions **not adopted but still pending**.

Authority: N.J.S.A. 24:6E-6(b).

Effective Date: November 3, 1986.

Expiration Date: April 2, 1989.

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

**No comments received.**

The following products and their respective manufacturers were **adopted**:

Diazepam tabs 2, 5, 10 mg  
Diazepam tabs 2, 5, 10 mg

Barr  
Par

The following products and their respective manufacturers were **not adopted**:

Indomethacin caps 25, 50 mg Superpharm

The following products were **not adopted but are still pending**:

Procainamide tabs slow-release 250, 750 mg	Danbury
Tolbutamide tabs 500 mg	Purepac
Hydralazine/Hydrochlorothiazide caps 25/25, 50/50	Superpharm
Isolorbide dinitrate oral tabs 5, 10, 20 mg	Superpharm
Spironolactone tabs 25 mg/hydrochlorothiazide 25 mg	Superpharm
Chlorpheniramine maleate 8 mg/pseudoephedrine HCl 120 mg caps, slow-release	Graham
Spironolactone tabs 25 mg	P-D
Spironolactone 25 mg/hydrochlorothiazide 25 mg tabs	P-D
Methyldopa 250/hydrochlorothiazide 25 mg tabs	Cord
Methyldopa 500/hydrochlorothiazide 50 mg tabs	Cord
Methyldopa 500/hydrochlorothiazide 30 mg tabs	Cord
Ibuprofen tabs 400, 600 mg	Danbury
Ergoloid mesylates oral tablet 1 mg	Superpharm
Ergoloid mesylates SL tabs 0.5, 1.0 mg	Superpharm
Diazepam tabs 2, 5, 10 mg	Superpharm
Disopyramide caps 100, 150 mg	Chelsea
Methyldopa tabs 250, 500 mg	Cord
Disopyramide phosphate caps 100, 150 mg	Barr
Flurazepam caps 15, 30 mg	Barr
Nalidixic acid tabs 250, 500, 1000 mg	Barr
Oxytriphylline tabs 100, 200 mg	Barr
Propranolol tabs, 10, 20, 40, 60, 80 mg	Barr
Tolazamide tabs 100, 250, 500 mg	Barr

(b)

#### Interchangeable Drug Products

##### Adopted Amendment: N.J.A.C. 8:71

Proposed: June 2, 1986 at 18 N.J.R. 1167(a).

Adopted: September 30, 1986 by the Drug Utilization Review Council, James Perhach, Ph.D., Chairman.

Filed: October 3, 1986 as R.1986 d.443 with portions of the proposal **not adopted** and portions **not adopted but still pending**.

Authority: N.J.S.A. 24:6E-6(b).

Effective Date: November 3, 1986.

Expiration Date: April 2, 1989.

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

**No comments received.**

The following products and their respective manufacturers were **adopted**:

Amitriptyline/perphenazine 2/10, 2/25 mg	Bolar
Amitriptyline/perphenazine 4/10, 4/25 mg	Bolar
Diazepam tabs 2, 5, 10 mg	Duramed
Indomethacin caps 25, 50 mg	Bolar
Methyldopa tabs, 125, 250, 500 mg	Lederle
Methyldopa/HCTZ tabs 250/25	Purepac
Propranolol HCl tabs 10, 20, 40, 80 mg	Mylan
Spironolactone tabs 25 mg	Purepac

The following product and its manufacturer was **not adopted**:  
Nifedipine caps 10 mg Miles

The following products were **not adopted but are still pending**:

Chlorthalidone tabs 25 mg	Purepac
Chlorthalidone tabs 50 mg	Purepac
Cholestyramine for susp 4 g/packet	Pharm. Basics
Clonidine HCl tabs 0.1, 0.2, 0.3 mg	Purepac
Clonidine tablets 0.1, 0.2, 0.3 mg	Bolar
Dexchlorpheniramine maleate tabs 2 mg	Sidmak
Estropipate tabs 1.5, 3.0 mg	Pharm. Basics
Furosemide tabs 80 mg	Roxane
Haloperidol tabs 0.5, 1, 2, 5, 10 mg	Purepac
Hydromorphone tabs 2 mg, 4 mg	Roxane
Hydroxyzine HCl tabs 10, 25, 50 mg	Sidmak
Ibuprofen tabs 200, 400, 600 mg	Purepac
Ibuprofen tabs 800 mg	Boots
Indomethacin caps 25, 50 mg	Purepac
Lactulose syrup 10 g/15 ml	Alra
Lithium carbonate caps 300 mg	Bolar
Lorazepam tabs 0.5, 1.0, 2.0 mg	Duramed
Lorazepam tabs 0.5, 1.0, 2.0 mg	Par
Lorazepam tabs 1 mg, 2 mg	Pharm. Basics
Lorazepam tabs 2 mg	Bolar
Lorazepam tabs 2 mg	Purepac
Methyldopa tabs 250, 500 mg	Duramed
Methyldopa/HCTZ 250/15	Purepac
Methyldopa/HCTZ tabs 500/30	Purepac
Metoclopramide tabs 10 mg	Bolar
Metoclopramide tabs 10 mg	Watson
Metronidazole tabs 250, 500 mg	Watson
Nitrofurantoin macrocrys. caps 50, 100 mg	Bolar
Potassium Cl extend. rel. tabs 8, 10 mEq	Alra
Potassium Cl extended rel tabs 8 mEq	Copley
Potassium Cl powder 20 mEq/packet	Alra
Potassium bicarb efferves tab 25 mEq	Alra
Potassium bicarb. effervescent tab 25 mEq	Altergon
Propoxyphene naps/APAP tabs 100/650	Purepac
Propranolol HCl tabs 10, 20, 40, 60, 80	Purepac
Propranolol HCl tabs 10, 20, 40, 80 mg	Watson
Propranolol tabs 10, 20, 40, 60, 80 mg	Bolar
Sucralfate tabs 1.0 g	Pharm. Basics
Temazepam caps 15, 30 mg	Bolar
Tolazamide tabs 100, 250, 500 mg	Bolar
Tolazamide tabs 250, 500 mg	Cord
Tolbutamide tabs 250, 500 mg	Bolar
Trazodone HCl tabs 500, 100 mg	Danbury

Trifluoperazine tabs 5 mg  
Valproic acid syrup 250 mg/5 ml  
Verapamil HCl tabs 80, 120 mg  
Verapamil tabs 80, 120 mg  
Verapamil tabs 80, 120 mg

Bolar  
Alra  
Danbury  
Bolar  
Purepac

## HUMAN SERVICES

### (a)

#### DIVISION OF MENTAL HEALTH AND HOSPITALS

##### Clinical Review Procedures for Special Status Patients

##### New Rule: N.J.A.C. 10:36-2

Proposed: December 16, 1985 at 17 N.J.R. 2951(a).

Adopted: October 14, 1986 by Drew Altman, Ph.D.,

Commissioner, Department of Human Services.

Filed: October 14, 1986, as R.1986 d.449, with **substantive changes** not requiring additional public notice. (See N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 30:1-12.

Effective Date: November 3, 1986.

Expiration Date: August 18, 1991.

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

The Division of Mental Health and Hospitals received written comments on the proposed new rule from one organization (the Public Advocate's Division of Mental Health Advocacy). The written comment is on file and available for inspection at the Division of Mental Health and Hospitals.

The Division of Mental Health and Hospitals has carefully reviewed the written comment received. The issues raised by the commenter and the Division's responses are discussed below.

The changes made on adoption are a result of the agency's review of its internal procedures and of the public comments received.

COMMENT: The proposed rule establishes administrative procedures which will violate a patient's statutory right to "treatment in the least restrictive conditions necessary to achieve the purposes of treatment" by permitting the treatment team's intentions for individual patients to be overridden, altered or delayed.

RESPONSE: This is not violated since the procedures are essentially part of the clinical review process to determine what "conditions are necessary to achieve the purposes of treatment."

COMMENT: The rule improperly permits the Committee to usurp a strictly judicial role regarding a patient's liberty.

RESPONSE: The procedures describe a treatment decision process appropriate for hospital staff.

COMMENT: The rule adds an unnecessary layer of review without justifiable addition to the quality of the deliberation or reduction in the risk of an erroneous determination.

RESPONSE: The additional deliberation is necessitated by the violent history or potential of these patients.

COMMENT: The rule is mischaracterized as a "second clinical opinion."

RESPONSE: The Division accepts this comment and has deleted the characterization of these procedures as a "second clinical opinion."

COMMENT: The rule provides for a clinical decision-making process without any possibility of participation by the patient whose treatment plan is being reviewed.

RESPONSE: Patients are invited, and even expected, to participate in their own treatment team meetings where treatment plans are formulated. A requirement has been added that whenever the patient wants his or her perspective on the privilege request shared with the Committee, the treatment team must forward either the patient's own statement or a summary of his/her opinion on the issue to the Committee.

COMMENT: The rule establishes no procedures for reviewing treatment team decisions to increase, or not to decrease, a patient's level of supervision.

RESPONSE: Patients can use each hospital's grievance procedure for this purpose.

COMMENT: The rule lacks a provision providing patients with a right to petition or appeal when decisions by either the treatment team or the Committee do not offer the least restrictive condition available.

RESPONSE: Patients have a right to the "least restrictive conditions necessary to achieve the purposes of treatment," not the "least restrictive condition available."

COMMENT: The rule lacks a provision that if a patient's criminal charges have been dismissed nor "not Guilty By Reason of Insanity" or "Incompetent to Stand Trial" status has been removed, then their "special status" accordingly will be removed.

RESPONSE: The Division accepts this comment and has added a provision addressing this concern.

COMMENT: The rule is vague and subjective in applying the process to patients who manifest or are suspected of certain defined criminal behaviors.

RESPONSE: The Division accepts this comment to the point of agreeing that defining special status patients in terms of "suspected" criminal behavior is unwarranted and that element has been deleted from the definition. "Potential for serious violent behavior" has been substituted as a more appropriate clinical criteria.

COMMENT: The rule should require that at least one member of the individual patient's treatment team be included on the Committee for review of that particular patient.

RESPONSE: A provision has been added requiring the Committee to meet with one of the patient's treatment team members familiar with the current privilege recommendation as part of their review process.

COMMENT: The rule results in far too much time being spent reviewing a treatment team's original recommendation, as much as 19 working days.

RESPONSE: The Division accepts this comment and has revised the time limits on the process. The 'ten working day' time limit for treatment teams to forward information to the Committee has been deleted. Once the Committee receives the treatment team proposal, a response to the treatment team recommendation will be completed within seven working days. Moreover, the forwarding of proposals involving "Not Guilty By Reason of Insanity" patients to the Division's Chief Psychiatric Consultant has been discontinued. This will also expedite the process in many cases.

COMMENT: The rule lacks a provision automatically implementing the treatment team's recommendation if the recommendation is not reviewed within the adopted time frame.

RESPONSE: Accountability for compliance with the stated time limits must be handled separately from treatment plan decisions. Non-compliance with the procedure's stated time limits may be grieved to the hospital's Chief Executive Officer.

COMMENT: The rule lacks a provision granting special status patients a right of appeal to the Committee if their requested increases in privilege status or requests for discharge are denied or unreasonably delayed by the treatment team.

RESPONSE: This 'appeal' is available through each hospital's patient grievance procedure.

COMMENT: The rule lacks a statement acknowledging that Committee decisions shall not operate to override any court order or infringe upon any rights guaranteed by law.

RESPONSE: The Division accepts this comment and has added a statement to this effect.

COMMENT: The rule permits treatment teams 10 days, which is excessive, to prepare and forward information to the Committee after its initial notification of the Committee.

RESPONSE: The Division accepts this comment and has deleted the sentence giving this permission.

COMMENT: The rule lacks articulated criteria to be used by either treatment teams or Committee members in reaching their decisions.

RESPONSE: This rule articulates a procedure; the criteria involves the exercise of professional clinical judgement.

COMMENT: The rule should be amended to require two, rather than one, Committee members who are clinicians to interview the patient.

RESPONSE: The rule has been amended to make interviewing of the patient by any Committee member discretionary rather than mandatory. Treatment teams have a responsibility to have the information they provide to the Committee contain their opinion as to why the patient's clinical condition justifies their proposal. This procedure serves a quality assurance function rather than a 'second clinical opinion' function.

COMMENT: The rule should provide that the Committee consider the team's recommendation "presumptively valid."

RESPONSE: The deletion of the characterization of the rule as a "second clinical opinion" helps clarify that the Committee's role is not to usurp the treatment team's expertise.

COMMENT: The rule should not permit the Clinical Director a right to veto the Committee's recommendations.

RESPONSE: The rule is intended to outline a procedure that is collaborative rather than authoritarian in nature.

COMMENT: The rule irrationally singles out "Not Guilty by Reason of Insanity" patient recommendations for review by the Chief Psychiatric Consultant at DMH&H.

RESPONSE: The Chief Psychiatric Consultant at DMH&H will no longer review individual patient recommendations. His role has been defined to focus on ensuring the proper functioning of the Committee and Clinical Director review process at the hospitals.

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

## SUBCHAPTER 2. CLINICAL REVIEW PROCEDURES FOR SPECIAL STATUS PATIENTS

### 10:36-2.1 Statement, purpose and scope

(a) The Division of Mental Health and Hospitals of the Department of Human Services recognizes that the management of some patients within our hospital system requires a more comprehensive and complete evaluation of the clinical, judicial and administrative factors relevant to treatment plan development and implementation.

(b) The purpose of this procedure is to establish a mechanism which provides a comprehensive review of the clinical treatment and management of special status patients through insuring appropriate treatment interventions, levels of supervision and planning at the time of movement to less restrictive settings, decrease of structures and security, or discharge.

(c) Special status patients are those who:

1. Have been charged with or are convicted of one of the following offenses: murder, manslaughter, sexual assault, criminal sexual contact, first degree robbery, aggravated assault, aggravated arson, weapons offense or kidnapping.

2. Have been adjudicated "Not Guilty By Reason of Insanity" or "Incompetent to Stand Trial" for one of the above enumerated crimes.

3. Have been determined by their treatment team to be clinically and behaviorally appropriate for consideration of the clinical review process **\*[when behaviors indicated in above are manifest or suspected.]\*** **\*because they possess the potential for serious violent behavior.**

4. **If a patient's criminal charges have been dismissed or NGRI or IST status removed, their special status designation shall be removed unless they meet the standard in (c)3 above.\***

### 10:36-2.2 Committee composition

(a) **\*[The composition of the Clinical Review Committee will minimally include: Medical Director or Chief of Psychiatry, the Director of Psychology, the Director of Nursing Services, the Director of Rehabilitation Services and the Director of Social Services.]\***

**\*The Clinical Director will appoint the committee members and will designate a Committee Chairperson. The committee shall minimally include a psychiatrist.\***

(b) **\*[Committee members will be appointed by the Clinical Director who may at his discretion appoint additional members for special or permanent participation as necessary and appropriate. The Medical Director or Chief of Psychiatry will serve as Committee Chairperson.]\***

**\*The composition of the Special Status Patient Clinical Review Committee should include: Medical Director or Chief of Psychiatry, the Director of Psychology, the Director of Nursing Services, the Director of Rehabilitation Services and the Director of Social Services.\***

### 10:36-2.3 Procedures

(a) **\*[The treatment team will notify the Chairperson of the Clinical Review Committee of a patient whose status requires/warrants clinical review.]\***

**\*Special status patients will be invited, and even expected, to attend their own treatment team meetings and thus involved in the privileging recommendation process from the start.\***

(b) **\*[The treatment team will prepare information and forward it to the Committee Chairperson/designee within 10 working days.]\***

**\*The treatment team will prepare and forward the information concerning the patient whose status requires clinical review to the Committee Chairperson/designee. Whenever a privileging recommendation is being forwarded to the committee and the special status patient has an opinion that differs from his or her treatment team, either a statement by the patient or a summary of the patient's opinion must be included in the information forwarded to the committee.\***

(c) **\*[The Committee Chairperson will designate at least one committee member to interview the patient prior to the Committee meeting.]\***

**\*The Committee Chairperson may designate a committee member to interview the patient prior to the committee review whenever, in his or her judgement, the situation warrants. One of the special status patient's treatment team members familiar with the current privilege recommendation must meet with the committee during their review process.\***

(d) The committee will meet and review the team proposals within three working days of receipt of the information.

(e) The Committee Chairperson or designee will forward the committee's recommendations in response to the team proposals to the Clinical Director within two working days.

(f) The Clinical Director will review the committee recommendations regarding endorsement of the team proposals and respond to the Chairperson within two working days. **\*The Clinical Director may either endorse the committee recommendation, withhold endorsement or require additional information prior to making an endorsement decision. One of the above responses must be made to the Committee Chairperson within two working days. All recommendations must be endorsed by the Clinical Director prior to implementation.\***

**\*[(g) All proposals regarding patients adjudged "Not Guilty by Reason of Insanity" must be forwarded by the Clinical Director to the Division of Mental Health and Hospitals' Chief Psychiatric Consultant for review as well as any others warranting such review in the opinion of the Clinical Director.**

(h) The Division of Mental Health and Hospitals' Chief Psychiatric Consultant will respond within 2 working days.]\*

### 10:36-2.4 Clinical Review Committee Coordinator

(a) Each hospital will designate a staff person to be responsible for coordination of all activities relative to the functioning of the Clinical Review Committee. The responsibilities of the coordinator will include:

1. Consultation with treatment teams regarding preparation of information to be submitted to the Clinical Review Committee.

2. Maintaining files on all cases presented to the Clinical Review Committee.

3. Functioning as executive secretary to the Clinical Review Committee (i.e. recording, distributing and filing of minutes).

4. Responsible for the coordination of information flow among treatment teams, Clinical Review Committees, hospital administration and Central Office regarding special or extenuating circumstances, current or pending legislation, etc., relative to cases under consideration of the Clinical Review Committee.

### 10:36-2.5 Quality assurance activities

(a) The Clinical Director, Chief Psychiatric Consultant for the Division of Mental Health and Hospitals, and Central Office **\*professional\*** discipline leadership will periodically attend Clinical Review Committee meetings in each of the institutions in order to monitor the thoroughness and quality of clinical recommendations and compliance with this policy and procedure.

(b) The minutes of Clinical Review Committee meetings in each of the hospitals will be routinely forwarded to the Division of Mental Health and Hospitals Chief Psychiatric Consultant **\*[for review.]\*** **\*to enable him or her to monitor and ensure the proper functioning of the hospital review process.\***

(c) **\*The Division of Mental Health and Hospitals' Chief Psychiatric Consultant may utilize whatever other mechanisms he or she deems appropriate to ensure the proper functioning of the hospital review process.\***

**(a)****DIVISION OF PUBLIC WELFARE****Public Assistance Manual****Establishing Program Eligibility in AFDC; Continuing Eligibility in AFDC; Work Incentive Program (WIN); Legally Responsible Relatives (LRRs)****Adopted Amendments: N.J.A.C. 10:81-3.17, 3.18, 5.9 and 5.10**

Proposed: August 4, 1986 at 18 N.J.R. 1513(a).

Adopted: October 1, 1986, by Drew Altman, Ph.D.,

Commissioner, Department of Human Services.

Filed: October 2, 1986 as R.1986 d.440 **without change**.

Authority: N.J.S.A. 44:7-6; 44:10-3; 45 CFR 224.20(c)(4); 45 CFR 224.50(b); and 45 CFR 233.100.

Effective Date: November 3, 1986.

Expiration Date: October 15, 1989.

**Summary of Public Comments and Agency Responses:****No comments received.****Full text** of the adoption follows.

10:81-3.17 Continued absence of the parent from the home

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

(c) "Continued absence from the home" (see N.J.A.C. 10:81-2.7(d)) may be for any reason. The following are some of the ways to establish absence:

1.-4. (No change.)

5. Military service: A parent who is separated from his or her family because of uniformed service shall not be considered "continuously absent from the home" if such absence is occasioned solely by reason of active uniformed service. If, however, continued absence would exist irrespective of performance of uniformed service, (e.g., desertion of the family before or after entry into uniformed service or divorce) eligibility for AFDC-C may be established. Such findings shall be noted in the income maintenance file.

i. (No change.)

ii. "Uniformed service" is defined to mean the Army, Navy, Air Force, Marine Corps, Coast Guard, Environmental Sciences Services Administration, Public Health Service of the United States, and the National Guard.

6.-7. (No change.)

(d)-(g) (No change.)

10:81-3.18 Employment and training requirements

(a)-(g) (No change.)

(h) WIN Deregistration shall be accomplished as follows:

1. (No change.)

2. The IM worker will initiate deregistration by the completion and transmittal of Part A of Form DR-1 to ES/WIN within five working days of any of the following actions:

i.-ii. (No change.)

iii. WIN status changes from mandatory to exempt (see N.J.A.C. 10:81-5.9(c)).

(i) WIN Employment and Grant Reduction Record: The WIN Employment and Grant Reduction Record (WEGRR) is to be completed when:

1.-2. (No change.)

3. A registrant's AFDC-C or -F grant is reduced as a result of the loss of either the one-third or \$30.00 disregard provided at N.J.A.C. 10:82-4.4(c) and (d);

4. (No change in text.)

5. (No change in text.)

(j) (No change.)

(k) To qualify for AFDC-F, the following criteria must be met:

1.-2. (No change.)

3. The principal earner has not voluntarily terminated employment within the last 30 days;

4. The principal earner has not refused to register with the WIN program (WIN counties), unless exempt;

5. The principal earner has not refused to register with the Division of Employment Services (non-WIN counties), unless exempt according to (b)2 above;

6. The principal earner has not refused to apply for or accept unemployment compensation for which he or she qualifies;

7.-8. (No change.)

9. Form PA-22, Employment Criteria for AFDC-F Families, is to be used by the CWA in determining eligibility for AFDC-F. Form PA-22 may be reproduced by each CWA. After the initial application, the CWA shall reexamine Form PA-22 whenever the circumstances surrounding employment in a two-parent household change.

10. (No change.)

(l) (No change.)

10:81-5.9 Registration for WIN program in AFDC-C and -F

(a) (No change.)

(b) For persons who were previously exempt and now must register, the IM worker will complete and transmit to ES/WIN Part A of Form R-1, WIN Registration Inter-Agency Referral. For cases involved in WIN-Interface, Form R-1 is not to be completed. WIN Interface is the automated exchange of WIN registration information between the Department of Labor (DOL) and the Division of Public Welfare (DPW). If a person was previously registered as a volunteer, a letter shall be sent by the CWA to such individual advising that he or she is now a mandatory WIN registrant and, as a result, is subject to appropriate WIN sanctions. The letter shall also state the reason for loss of exempt status.

(c) For persons who were previously required to register but are now exempt, the CWA shall send a letter advising that he or she has been deregistered. The letter shall also advise that he or she may choose to register voluntarily and that he or she may withdraw such registration at any time without adversely affecting his or her assistance payments, provided WIN status does not change in a way which would again require WIN registration. The letter shall also state the reason for his or her change to exempt status and deregistration.

(d)-(g) (No change.)

10:81-5.10 Legally responsible relative's capacity to support

(a) Each legally responsible relative's capacity to support shall be reevaluated at least once in each six-month period and adjustments made as indicated (see N.J.A.C. 10:81-3.35).

1. For cases participating in monthly reporting, each legally responsible relative's capacity to support shall be reevaluated as frequently as once in each six-month period, but no later than once in each 12-month period.

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

**LAW AND PUBLIC SAFETY****(b)****STATE ATHLETIC CONTROL BOARD****Point Scoring System****Adopted Amendment: N.J.A.C. 13:46-8.19**

Proposed: August 4, 1986 at 18 N.J.R. 1515(c).

Adopted: September 23, 1986 by State Athletic Control Board,

Larry Hazzard, Commissioner.

Filed: October 6, 1986 as R.1986 d.444, **without change**.

Authority: N.J.S.A. 5:2A-7(c).

Effective Date: November 3, 1986.

Expiration Date: June 3, 1990.

**Summary of Public Comments and Agency Responses:****No comments received.****Full text** of the adoption follows.

13:46-8.19 Point system scoring

(a) The point system of scoring shall govern the decision and be rendered by three judges.

(b) The judges must mark their scorecards in ink or in indelible pencil at the end of each round, with the winner of a round receiving 10 points in the boxer's column, and the loser receiving nine points or less in his column. An even round shall be indicated by scoring 10 points for each boxer.

1. If the boxer is just slightly superior to his opponent in a round, 10 points must be scored for such boxer, and the score of nine points must be marked down for his opponent.

2. If a boxer wins a round decisively, 10 points must be scored for such boxer, and the score of eight points must be marked down for his opponent.

3. If a boxer wins a round decisively with a knockdown or knock-downs, 10 points must be scored for such boxer, and the score of seven points must be marked down for his opponent.

4. If neither boxer can be judged the winner of a round, 10 points must be scored for each boxer.

(c) If the referee penalizes a boxer for a foul during a round;

1. One point shall be deducted by the judges from that boxer's score for that round.

i. At the discretion of the referee, where the foul committed by the boxer is flagrant, repeated, or has the potential to cause injury to his opponent, the referee may order that more than one point be deducted from the boxer's score for that round.

2. The referee shall notify the judges and the announcer of the penalty imposed, and the announcer shall declare it to the public at the end of that round.

(d) At the conclusion of the bout, the decision must be awarded to the boxer with the greatest number of points on the judges' scorecards. If the points for each boxer on the judges' scorecards are even, the decision shall be a draw.

(e) At the conclusion of each round, the judges shall submit their scorecards to the Commissioner or his representative. At the conclusion of the bout, the points shall be tallied by the Commissioner or his representative and given to the announcer who shall announce the decision from the ring.

(f) In all boxing contests, when the decision is announced from the ring, the announcer shall call out the total points credited to each boxer by each judge.

(g) Decisions shall be given in all bouts.

## TRANSPORTATION

### (a)

#### TRANSPORTATION OPERATIONS

##### Speed Limits

##### Route 169 in Hudson County

##### Adopted Amendment: N.J.A.C. 16:28-1.92

Proposed: September 8, 1986 at 18 N.J.R. 1790(b).

Adopted: October 9, 1986, by John F. Dunn, Jr., Assistant Chief Engineer, Traffic and Local Road Design, Department of Transportation.

Filed: October 9, 1986 as R.1986, d.446 **without change**.

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

Effective Date: November 3, 1986.

Expiration Date: November 7, 1988.

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

**No comments received.**

Full text of the adoption follows.

16:28-1.92 Route 169

(a) The rate of speed designated for the certain parts of State highway Route number 169 described in this section shall be established and adopted as the maximum legal rate of speed thereat:

1. For both directions of traffic in the City of Bayonne, and the City of Jersey City, Hudson County:

i. ZONE 1: 40 miles per hour between 500 feet south of 30th Street and Prospect Avenue (milepost 2.75 to 3.2); thence

ii. ZONE 2: 45 miles per hour between Prospect Avenue and Pulaski Street (milepost 3.2 to 4.0); thence

iii. ZONE 3: 40 miles per hour between Pulaski Street and Garfield Avenue (milepost 4.0 to 4.9); thence

iv. ZONE 4: 35 miles per hour between Garfield Avenue and 2,112 feet north of the northernmost leg of John F. Kennedy Boulevard (milepost 4.9 to 5.73).

## TRANSPORTATION SERVICES

### (b)

#### Transportation of Hazardous Materials

##### Adopted Amendments: N.J.A.C. 16:49-1.3, 1.4, 1.5, 1.6; 16:49-2.1, Appendix

Proposed: September 8, 1986 at 18 N.J.R. 1791(a).

Adopted: October 9, 1986, by James A. Crawford, Assistant Commissioner for Transportation Services & Planning, Department of Transportation.

Filed: October 9, 1986 as R.1986 d.447 **with technical changes** not requiring additional public notice (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 27:1A-5, 27:1A-6, Hazardous Materials Transportation Act, Pub. L. 93-633 (49 U.S.C. 1801 et seq.), N.J.S.A. 39:5B-25 et seq. (P.L. 1983 Chapter 401) and N.J.S.A. 39:5B-30 et seq. (P.L. 1985 Chapter 415).

Effective Date: November 3, 1986.

Expiration Date: March 18, 1990.

##### 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]\*).

16:49-1.3 General requirements

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

(g) Any portion of the Federal regulations governing transportation of hazardous materials by air, water, or pipeline within Parts 107, 171, 172, 173, 174, 177, 178 and 179 are hereby excluded and not adopted by the Department.

(h) This chapter establishes minimum standards which must be complied with in conjunction with the transportation of hazardous materials. Therefore, in the event of a conflict between this chapter and any other State regulation, the stricter, more stringent standard shall apply and govern. This chapter is intended to complement, and not to limit those related statutory and regulatory provisions of the New Jersey Department of Environmental Protection regarding hazardous wastes, radioactive materials, spill compensation and control.

(i) This chapter may be amended from time to time by the New Jersey Department of Transportation. The federal "Hazardous Materials Regulations" referenced herein, are adopted as of November 1, 1985. The "Federal Motor Carrier Safety Regulations" as referenced in Section 177.804 are adopted as of October 31, 1983. The New Jersey Department of Transportation intends to amend these regulations as new Federal publications become available.

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

(l) The provisions and requirements of these regulations as well as the federal regulations adopted by reference and made a part hereof are applicable to interstate as well as intrastate transporters of hazardous materials unless specifically stated otherwise. However, transporters of combustible liquids excluded under 49 C.F.R. 173.118a(a) as modified (See Appendix) and 49 C.F.R. 173.118a(b) as modified (See Appendix) are subject only to the requirements specified therein.

1. (No change.)

2. A transporter carrying a combustible liquid categorized as a hazardous substance or waste under 49 C.F.R. 171.8 or 49 C.F.R. 172.10 (see Appendix) in packaging having a rated capacity of 110 gallons or less is subject only to the requirements specified within 49 C.F.R. 173.118a(b)(1) through (7) as modified in the appendix; it is not subject to any other provision of the adopted federal regulations. A transporter carrying combustible liquids categorized as a hazardous substance or waste in packaging having a rated capacity greater than 110 gallons, a portable tank, cargo tank or tank car is subject to all applicable provisions of this regulation including the adopted Federal regulations.

16:49-1.4 Penalty for violation of these provisions

(a) The penalty for a violation of these provisions including the Federal regulations incorporated by reference in N.J.A.C. 16:49-2 and herein shall be as specified under N.J.S.A. 39:5B-25 et seq., as amended.

(b) (No change.)

16:49-1.5 Document availability

(a) Copies of the federal "Hazardous Materials Regulations", Title 49, Code of Federal Regulations, Parts 171, 172, 173, 174, 177, 178, and 179, revised as of November 1, 1985, and referenced herein, may be purchased from the places listed below. The "Federal Motor Carrier Safety Regulations," Title 49, Code of Federal Regulations, Parts 390 through 397, revised as of October 31, 1983, and adopted by reference in Section 177.804 of the Appendix to the Regulations Regarding the Transportation of Hazardous Materials may also be purchased at the places listed below:

1.-3. (No change.)

(b) (No change.)

(c) Copies of Title 49, CFR volumes noted above, are further available for review at the New Jersey Department of Transportation, Office of Freight Services, 1035 Parkway Avenue, Trenton, New Jersey 08625. Hours at this office are 8:30 A.M. to 5:00 P.M., Monday through Friday. This office may be contacted at (609) 530-2821 or 530-2822.

16:49-1.6 Assistance

For general assistance and procedural questions in matters related to New Jersey's Hazardous Materials Regulations, as adopted herein, contact:

Office of Freight Services  
New Jersey Department of Transportation  
1035 Parkway Avenue  
CN 600  
Trenton, New Jersey 08625  
(609) 530-2821 or 530-2822

For assistance in matters related to enforcement or interpretation of the Hazardous Materials Regulations, contact:

\*[Office of]\* Hazardous Materials \*Transportation Unit\*  
\*[Transportation Compliance and Enforcement]\*  
New Jersey \*[Department]\*\*Division\* of State Police  
P.O. Box 7068  
West Trenton, New Jersey 08625  
(609) 882-2000, extension 2581 or 2582

16:49-2.1 Parts adopted by reference

(a) The New Jersey Department of Transportation, pursuant to N.J.S.A. 39:5B-25 et seq., hereby incorporates by reference the following portions of Title 49—Transportation, Code of Federal Regulations, revised as of November 1, 1985. The parts adopted by reference are found in Chapter 1, referred to as "Research and Special Programs Administration, Department of Transportation." These parts are detailed in the APPENDIX TO THE REGULATIONS REGARDING THE TRANSPORTATION OF HAZARDOUS MATERIALS. The portions adopted are summarized below.

1. (No change.)

2. Part 172 Hazardous Materials Tables and Hazardous Material Communications Regulations. (Modifications are made to Section 172.3.)

3. (No change.)

4. Part 174, Carriage by Rail.

5.-7. (No change.)

APPENDIX TO THE REGULATIONS REGARDING THE  
TRANSPORTATION OF HAZARDOUS MATERIALS

...  
Section 171.12a Canadian shipments and packagings  
...

Section 171.15 is revised to state the following: (Note: Paragraph (a) has been changed and paragraph (d) has been added.)

(a) At the earliest practicable moment, such carrier who transports hazardous materials (including hazardous wastes) shall give notice in accordance with paragraph (b) or paragraph (d) of this section after each incident that occurs during the course of transportation (including loading, unloading and temporary storage) in which as a direct result of hazardous materials:

(1)-(6) (No change.)

(b) Each notice required by paragraph (a) of this section shall be given to the U.S. Department of Transportation by telephone (toll-free) on 800-424-8802. Notice involving etiologic agents may be given to the Director, Center for Disease Control, U.S. Public Health Service, Atlanta, Georgia, Area code (404) 633-5313, in place of the notice to the U.S. Department of Transportation or (toll call) on 202-426-2675. Each notice must include the following information:

(1)-(7) (No change.)

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

Section 171.16—Detailed hazardous materials incidents reports. (New Jersey Revision as noted below.)

Section 171.16 is revised to state the following: (Note: Paragraph (a) has been changed and paragraph (e) has been added.)

(a) (No change.)

(b) Each carrier making a report under this section shall send that report to the Information Systems Manager, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

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

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

Subpart A—General

Section 172.1 Purpose and scope.

Section 172.3 Applicability.

(a) (No change.)

(b) When a person other than one of those provided for in paragraph (a) of this section, performs a packaging, labeling or marking function required by this part, that person shall perform the function in accordance with this part.

Subpart B—Tables of Hazardous Materials, Their Description, Proper Shipping Name, Class, Label, Packaging, and Other Requirements

Section 172.101 Purpose and use of hazardous materials table, including the Hazardous Materials Table, CERCLA List, Specific Chemical Wastes, Chemicals Listed by EPA under Section 307(a) of the Clean Water Act, Chemicals Listed by EPA under Section 112 of the Clean Air Act.

Section 172.102 Purpose and Use of Optional Hazardous Materials Table for international shipments, including the Optional Hazardous Materials Table.

Appendix A to Subpart B above—Identification Number Cross Reference to Proper Shipping Names in Section 172.101 and Section 172.102.

Subpart C—Shipping Papers. (No change.)

Subpart D—Marking.

...  
Section 172.316 Packagings containing material \*[closed]\*  
\*classified\* as ORM.  
...

Section 172.328 Cargo tanks.

Subpart E—Labeling. (No change.)

Subpart F—Placarding.

...  
Section 172.505 Special Placarding requirements for certain  
poisonous materials.  
...

Section 172.512 Freight Containers and aircraft unit load devices.  
...

Appendix A—Office of Hazardous Materials Transportation Color Tolerance Charts and Tables.

Appendix B—Dimensional Specification for Placards

Appendix C—Dimensional Specifications for Recommended Placard Holder

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGING

Subpart A—General

...  
Section 173.2 Classification of a material having more than one  
hazard as defined in this part.  
...

Section 173.3a Packaging; special requirements for certain  
poisonous materials.  
...

Section 173.6 Shipment by air.  
...

Section \*[173.2]\*  
173.12\* Exceptions for shipment of waste material.

Subpart B—Preparation of Hazardous Materials for Transportation.

- ...  
Section 173.32 Qualification maintenance and use of portable tanks other than Specification IM portable tanks.  
...  
Subpart C—Explosive and Blasting Agents; Definition and Preparation  
...  
Section 173.53 Definition of Class A explosives.  
...  
Section 173.6 Ammunition, projectiles, grenades, bombs, mines, gas mines, and torpedoes.  
...  
Section 173.63 High explosive with liquid explosive ingredient.  
...  
Section 173.79 Jet thrust units (jato), Class A explosives; rocket motors, Class A explosive; igniters, jet thrust \*[jot]\*\*(jato)\*, Class A explosives; and igniters, rocket motor, Class A explosives.  
...  
Section 173.81 Detonating Cord.  
...  
Section 173.88 Definition of Class B explosives  
...  
Section 173.92 Jet thrust units (jato), Class B explosives; rocket motors Class B explosives igniters, jet thrust (jato), Class B explosives; igniters, rocket motors, Class B explosives; and starter cartridges, jet engine, Class B explosives.  
...  
Section 173.102 Explosive cable cutters; explosive power devices, Class C; explosive release devices, or starter cartridges, jet engine, Class C explosives.  
Section 173.103 Detonators, Class C explosives, and detonating primers, Class C explosives.  
Section 173.104 Cord, detonating flexible; mild detonating fuse, metal clad or flexible; or flexible linear shaped charges, metal clad.  
...  
Section 173.107 Primers, percussion caps, and grenades, empty, primed.  
...  
Section 173.113 Detonating fuses, Class C explosives.  
...  
Subpart D—Flammable, Combustible, and Pyrophoric Liquids; Definitions and Preparation.  
...  
Section 173.118a Exceptions for combustible liquids. Section 173.118a is revised to state the following: (Note: Subparagraph (a) has been modified and Subparagraph (b)(7) has been added. Most combustible liquids being transported are only subject to items (b)(1) through (b)(7) as stated below. They are not subject to the remainder of New Jersey's Hazardous Material Regulations.)  
(a) Unless otherwise stated for a specific material, the regulations in this subchapter with the exception of Section 173.24 (Standard requirements for all packages), do not apply to a material classed as a combustible liquid in a packaging having a rated capacity of 110 gallons or less, unless the combustible liquid is a hazardous substance, or a hazardous waste.  
(b) A combustible liquid that is a hazardous substance or a hazardous waste in a packaging having a rated capacity of 110 gallons or less, and a combustible liquid in a portable tank, cargo tank or a tank car is not subject to the requirements of this subchapter except those pertaining to: (1)-(7) (No change.)  
Section 173.127 Nitrocellulose or collodion cotton, fibrous or nitrostarch, wet; nitrocellulose flakes; colloided nitrocellulose, granular flake, or block, and lacquer base or lacquer chips, wet.  
...  
Subpart E—Flammable Solids, Oxidizers, and Organic Peroxides; Definitions and Preparation.  
...  
Section 173.154a Fuses.  
...  
Section 173.157 Benzoyl peroxide, chlorobenzoyl (para), cyclohexanone peroxide, dimethylhexane dihydroperoxide, lauroyl peroxide, or succinic acid peroxide, wet.  
Section 173.158 Benzoyl peroxide, dry; chlorobenzoyl peroxide (para) dry; cyclohexanone peroxide, dry; lauroyl peroxide, dry; or succinic acid peroxide dry.  
...  
Section 173.164 Chromic acid or chromic acid mixture, dry.  
...  
Section 173.176 Safety matches.  
Section 173.176a Strike anywhere matches.  
...  
Section 173.217 Calcium hypochlorite, hydrated, Calcium hypochlorite mixture dry; lithium hypochlorite mixture, dry; mono-(trichloro) tetra-(mono-potassium dichloro)-penta-s-triazinetrione, dry; potassium dichloro-s-triazine trione, dry; sodium dichloro-s-triazinetrione, dry; trichloro-s-triazinetrione, dry.  
...  
Section 173.224 Cumene hydroperoxide, dicumyl peroxide, diisopropylbenzene hydroperoxide, paramenthane hydroperoxide, pinane hydroperoxide, and tertiary butylisopropyl benzene hydroperoxide.  
...  
Section 173.228 Zinc ammonium nitrite.  
...  
Subpart F—Corrosive Materials; Definition and Preparation.  
Section 173.247 Acetyl bromide; acetyl chloride; acetyl iodide; antimony pentachloride; benzoyl chloride; boron trifluoride acetic acid complex; chromyl chloride; dichloroacetyl chloride; diphenylmethyl bromide solutions; pyrosulfuryl chloride; silicon chloride; sulfur chloride (mono and di); sulfuryl chloride; thionyl chloride; tin tetrachloride (anhydrous); titanium tetrachloride; trimethyl acetyl chloride.  
Section 173.248 Spent sulfuric acid, or spent mixed acid.  
Section 173.249 Alkaline corrosive liquids, n. o. s.; alkaline liquids, n. o. s.; alkaline battery fluid; potassium flouride solution; potassium hydrogen flouride solution; sodium aluminate, liquid; sodium hydroxide solution; potassium hydroxide solution.  
Section 173.249a Cleaning compound, liquid; coal tar dye, liquid; dye intermediate, liquid; mining reagent, liquid; and textile treating compound mixture, liquid.  
...  
Section 173.264 Hydrofluoric acid; white acid.  
Section 173.265 Fluosilicic acid (hydrofluorosilicic Acid) (hydrofluosilicic acid).  
...  
Subpart G—Gases; Definition and Preparation.  
...  
Section 173.315 Compressed gases in cargo tanks and portable tanks.  
Section 173.316 Cryogenic liquids in cylinders.  
...  
Subpart H—Poisonous Materials, Eliologic Agents, and Radioactive Materials; Definitions and Preparation.  
...  
Section 173.336 Nitrogen dioxide, liquid; nitrogen peroxide, liquid; and nitrogen tetroxide, liquid.  
...  
Section 173.353a Methyl bromide, liquid, and nonflammable, nonliquefied compressed gas mixtures.  
...  
Section 173.358 Hexaethyl tetraphosphate, methyl parathion, organic phosphate compound, organic phosphorous compound, parathion, tetraethyl dithio pyrophosphate, and tetraethyl pyrophosphate, liquid.

...  
Section 173.368 Arsenical dust, arsenical flue dust, and other poisonous, noncombustible by-product dusts; also arsenic trioxide, calcium arsenate, and sodium arsenate.

...  
Section 173.381 Irritating materials; definition and general packaging requirements.

...  
Subpart I—Radioactive Materials.

...  
Section 173.417 Authorized packaging-fissile materials.

...  
Section 173.423 Table of activity limits—excepted quantities and articles.

...  
Section 173.472 Requirements for exporting DOT Specification Type B and fissile packages.

...  
Subpart J—Other Regulated Material; Definition and Preparation. (No change.)

...  
Subpart K—Other Regulated Material, ORM-A.

Section 173.605 Ammonium hydrosulfide solution, ammonium polysulfide solution, bromochloromethane, dibromodifluoromethane, dichlorodifluoroethylene; dichloromethane, 1, 1, 1-trichloroethane, perfluoro-2-butene, tetrachloroethylene, and trichloroethylene.

...  
Subpart L—Other Regulated Materials, ORM-B. (No change.)

...  
Subpart M—Other Regulated Material; ORM-C.

...  
Section 173.1025 Ferrous metal borings, shavings, turnings, or cuttings (excluding stainless steel).

...  
Subpart N—Other Regulated Material; ORM-D.

...  
Section 173.1201 Small arms ammunition.

...  
Subpart O—Other Regulated Material; ORM-E. (No change.)

...  
Appendix A—Method of Testing Corrosion to Skin. (No change.)

...  
Appendix B—Procedure for testing chemical compatibility and Rate of Permeation in Polyethylene Packaging and Receptacles.

...  
**PART 174—CARRIAGE BY RAIL**

...  
Subpart A—General Requirements.

Section 174.8 Inspection.

Section 174.11 Canadian shipments and packagings.

...  
Subpart B—General Operating Requirements. (No change.)

...  
Subpart C—General Handling and Loading Requirements.

Section 174.61 Truck bodies, trailers or freight containers on flatcars.

...  
Subpart D—Handling of Placarded Cars. (No change.)

...  
Subpart E—Detailed Requirements for Explosives. (No change.)

...  
Subpart F—Detailed Requirements for Gases.

...  
Section 174.204 Tank car delivery of gases, including cryogenic liquids.

...  
Subpart G—Detailed Requirements for Flammable Liquids

...  
Subparts H-M (No change.)

...  
**PART 177—CARRIAGE BY PUBLIC HIGHWAY (No change.)**

...  
**PARTS 390-396 (No change.)**

...  
**PART 397—TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING RULES**

Section 397.1 Application of the rules in this part.

Section 397.2 Compliance with Federal motor carrier safety regulations.

...  
Section 397.5 Attendance and surveillance of motor vehicles.

Section 397.7 Parking.

Section 397.11 Fires.

Section 397.12 Smoking.

Section 397.15 Fueling.

Section 397.17 Tires.

Section 397.19 Instructions and documents.

Section 397.21 Marking of vehicles operated by private carriers.

...  
**PART 177—CARRIAGE BY PUBLIC HIGHWAY (CONTINUED).**

...  
Subpart B—Loading and Unloading

...  
Section 177.840 Compressed gases, including cryogenic liquids.

...  
Subpart C—Segregation and Separation Chart of Hazardous Materials.

Section 177.848 Segregation and Separation chart of hazardous materials.

...  
Subpart D—Vehicles and shipments in Transit; Accidents.

...  
Subpart E—Regulations Applying to Hazardous Material on Motor Vehicles Carrying Passengers for Hire.

...  
16:49-2.1 **TRANSPORTATION OF HAZARDOUS MATERIALS**

...  
**APPENDIX A—RELATIONSHIP BETWEEN ROUTING REQUIREMENTS IN PART 177 WITH STATE AND LOCAL REQUIREMENTS**

...  
Appendix A above, of Part 177, is excluded from adoption herein.

...  
**PART 178—SHIPPING CONTAINER SPECIFICATIONS**

...  
Subpart A—Specifications for Carboys, Jugs in Tubs, and Rubber Drums

...  
Section 178.19 Specification 34; reusable molded polyethylene drum for use without overpack. Removable head not authorized.

...  
Subpart B—Specifications for Inside Containers, and Linings

...  
Section 178.24 Specification 2U; molded or thermoformed polyethylene containers.

Section 178.35 Specification 2S; polyethylene container.

Section 178.35a Specification 2SL; molded or thermoformed polyethylene Container.

...  
Subpart C—Specifications for Cylinders.

...  
Section 178.61 Specification 4BW; welded steel cylinders made of definitely prescribed steels with electric-arc welded longitudinal seam.

...  
Subpart D—Specifications for Metal Barrels, Drums, Kegs, Cases, Trunks, and Boxes. (No change.)

...  
Subpart E—Specifications for Wooden Barrels, Kegs, Boxes, Kits and Drums. (No change.)

...  
Subpart F—Specifications for Fiberboard Boxes, Drums, and Mailing Tubes. (No change.)

...  
Subpart G—Specifications for Bags, Cloth, Burlap, Paper or Plastic. (No change.)

...  
Subpart H—Specifications for Portable Tanks. (No change.)

...  
Subpart J—Specifications for Containers for Motor Vehicle Transportation. (No change.)

...  
Subpart K—Specifications for General Packagings. (No change.)

...  
Appendix A—Specifications for Steel. (No change.)

...  
**PART 179—SPECIFICATIONS FOR TANK CARS**

...  
Subpart A—Introduction, Approvals, and Reports. (No change.)

...  
Subpart B—General Design Requirements. (No change.)

...  
Subpart C—Specifications for Pressure Tank Car Tanks (Classes DOT—105, 109, 112 and 114).

...  
Section 179.104 Special requirements spec. 105A200-F tank car tanks.

...  
Subpart D—Specifications for Non-Pressure Tank Car Tanks (Classes DOT—103, 104, 111AF, 111AW, and 115AW).

...  
Section 179.203 Special requirements for specification III tank cars.

...  
Section 170.220 General specifications applicable to nonpressure tank car tanks consisting of an inner container supported within an outer shell (Class DOT-115).

- Subpart E—Specifications for Multi-Unit Tank Car Tanks (Classes DOT—106A and 110AW).  
Subpart F—Specification for Cryogenic Liquid Tank Car Tanks and Seamless Steel tanks (Classes DOT-113 and 107A).  
Section 179.400 General specification applicable to cryogenic liquid tank car tanks.  
Section 179.401 Individual specification requirements applicable to inner tanks for cryogenic liquid tank car tanks.

## TREASURY-GENERAL

### (a)

#### DIVISION OF PENSIONS

##### State Police Retirement System Retirement Applications

##### Adopted Amendment: N.J.A.C. 17:5-5.1

Proposed: August 4, 1986, at 18 N.J.R. 1520(a).  
Adopted: September 30, 1986, by the Board of Trustees, State Police Retirement System, Anthony Ferrazza, Secretary.  
Filed: October 1, 1986 as R.1986 d.439, **without change**.  
Authority: N.J.S.A. 53:5A-30h.  
Effective Date: November 3, 1986.  
Expiration Date: December 2, 1990.

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

**Full text** of the adoption follows.

#### 17:5-5.1 Applications

(a) Applications for retirement must be made on forms prescribed by the system. Such forms must be completed in all respects and filed with the system before the requested date of retirement.

(b) In the event a member files an incomplete application, the deficiency shall be brought to his or her attention and he or she will be required to file a completed application with the system to enable acceptance for processing.

(c) Before an application for retirement may be accepted for processing, it must be supported by a certificate from the Division of State Police setting forth the employment termination date and the salaries reported for contributions in the member's final year of employment.

## TREASURY-TAXATION

### (b)

#### DIVISION OF TAXATION

##### Transfer Inheritance Tax Pre-Audit Payments; Resident Decedent's Returns

##### Adopted Amendment: N.J.A.C. 18:26-8.7

Proposed: August 4, 1986 at 18 N.J.R. 1520(b).  
Adopted: October 3, 1986, by John R. Baldwin, Director, Division of Taxation.  
Filed: October 3, 1986 as R.1986 d.441, **without change**.  
Authority: N.J.S.A. 54:50-1.  
Effective Date: November 3, 1986.  
Expiration Date: August 12, 1988.

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

**Full text** of the adoption follows.

18:26-8.7 Pre-audit payment of inheritance tax: resident decedent's estate returns

(a) The representative of an estate may file form L-2 or L-3 (see N.J.A.C. 18:26-9.4(a)2 and 3) together with a certified or cashier's check in full payment of the tax and interest, if any, as computed by the taxpayer on form L-5, and immediately receive necessary waivers, unless the distribution or valuation of the estate involves:

1. Closely held corporation; or
2. Inter-vivos trust; or
3. Contingencies requiring compromise.

(b) (No change.)

# MISCELLANEOUS NOTICES

## CIVIL SERVICE

### (a)

#### DEPARTMENT OF PERSONNEL

**Commissioner Eugene J. McCaffrey, Sr.**

#### **Enactment of the Civil Service Act, N.J.S.A. 11A:1-1 et seq. (L. 1986, c.112)**

**Take notice** that the Civil Service Act, N.J.S.A. 11A:1-1 et seq., was enacted on September 25, 1986. N.J.S.A. 11A:1-4 provides that all rules of the Civil Service Commission shall remain in effect except as changed or modified by the new title or action taken by the Merit System Board.

This notice is published as a matter of public information.

## ENVIRONMENTAL PROTECTION

### (b)

#### DIVISION OF WATER RESOURCES

#### **Proposed Statewide Sludge Management Plan Public Hearing**

**Take notice** that the Department of Environmental Protection, through its Division of Water Resources, has developed a Draft Statewide Sludge Management Plan (Plan). This document outlines planning standards, goals and criteria of the Department of Environmental Protection (Department) which are to be followed by Solid Waste Districts, sludge generators and permit applicants in matters related to sludge management in the State of New Jersey. It also provides a forum for addressing sludge management issues of a Statewide and regional nature.

The Draft Statewide Sludge Management Plan, prepared pursuant to N.J.S.A. 13:1E-1 et seq. contains several components, including the following: the policies of the Department regarding sludge management; inventories of existing sludge treatment and production; management methods available to sludge generators; and sources of funding for the construction and operation of sludge management alternatives.

The strategies, policies and procedures of the Draft Statewide Sludge Management Plan provide planning and implementation mechanisms for the protection of water quality. The strategies outline future actions to be undertaken by the Department or designated agencies. The policies and procedures establish the Department's position for addressing various sludge management issues.

**This notice** is being given to inform the public that the Department has prepared a Draft Statewide Sludge Management Plan. All information dealing with the aforesaid Plan and the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., is located at the office of New Jersey Department of Environmental Protection, Division of Water Resources, Residuals Management Section, 401 East State Street, Trenton, New Jersey. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday. Copies of the Statewide Sludge Management Plan are also available for inspection at selected State document depositories and may be obtained by contacting the Residuals Management Section at (609) 984-4429.

**Interested persons** may submit written comments on the Draft Statewide Sludge Management Plan to Helen Pettit-Chase, Chief, Residuals Management Section, Bureau of Municipal Waste Management, Division of Water Resources, CN 019, Trenton, New Jersey 08625. All comments must be submitted by January 19, 1987. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by the Department.

The Department will hold three non-adversarial public hearings on the Draft Statewide Sludge Management Plan. The public hearings will be held on the following days at the indicated time and place:

December 16, 1986 at 10:00 A.M.  
Morris County Courthouse  
Freeholders Public Meeting Room  
Ann Street  
Morristown, New Jersey

December 17, 1986 at 7:00 P.M.  
Mercer County Community College  
Audio Visual Building, Room 110  
Old Trenton Road  
West Windsor, New Jersey

December 18, 1986 at 10:00 A.M.  
Vineland City Hall  
Council Chambers  
7th and Woods Streets  
Vineland, New Jersey

## HEALTH

### (c)

#### **Local and Community Health Services Public Forum on Children/Adolescents and Smoking**

**Take notice** that the Department of Health, in coordination with the departmental advisory Commission on Smoking or Health, is announcing an open forum to give opportunity for public participation in the discussion of current and proposed activities concerning children/adolescents: their motivation to smoke, their access to cigarettes and their use of other tobacco products (i.e., smokeless tobacco).

New Jersey has been among the leaders in protecting the rights of nonsmoking adults through the control of smoking in workplace, government buildings, restaurants, and other areas of public congregation. The Department of Health now seeks to address what factors influence children/adolescents to start smoking and what preventive strategies can be implemented.

##### 1. Advertising

(a) Should the free distribution of cigarettes be prohibited?

(b) Should sporting events not advertise cigarettes or tobacco products?

##### 2. Sales Restrictions

(a) Should unsupervised vending machine sales of cigarettes be banned or restricted?

##### 3. Taxation

(a) Should the present state cigarette tax be increased in order to discourage consumption among children/adolescents? Would this be effective?

##### 4. Education

(a) What source of revenue can be used to fund educational activities?

Is it appropriate to tap into the cigarette tax? The use of cigarettes by children/adolescents and young adults has proliferated to the point of significant increase in the rates of pulmonary diseases in these age groups. This public forum will serve as a catalyst for the department, and the community at large, on how to proceed to inform children and adolescents about the hazards of smoking, and reduce their use of cigarettes.

The **public meeting** will be held on Wednesday, November 19, 1986, at 9:00 A.M. to 4:00 P.M. at:

State House Annex  
Room 403, Fourth Floor  
West State Street  
Trenton, NJ 08625

Persons wishing to present testimony or if further information is needed on this subject, please contact:

Diane DiDonato, R.N., M.P.H.  
Coordinator, Chronic Illness Prevention  
Adult Health Services  
CN 364  
120 South Stockton Street  
Trenton, NJ 08625-0364  
(609) 292-8106

## CORRECTIONS

### (a)

#### THE COMMISSIONER

#### Hearing Procedure for Involuntary Placement to Protective Custody

#### Notice of Correction: N.J.A.C. 10A:5-5.2

Take notice that an error appears in the Notice of Adoption appearing in the October 6, 1986 issue of the New Jersey Register at 18 N.J.R. 2036 concerning Hearing procedure for involuntary placement to Protective Custody, N.J.A.C. 10A:5-5.2. Due to a printing error, a portion of the rule published at 10A:5-5.2(k) was omitted from the Notice and should have appeared as follows (omitted text indicated in boldface **thus**):

10A:5-5.2 Hearing procedure for involuntary placement to Protective Custody

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

(k) When reviewing confidential informant information, the Disciplinary Hearing Officer/Adjustment Committee shall inquire into the reliability of the informant and the information, and shall utilize such information only after satisfied that it is reasonably reliable. Whenever informant information is used, the inmate shall be informed of the general character of the information, if practicable. The details of informant information shall be withheld on grounds of confidentiality.

1. In any case in which the Disciplinary Hearing Officer or Adjustment Committee's decision of guilt is based on evidence which includes confidential information, adjudication shall contain:

i. A concise summary of the facts on which the Disciplinary Hearing Officer or Adjustment Committee concluded that the informant was credible or his or her information reliable; and

ii. The informant's statement (either in writing or as reported) in language that is factual rather than a conclusion, and based on the informant's knowledge of the matters contained in such statement.

2. The Disciplinary Hearing Officer or Adjustment Committee is not permitted to disclose the identity of the informant.

(l) (No change in text.)

## LAW AND PUBLIC SAFETY

### (b)

#### DIVISION OF MOTOR VEHICLES

#### Notice of Petition for a Rule: Compulsory Motor Vehicle Insurance

Petitioner: John T. Paff

Authority: N.J.S.A. 52:14B-4(f).

Take notice that on April 24, 1986, John T. Paff submitted to the Director of Motor Vehicles a petition for rulemaking pursuant to N.J.S.A. 52:14B-4(f). Petitioner is an insurance broker licensed by the State of New Jersey and is authorized to write motor vehicle liability insurance in this State. On occasion, Petitioner's clients have been involved in accidents with uninsured motorists who have not been prosecuted under the compulsory motor vehicle insurance law (N.J.S.A. 39:6B-1 et seq.) because they have in their possession at the time of the accidents insurance identification cards indicating that their motor vehicles are covered by insurance. Thereafter, Petitioner has been informed by insurance companies denoted on the insurance identification cards that policies covering the motor vehicles involved in the accidents have been cancelled for non-payment of premium.

Petitioner requests a rule to require an insurance company to notify the Director whenever the company (1) determines that a policyholder has been involved in an accident and is not covered because of the cancellation of the policy because of non-payment of premium or any other reason or (2) initiates a claim under an uninsured motorist endorsement where the identity of the uninsured motorist is known to the company. Petitioner's request would also require the Director to cause a summons to be issued against the owner and driver of the uninsured motor vehicle in the municipal court having jurisdiction in the matter.

The rule proposed by petitioner would impose reporting requirements on insurance companies. The proposed rule would also impose Statewide enforcement responsibility on the Division in matters relating to violations of the compulsory insurance law.

After due notice, this petition will be considered pursuant to law.

### (c)

#### DIVISION OF MOTOR VEHICLES

#### Contract Carrier Application

#### Public Notice

Take notice that Glenn R. Paulsen, Director, Division of Motor Vehicles, pursuant to the authority of N.J.S.A. 39:5E.11, hereby lists the name and address of an applicant who has filed an application for a Contract Carrier Permit.

CONTRACT CARRIER (NON-GRANDFATHER)

T.R. Turner, Inc.  
16 Sussex Street  
Newton, NJ 07860

Protests in writing and verified under oath may be presented by interested parties to the Director of Motor Vehicles by November 24, 1986.

## TRANSPORTATION

#### THE COMMISSIONER

### (d)

#### Transfer of Jurisdiction of Route 170 in Mansfield Township to Burlington County

#### Public Notice

Take notice that under the provisions of N.J.S.A. 27:7-1 et seq., and the jurisdictional agreement between the County of Burlington, acting through its Board of Chosen Freeholders, and the State of New Jersey, acting through its Commissioner of Transportation, certain portions of Route 170 in Mansfield Township, Burlington County have been transferred to the County of Burlington as shown with single line hatching on a map entitled "NEW JERSEY DEPARTMENT OF TRANSPORTATION, ROUTE 170, JURISDICTIONAL LIMIT MAP, JURISDICTIONAL TRANSFER, TOWNSHIP OF MANSFIELD, COUNTY OF BURLINGTON, SCALE: As indicated, April, 1985."

Take further notice that this agreement was signed May 15, 1986, deleting 0.89 miles (centerline) from the State highway system. The map delineating this transfer may be reviewed in the Department's Office of Jurisdictional Control, 2137 Hamilton Avenue, Trenton, New Jersey, 08629, Telephone (609) 292-2137.

Copies of the map have also been filed with the Filings section of the Office of Administrative Law, Quakerbridge Plaza, Building 9, Quakerbridge Road, Trenton, New Jersey 08625, as part of this notice.

### (e)

#### Determination and Order

#### Takeover of County Route 530 in Townships of Mount Holly, Lumberton, Eastampton and Southampton, Burlington County

Take notice that under the provisions of N.J.S.A. 27:7-2, Hazel Frank Gluck, Commissioner of Transportation, acting for and in behalf of the State of New Jersey, determines and hereby takes over as part of the State Highway System, Burlington County Route 530 as shown delineated on a map entitled "NEW JERSEY DEPARTMENT OF TRANSPORTATION, TAKEOVER, BURLINGTON COUNTY ROUTE 530, FROM THE END OF THE STATE ROUTE 38 (1953) EAST OF THE INTERSECTION OF ROUTE 530 AND ROUTE 38 (1953) TO THE INTERSECTION OF ROUTE 530 AND ROUTE U.S. 206 (1953), TOWNSHIPS OF MOUNT HOLLY, LUMBERTON, EASTAMPTON AND SOUTHAMPTON, COUNTY OF BURLINGTON, SCALE: AS INDICATED, MAY 1986," a distance of approximately 2.39 miles and a Right of Way width of 92 feet.

Take further notice that the effective date of this takeover was June 30, 1986, and that this roadway will also be designated as New Jersey State Highway Route 38 (1953).

The map delineating this takeover may be reviewed in the Department's Office of Jurisdictional Control, 2137 Hamilton Avenue, Trenton, New Jersey 08629, Telephone (609) 292-3127, or by contacting Mr. Charles

L. Meyers, Administrative Practice officer, 1035 Parkway Avenue, Room 116-B, Trenton, New Jersey 08625, Telephone (609) 530-2051.

Copies of the map have also been filed with the Filings section of the Office of Administrative Law, Quakerbridge Plaza, Building 9, Quakerbridge Road, Trenton, New Jersey 08625, as part of this notice.

## TREASURY-GENERAL

### (a)

#### DIVISION OF BUILDING AND CONSTRUCTION

#### Architect-Engineer Selection

#### Notice of Assignments—Month of September

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, pre-qualified New Jersey consulting firms. For information on DBC's pre-qualification and assignment procedures, call (609) 984-6979.

Last list dated September 2, 1986.

The following assignments have been made:

DBC No.	PROJECT	A/E	CCE
E160	Building & Shelving Improvements Library for the Blind & Handicapped Trenton, NJ	The Nielson-Wurster Group	\$ 863,000
M626	New Maintenance Building N.J. Memorial Home Vineland, NJ	Lammy & Giorgio, PA	\$ 185,000
M704	Exterior Wall Repairs Harmony Hall Glen Gardner Center for Geriatrics Hunterdon County, NJ	Vincent E. Paolicelli & Associates	\$ 110,000
M705	Electrical Distribution Study Woodbine Developmental Center Woodbine, NJ	Borda Engineers & Energy Consultants	\$ 2,500 Services
R006	Facility Consultant FY-87 Dept. of Human Services	L. J. Mineo, Jr., AIA	\$ 27,000 Services
R007	Facility Consultant FY-87 Dept. of Human Services	Matthew L. Rue, AIA	\$ 10,000 Services
R008	Facility Consultant FY-87 Dept. of Human Services	Kolbe & Poponi, PA	\$ 10,000 Services
R009	Facility Consultant FY-87 Dept. of Human Services	Barnickel Engineering Corp.	\$ 10,000 Services
R005	Facility Consultant FY-87 Dept. of Human Services	A & A Engineering Associates, Inc.	\$ 10,000 Services
X011	Facility Consultant FY-87 Division of Motor Vehicles	A. D. Jilajian & Associates	\$ 50,000 Services
X012	Facility Consultant FY-87 Division of Motor Vehicles	Tarquini Organization, PA	\$ 50,000 Services

X013	Facility Consultant FY-87 Division of Motor Vehicles	Leslie M. Dennis & Son	\$ 50,000 Services
X014	Facility Consultant FY-87 Division of Motor Vehicles	Turek Associates	\$ 50,000 Services
X015	Facility Consultant FY-87 Division of Motor Vehicles	Eugene F. O'Connor, AIA	\$ 50,000 Services
X016	Facility Consultant FY-87 Division of Motor Vehicles	Pennoni Associates	\$ 50,000 Services
Y009	Facility Consultant FY-87 Dept. of Corrections	Thomas E. Torricelli, AIA	\$ 10,000 Services
Y010	Facility Consultant FY-87 Dept. of Corrections	Vincent E. Paolicelli & Associates	\$ 15,000 Services
Y011	Facility Consultant FY-87 Dept. of Corrections	Colm Engineering	\$ 15,000 Services
M702	Installation of Cooling System at Multi-Purpose Bldgs. & Cottages A & B Arthur Brisbane Child Treatment Center Farmingdale, NJ	Lech Associates, Inc.	\$ 225,000

#### COMPETITIVE PROPOSALS

	Lech Associates, Inc.	6.0%	
	John C. Morris Associates, Inc.	8.3%	
	Maitra Associates, Inc.	9.8%	
	Jeffrey & Kallaur	10.67%	
M690	Life Safety Improvements Installation of Air Conditioning at Abell Building Greystone Park Psychiatric Hospital Greystone Park, NJ	John C. Morris Associates, Inc.	\$1,005,000

#### COMPETITIVE PROPOSALS

	John C. Morris Associates, Inc.	7.2%	
	Chu & Gassman	7.5%	
	Jeffrey & Kallaur	8.88%	
M694	Life Safety Improvements & Installation of Air Conditioning at Cottages 16 & 17 Marlboro Psychiatric Hospital Marlboro, NJ	John C. Morris Associates, Inc.	\$ 570,000

#### COMPETITIVE PROPOSALS

	John C. Morris Associates, Inc.	7.9%	
	Jeffrey & Kallaur	10.36%	
	Chu & Gassman	10.8%	
M695	Roof Replacement—Various Buildings Vineland Developmental Center Vineland, NJ	Basco Associates	\$ 824,000

#### COMPETITIVE PROPOSALS

	Basco Associates	3.46%	
	Kitchen Associates	4.0%	
	Herbert J. Cannon Associates	6.795%	
	Lammy & Giorgio, PA	7.80%	

# EXECUTIVE ORDER NO. 66(1978) EXPIRATION DATES

Pursuant to N.J.A.C. 1:30-4.4, all expiration dates are now affixed at the chapter level. The following table is a complete listing of all current New Jersey Administrative Code expiration dates by Title and Chapter. If a chapter is not cited, then it does not have an expiration date. In some instances, however, exceptions occur to the chapter-level assignment. These variations do appear in the listing along with the appropriate chapter citation, and are noted either as an exemption from Executive Order No. 66(1978) or as a subchapter-level date differing from the chapter date.

Current expiration dates may also be found in the loose-leaf volumes of the Administrative Code under the Title Table of Contents for each executive department or agency and on the Subtitle page for each group of chapters in a Title. Please disregard all expiration dates appearing elsewhere in a Title volume.

This listing is revised monthly and appears in the first issue of each month.

## OFFICE OF ADMINISTRATIVE LAW—TITLE 1

N.J.A.C.	Expiration Date	N.J.A.C.	Expiration Date
1:1	5/15/90	3:7	9/16/90
1:2	5/15/90	3:11	3/19/89
1:5	10/20/91	(Except for 3:11-2 which expired 6/3/85)	
1:6	8/18/91	3:17	6/18/91
1:6A	1/1/88	3:19	3/17/91
1:7	8/9/90	3:21	11/2/86
1:10	3/4/90	(Except for 3:21-1 which expired 2/2/84)	
1:10A	9/16/90	3:22	5/21/89
1:10B	10/6/91	3:23	5/3/87
1:11	3/4/90	3:24	8/20/89
1:20	8/1/88	3:26	12/31/90
1:21	7/15/90	3:27	9/16/90
1:30	2/14/91	3:28	12/17/89
1:31	8/12/87	3:30	10/17/88
		3:38	9/7/87
		3:41	10/16/90

## AGRICULTURE—TITLE 2

N.J.A.C.	Expiration Date
2:1	9/3/90
2:2	10/3/88
(Except for 2:2-9 which expired 6/11/84)	
2:3	6/18/89
(Except for 2:3-4 which expired 1/8/86)	
2:5	6/18/89
2:6	9/3/90
2:7	9/29/88
2:9	7/7/91
2:16	5/7/90
2:22	1/18/87
2:23	6/6/88
2:24	2/11/90
2:32	2/3/91
2:48	11/27/90
2:50	7/15/87
2:52	6/7/90
2:53	3/3/91
2:54	Exempt (7 U.S.C. 601 et seq. 7 C.F.R. 1004)
2:68	8/1/88
2:69	10/3/88
2:70	5/7/90
2:71	9/1/88
2:72	9/1/88
2:73	7/18/88
2:74	9/1/88
2:76	8/29/89
2:90	6/24/90

## BANKING—TITLE 3

N.J.A.C.	Expiration Date
3:1	1/6/91
3:2	4/15/90
3:6	3/3/91
(Except for 3:6-8 which expired 4/9/85)	

## CIVIL SERVICE—TITLE 4

N.J.A.C.	Expiration Date
4:1	1/28/90
4:2	1/28/90
4:3	6/4/89
4:4	12/7/86
4:5	12/7/86
4:6	5/5/91

## COMMUNITY AFFAIRS—TITLE 5

N.J.A.C.	Expiration Date
5:3	9/1/88
5:10	12/1/88
5:11	3/1/89
5:12	1/1/90
5:13	1/1/88
5:14	12/1/90
5:17	6/1/89
5:18	2/1/90
5:18A	2/1/90
5:18B	2/1/90
5:22	12/1/90
5:23	4/1/88
5:24	9/1/90
5:25	3/1/91
5:26	3/1/91
5:27	6/1/90
5:28	12/20/90
5:29	6/18/91
5:30	6/1/88
5:31	12/1/89
5:37	11/18/90
5:38	11/7/88
5:51	9/1/88
5:70	8/16/87
5:71	3/1/90
5:80	5/20/90
5:91	6/16/91
5:92	6/16/91
5:100	5/7/89

**DEPARTMENT OF DEFENSE—TITLE 5A**

N.J.A.C.	Expiration Date
5A:2	5/20/90

**EDUCATION—TITLE 6**

N.J.A.C.	Expiration Date
6:2	3/1/89
6:3	8/18/88
6:8	1/1/87
6:11	12/12/90
6:12	4/2/91
6:20	8/9/90
6:21	8/9/90
6:22	9/3/90
6:24	4/2/91
6:26	1/24/90
6:27	1/24/90
6:28	6/1/89
6:29	3/25/90
6:30	8/31/88
6:31	1/24/90
6:39	10/18/89
6:43	4/7/91
6:46	12/1/87
6:53	9/1/87
6:64	5/1/88
6:68	4/12/90
6:70	1/25/90
6:79	2/1/88

**ENVIRONMENTAL PROTECTION—TITLE 7**

N.J.A.C.	Expiration Date
7:1 (Except for 7:1-3 which expired 3/5/87)	9/16/90
7:1A	6/7/87
7:1C	6/17/90
7:1D	12/1/88
7:1E	7/15/90
7:1F	3/27/87 (Governor's Waiver)
7:1G	10/1/89
7:1H	7/24/90
7:1I	11/18/88
7:2	7/19/88
7:4	Expired 8/16/84
7:6	12/19/88
7:7	5/7/89
7:7E	7/24/90
7:7F	12/6/87
7:8	2/7/88
7:9	1/21/91
(Except for 7:9-1 which expired 4/25/85)	
7:10	9/4/89
7:11	6/6/88
7:12	6/6/88
7:13	5/4/89
7:14	4/27/89
(Except for 7:14-5 which expired 6/23/85)	
7:14A	6/4/89
7:15	4/2/89
7:17	4/7/91
7:18	8/6/91
7:19	4/15/90
7:19A	2/19/90
7:19B	2/19/90
7:20	5/6/90
7:20A	12/19/88
7:22	12/7/86
7:23	6/18/89
7:24	5/19/91
7:25	2/18/91

N.J.A.C.	Expiration Date
(Except for 7:25-1 which expired 9/17/85)	
7:25A	5/6/90
7:26	11/4/90
(Except for 7:26-5 which expired 10/7/85)	
7:27	Exempt
7:27A	Expired 10/7/85
7:27B-3	Exempt
7:28	10/7/90
7:29	3/18/90
7:29B	4/5/87
7:30	12/6/87
7:36-1	8/5/90
7:36-2	Expired 1/9/86
7:36-3	Expired 1/9/86
7:36-4	8/5/90
7:36-5	Expired 1/9/86
7:36-6	Expired 1/9/86
7:36-7	8/5/90
7:37	Exempt
7:38	9/18/90
7:45	Expired 1/11/85

**HEALTH—TITLE 8**

N.J.A.C.	Expiration Date
8:7	9/16/90
8:8	5/21/89
8:9	2/18/91
8:13	8/2/87
8:19	6/28/90
8:20	3/4/90
8:21	11/18/90
(Except for 8:21-1 which expired 5/15/85;	
8:21-4 which expired 7/21/83;	
8:21-6 which expired 9/18/85)	
8:21A	4/1/90
8:22	8/4/91
8:23	12/17/89
8:24	4/4/88
8:25	5/20/88
8:26	8/4/91
8:31	11/5/89
8:31A	3/18/90
8:31B	10/15/90
(Except for 8:31B-1 which expired 7/19/84)	
8:32	Expired 3/12/85
8:33	10/7/90
8:33A	4/15/90
8:33B	10/7/90
8:33C	8/20/89
8:33D	2/1/87
8:33E	2/4/90
8:33F	1/14/90
8:33G	7/20/89
8:33H	7/19/90
8:33I	9/15/91
8:33J	5/17/89
8:33K	4/16/89
8:34	11/18/88
8:39	6/20/88
8:40	4/15/90
8:42	3/18/90
8:42A	6/12/91
8:42B	8/1/88
8:43	1/21/91
8:43A	9/3/90
8:43B	1/21/91
8:43E	1/17/88
8:43F	3/18/90
8:43G	9/8/91
8:44	11/7/88
8:45	5/20/90

N.J.A.C.	Expiration Date
8:48	8/20/89
8:51	9/16/90
8:53	8/4/91
8:57	6/18/90
8:58	Expired 5/1/84
8:59	10/1/89
8:60	5/3/90
8:61	10/6/91
8:65	12/2/90
8:70	9/17/88
8:71	4/2/89

N.J.A.C.	Expiration Date
10:82	10/29/89
10:85	1/30/90
10:87	3/1/89
10:89	9/11/90
10:90	11/15/87
10:94	1/6/91
10:95	8/23/89
10:97	4/16/89
10:98	7/12/87
10:99	2/19/90
10:100	2/6/89
10:109	3/17/91
10:112	2/17/89
10:120	9/26/88
10:121	3/13/89
10:121A	8/6/87
10:122	8/6/89
10:122A	Exempt
10:122B	9/10/89
10:123	7/20/90
10:124	7/19/87
10:125	7/16/89
10:127	9/19/88
10:129	10/11/89
10:130	9/19/88
10:131	9/20/87
10:132	11/16/86
10:140	12/31/86
10:141	2/21/89

**HIGHER EDUCATION—TITLE 9**

N.J.A.C.	Expiration Date
9:1	1/17/89
9:2	6/17/90
9:3	10/17/88
9:4	11/2/86
9:5	1/21/91
9:6	5/20/90
9:7	4/13/88
9:8	11/4/90
9:9	10/3/88
9:11	1/17/89
9:12	1/17/89
9:14	5/20/90
9:15	10/25/88
9:16	Expired 7/9/85

**CORRECTIONS—TITLE 10A**

N.J.A.C.	Expiration Date
10A:3	10/6/91
10A:4	7/21/91
10A:5	10/6/91
10A:31	2/4/90
10A:32	3/4/90
10A:33	7/16/89
10A:70	Exempt
10A:71	4/15/90

**HUMAN SERVICES—TITLE 10**

N.J.A.C.	Expiration Date
10:1	5/6/88
10:3	9/19/88
10:4	1/3/88
10:5	12/19/88
10:6	2/21/89
10:36	8/18/91
10:37	11/4/90
10:38	5/28/91
10:40	3/15/89
10:42	8/18/91
10:43	9/1/88
10:44	10/3/88
10:44A	2/7/88
10:44B	4/15/90
10:45	9/19/88
10:47	11/4/90
10:48	1/21/91
10:49	8/12/90
10:50	3/3/91
10:51	10/28/90
10:52	2/19/90
10:53	4/29/90
10:54	3/3/91
10:55	3/11/90
10:56	8/26/91
10:57	3/3/91
10:58	3/3/91
10:59	3/3/91
10:60	8/27/90
10:61	3/3/91
10:62	3/3/91
10:63	11/29/89
10:64	3/3/91
10:65	11/5/89
10:66	12/15/88
10:67	3/3/91
10:68	7/7/91
10:69A	4/26/88
10:69B	11/21/88
10:70	6/16/91
10:80	8/23/89
10:81	10/15/89

**INSURANCE—TITLE 11**

N.J.A.C.	Expiration Date
11:1	2/3/91
11:1-20	7/7/88
11:1-22	7/7/88
11:2	12/2/90
11:3	1/6/91
11:4	12/2/90
11:5	11/7/88
11:10	7/15/90
11:12	11/2/86
11:13	12/6/87
11:14	7/2/89
11:15	12/3/89
11:16	2/3/91

**LABOR—TITLE 12**

N.J.A.C.	Expiration Date
12:15	8/19/90
12:16	4/1/90
12:17	1/6/91
12:20	11/5/89
12:35	8/5/90
12:45	5/2/88
12:46	5/2/88
12:47	5/2/88
12:48	5/2/88
12:49	5/2/88
12:51	6/30/91
12:56	9/26/90

N.J.A.C.	Expiration Date
12:57	9/26/90
12:58	9/26/90
12:90	12/17/89
12:100	11/5/89
12:105	1/21/91
12:120	5/3/90
12:175	12/9/88
12:190	9/5/87
12:195	9/6/88
12:200	8/5/90
12:235	5/5/91

### COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

N.J.A.C.	Expiration Date
12A:100-1	9/8/91

### LAW AND PUBLIC SAFETY—TITLE 13

N.J.A.C.	Expiration Date
13:1	7/19/88
13:1C	Expired 12/1/83
13:2	8/5/90
13:3	8/1/88
13:4	1/21/91
13:10	5/27/89
13:13	6/17/90
13:18	4/1/90
13:19	8/23/89
13:20	12/18/90
13:21	12/16/90
13:22	1/7/90
13:23	6/4/89
13:24	11/5/89
13:25	3/18/90
13:26	10/17/88
13:27	4/1/90
13:27A	11/1/87
13:28	9/3/90
13:29	6/3/90
13:30	4/15/90
13:31	12/21/86
13:32	11/1/87
13:33	3/18/90
13:34	11/21/88
13:35	11/19/89
13:36	11/19/89
13:37	2/11/90
13:38	10/7/90
13:39	1/6/91
13:39A	7/7/91
13:40	9/3/90
13:41	9/3/90
13:42	11/3/88
13:43	9/8/88
13:44	8/20/89
13:44A	Expired 5/17/84
13:44B	5/3/87
13:44C	6/2/91
13:45A	12/16/90
13:46	6/3/90
13:47A	8/16/87
(Except for 13:47A-25 which expired 8/14/83)	
13:47B	1/4/89
13:47C	8/20/89
13:48	1/21/91
13:49	12/19/88
13:51	6/21/87
13:54	10/5/91
13:58	9/7/89
13:59	9/16/90
13:70	2/25/90

N.J.A.C.	Expiration Date
13:71	2/25/90
13:75	8/20/89
13:76	9/6/88

### PUBLIC UTILITIES—TITLE 14

N.J.A.C.	Expiration Date
14:1	12/16/90
14:3	5/6/90
14:5	12/16/90
14:6	3/3/91
14:9	4/15/90
14:11	2/1/87
14:10	9/8/91
14:17	5/7/89
14:18	7/29/90

### ENERGY—TITLE 14A

N.J.A.C.	Expiration Date
14A:2	4/17/89
14A:3	10/7/90
(Except for 14A:3-10 which expired 9/1/85)	
14A:4	10/19/88
14A:5	10/19/88
14A:6	8/6/89
14A:7	9/16/90
14A:8	9/20/89
14A:9	Expired 4/27/84
14A:11	9/20/89
14A:12	2/7/88
14A:13	11/2/86
14A:14	2/6/89
14A:20	2/3/91
14A:21	11/21/90
14A:22	6/4/89

### STATE—TITLE 15

N.J.A.C.	Expiration Date
15:2	3/7/88
15:3	7/7/91
15:10	2/18/91

### TRANSPORTATION—TITLE 16

N.J.A.C.	Expiration Date
16:1	8/5/90
16:2	10/3/88
16:6	9/3/90
16:13	5/7/89
16:16	11/7/88
16:17	11/7/88
16:20A	12/17/89
16:20B	12/17/89
16:21	9/3/90
16:21A	8/20/89
16:22	2/3/91
16:25-12	Expired 2/5/84
16:25-13	Expired 2/5/84
16:26	8/6/89
16:27	9/8/91
16:28	11/7/88
16:28A	11/7/88
16:29	11/7/88
16:30	11/7/88
16:31	11/7/88
16:31A	10/20/88
16:32	4/15/90
16:33	9/3/90
16:41	11/15/87
16:41A	2/19/90

N.J.A.C.	Expiration Date
16:41B	3/4/90
16:43	9/3/90
16:44	10/3/88
16:49	3/18/90
16:53	3/19/89
16:53A	4/15/90
16:53B	Expired 8/21/84
16:53C	9/19/88
16:53D	5/7/89
16:54	4/7/91
16:55	11/7/88
16:56	6/4/89
16:60	11/7/88
16:61	11/7/88
16:62	4/15/90
16:72	3/31/91
16:73	2/16/87
16:75	6/6/88
16:76	12/19/88
16:77	1/21/90
16:78	10/7/90
16:79	10/20/91

N.J.A.C.	Expiration Date
18:7	4/2/89
18:8	4/2/89
18:9	8/12/88
18:12	8/12/88
18:12A	8/12/88
18:14	8/12/88
18:15	8/12/88
18:16	8/12/88
18:17	8/12/88
18:18	4/2/89
18:19	4/6/89
18:22	4/2/89
18:23	4/2/89
18:23A	8/5/90
18:24	8/12/88
18:25	1/6/91
18:26	8/12/88
18:30	4/2/89
18:35	8/12/88
18:36	2/4/90
18:37	8/5/90

**TREASURY-GENERAL—TITLE 17**

N.J.A.C.	Expiration Date
17:1	6/6/88
17:2	12/17/89
17:3	6/6/88
17:4	7/1/90
17:5	12/2/90
17:6	2/19/89
17:7	6/6/88
17:8	6/27/90
17:9	6/6/88
17:10	6/6/88
17:12	8/15/89
17:16	12/2/90
17:19	3/18/90
(Except for 17:19-10 which expired 3/3/85)	
17:19A	Expired 2/1/84
17:20	11/7/88
17:25	6/18/89
17:27	11/7/88
17:28	9/13/90
17:29	10/18/90

**TREASURY-TAXATION—TITLE 18**

N.J.A.C.	Expiration Date
18:3	4/23/89
18:5	4/16/89
18:6	4/2/89

**OTHER AGENCIES—TITLE 19**

N.J.A.C.	Expiration Date
19:3	6/19/88
19:3B	Exempt (N.J.S.A. 13:17-1)
19:4	11/7/88
19:4A	5/2/88
19:8	6/1/88
19:9	7/13/88
19:12	8/7/91
19:16	8/7/91
19:17	7/15/88
19:25	1/9/91
19:30	10/7/90
19:40	9/26/89
19:41	5/17/88
19:42	5/17/88
19:43	4/27/89
19:44	10/13/88
19:45	4/7/88
19:46	5/4/88
19:47	5/4/88
19:48	10/13/88
19:49	3/29/88
19:50	5/23/88
19:51	8/14/91
19:52	9/25/91
19:53	5/4/88
19:54	4/15/88
19:61	7/7/91
19:65	7/7/91
19:75	1/17/89

# REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

## A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

**At the bottom of the index listing for each Administrative Code Title is the Transmittal number and date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the September 8, 1986 issue.**

**If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers.** A proposal may be adopted up to one year after its initial publication in the Register. Failure to adopt a proposed rule on a timely basis requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(d).

### Terms and abbreviations used in this Index:

**N.J.A.C. Citation.** The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

**Proposal Notice (N.J.R. Citation).** The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

**Document Number.** The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1986 d.100 means the one hundredth rule adopted in 1986.

**Adoption Notice (N.J.R. Citation).** The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

**Transmittal.** A number and date certifying the currency of rules found in each Title of the New Jersey Administrative Code: Rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

**N.J.R. Citation Locator.** An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find the issue of publication of a rule proposal or adoption.

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**MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: AUGUST 18, 1986.**

**NEXT UPDATE WILL BE DATED SEPTEMBER 22, 1986.**

**Note:** If no changes have occurred in a Title during the previous month, no update will be issued for that Title.

# N.J.R. CITATION LOCATOR

If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register	If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register
17 N.J.R. 2585 and 2710	November 4, 1985	18 N.J.R. 1019 and 1122	May 19, 1986
17 N.J.R. 2711 and 2814	November 18, 1985	18 N.J.R. 1123 and 1222	June 2, 1986
17 N.J.R. 2815 and 2934	December 2, 1985	18 N.J.R. 1223 and 1326	June 16, 1986
17 N.J.R. 2935 and 3032	December 16, 1985	18 N.J.R. 1327 and 1432	July 7, 1986
18 N.J.R. 1 and 128	January 6, 1986	18 N.J.R. 1433 and 1504	July 21, 1986
18 N.J.R. 129 and 234	January 21, 1986	18 N.J.R. 1505 and 1640	August 4, 1986
18 N.J.R. 235 and 376	February 3, 1986	18 N.J.R. 1641 and 1726	August 18, 1986
18 N.J.R. 377 and 446	February 18, 1986	18 N.J.R. 1727 and 1862	September 8, 1986
18 N.J.R. 447 and 506	March 3, 1986	18 N.J.R. 1863 and 1978	September 22, 1986
18 N.J.R. 507 and 582	March 17, 1986	18 N.J.R. 1979 and 2078	October 6, 1986
18 N.J.R. 583 and 726	April 7, 1986	18 N.J.R. 2069 and 2148	October 20, 1986
18 N.J.R. 727 and 868	April 21, 1986	18 N.J.R. 2149 and 2234	November 3, 1986
18 N.J.R. 869 and 1018	May 5, 1986		

N.J.A.C. CITATION	ADMINISTRATIVE LAW—TITLE 1	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
1:1, 1:2-1:21	Administrative hearings	18 N.J.R. 1728(a)		
1:1-15.10	Prior transcribed testimony	18 N.J.R. 1865(a)		
1:5	Council on Affordable Housing hearings	18 N.J.R. 1506(a)	R.1986 d.421	18 N.J.R. 2122(a)
1:10B	Medicaid and Medically Needy hearings	18 N.J.R. 1507(a)	R.1986 d.405	18 N.J.R. 2008(a)

(TRANSMITTAL 23, dated August 18, 1986)

AGRICULTURE—TITLE 2	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)	
2:7-1.2, 1.3, 1.4	Pullorum and fowl typhoid control	18 N.J.R. 1508(a)	R.1986 d.430	18 N.J.R. 2123(a)
2:76-5.3	Cost-share assistance for soil and water conservation projects	18 N.J.R. 1981(a)		
2:76-6.2, 6.15	Sale of development easements: deed restrictions	18 N.J.R. 1328(a)	R.1986 d.386	18 N.J.R. 1930(a)
2:76-6.15	Acquisition of development easements: deed restrictions	18 N.J.R. 513(a)		
2:90-1.3	Soil erosion and sedimentation control	18 N.J.R. 2081(a)		

(TRANSMITTAL 42, dated July 21, 1986)

BANKING—TITLE 3	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)	
3:11-11.13	Leeway investments: confidentiality of approval process	18 N.J.R. 1224(a)		
3:13-1	Registration of bank holding companies	18 N.J.R. 1434(a)		
3:13-2, 3	Bank holding company: reporting requirements and examination charges	18 N.J.R. 1763(a)		
3:13-4	Bank holding companies: interstate acquisitions	18 N.J.R. 1982(a)		
3:38-5.2	Return of borrower's commitment fee	17 N.J.R. 2488(b)	Expired	
3:41	Cemeteries: disinterment and reinterment of human remains	18 N.J.R. 1642(a)		

(TRANSMITTAL 34, dated July 21, 1986)

CIVIL SERVICE—TITLE 4	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)	
4:1-2.1, 5.2, 11.2, 16, 24	Separations, demotions, layoffs; review and appeals	18 N.J.R. 450(a)		
4:1-8.4	Promotional examinations	18 N.J.R. 591(a)		
4:1-12.18	Disposition of certification by appointing authority	18 N.J.R. 1642(b)		
4:1-15	Assignments and transfers	18 N.J.R. 592(a)		
4:1-18	Workweek programs	18 N.J.R. 1764(a)		
4:2-15.1	Assignments and transfers	18 N.J.R. 592(a)		
4:2-16	Separations and demotions	18 N.J.R. 450(a)		
4:2-18	Workweek programs	18 N.J.R. 1764(a)		
4:3-16	Separations and demotions	18 N.J.R. 450(a)		
4:4	State employees' awards program	18 N.J.R. 1766(a)		

(TRANSMITTAL 31, dated June 16, 1986)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
<b>COMMUNITY AFFAIRS—TITLE 5</b>				
5:11-2.1	Uniform Fire Code enforcement and relocation assistance	17 N.J.R. 2938(a)		
5:18-2.5, 2.7, 2.11, 2.14, 3.2, 4.1, 4.7, 4.9-4.13, 4.17, 4.18	Uniform Fire Code: Fire Safety Code	18 N.J.R. 1225(a)		
5:18A-2.3, 4.3, 4.4	Fire Code Enforcement	18 N.J.R. 1225(a)		
5:23-3.2	Subcode exceptions	18 N.J.R. 757(a)	R.1986 d.448	18 N.J.R. 2194(a)
5:23-3.4, 3.14, 3.17, 3.20	Building, Fire Protection, and Mechanical Subcodes	18 N.J.R. 1235(a)	R.1986 d.380	18 N.J.R. 1931(a)
5:23-3.4, 3.20	Uniform Construction Code: correction	_____	_____	18 N.J.R. 2063(b)
5:23-3.4, 3.20	Uniform Construction Code: mechanical subcode	18 N.J.R. 2083(a)		
5:23-3.11	Uniform Construction Code: correction to Administrative Code	_____	_____	18 N.J.R. 1621(a)
5:23-3.11	Uniform Construction Code: enforcement activities reserved to State	_____	_____	18 N.J.R. 1842(a)
5:23-5.7	Uniform Construction Code: correction to subcode official requirements	_____	_____	18 N.J.R. 1963(a)
5:23-5.18	Uniform Construction Code: correction to inplant inspector requirements	_____	_____	18 N.J.R. 1963(b)
5:23-7	Barrier Free Subcode: access for physically handicapped and aged	18 N.J.R. 757(a)	R.1986 d.448	18 N.J.R. 2194(a)
5:25	New Home Warranty and Builders' Registration rules: waiver of sunset provision	18 N.J.R. 218(a)		
5:25	New Home Warranty and Builders' Registration rules: waiver of sunset provision	18 N.J.R. 490(a)		
5:91-1.2, 1.3, 2.1, 3.1, 5.1, 7.1, 13.3, 13.4	Council on Affordable Housing: procedural rules	18 N.J.R. 1643(a)		
5:92-1.3, 10.4, 14, 15	Council on Affordable Housing: inclusionary development and affirmative marketing	18 N.J.R. 2083(b)		

(TRANSMITTAL 44, dated August 18, 1986)

**DEFENSE—TITLE 5A**

(TRANSMITTAL 1, dated May 20, 1985)

**EDUCATION—TITLE 6**

6:8	Thorough and Efficient System of Free Public Schools	18 N.J.R. 1984(a)		
6:11-12.11	Speech-language specialist endorsement	18 N.J.R. 1994(a)		
6:11-12.24	Teacher-coordinator certification in Work Experience Career Exploration Program	18 N.J.R. 1995(a)		
6:20-4.4	Tuition for private schools for handicapped	18 N.J.R. 1237(a)	R.1986 d.360	18 N.J.R. 1797(a)
6:28-3.4, 3.5	Special education	18 N.J.R. 1771(a)		
6:29-4.4	Children with HIV infection and school attendance	18 N.J.R. 1509(a)	R.1986 d.445	18 N.J.R. 2206(a)
6:29-8.1, 8.2	Audiometric screening	18 N.J.R. 1996(a)		
6:29-9	Policies and procedures concerning pupil use of drugs and alcohol	18 N.J.R. 1237(b)	R.1986 d.396	18 N.J.R. 2009(a)
6:46	Area Vocational Technical and Private Schools: waiver of Executive Order No. 66 (1978) sunset provision	18 N.J.R. 1996(b)		
6:46-1	Area vocational technical schools	18 N.J.R. 1511(a)		

(TRANSMITTAL 43, dated August 18, 1986)

**ENVIRONMENTAL PROTECTION—TITLE 7**

7:1-6	Disposal of solid waste	18 N.J.R. 883(a)		
7:2-11.22	Bear Swamp East natural area: public hearing	18 N.J.R. 532(a)		
7:6-1.42	Boating rules: diving and swimming	Emergency	R.1986 d.345	18 N.J.R. 1712(a)
7:7-2.1	CAFRA facilities	18 N.J.R. 1772(a)		
7:9-4.14	Water quality criteria for Mainstem Delaware River Zones	18 N.J.R. 1435(a)		
7:11-3	Use of water from Delaware and Raritan Canal and Spruce Run/Round Valley Reservoir Complex	18 N.J.R. 1330(a)		
7:13-7.1	Floodway delineations along East Branch of Stony Brook, South Branch of Rockaway Creek, and Whale Pond Brook	18 N.J.R. 1239(a)		
7:13-7.1	Floodway delineations in Montgomery Township and Rocky Hill	18 N.J.R. 1334(a)		
7:13-7.1(d)	Flood hazard delineations for Raritan River and Peters Brook	18 N.J.R. 600(a)		
7:13-7.1(d)	Redelineation of Holland Brook in Somerset County	18 N.J.R. 1866(a)		
7:13-7.1(d)	Redelineation of North Branch Raritan River in Somerset County	18 N.J.R. 1866(b)		
7:14A-1, 2, 3, 5, 10, 12	New Jersey Pollutant Discharge Elimination System	18 N.J.R. 2085(a)		
7:14A-4.4, 4.7	Dioxin-containing waste	18 N.J.R. 879(a)	R.1986 d.387	18 N.J.R. 1933(a)
7:14A-6.16	Disposal of solid waste	18 N.J.R. 883(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:18	Laboratory certification and standards of performance	18 N.J.R. 1239(b)	R.1986 d.351	18 N.J.R. 1797(b)
7:22-1, 2, 8	Wastewater treatment facilities: State matching grants	18 N.J.R. 1869(a)		
7:22-3	Wastewater Treatment Fund procedures	18 N.J.R. 1875(a)		
7:22-4	Wastewater Treatment Trust procedures	18 N.J.R. 1883(a)		
7:22-5	Determination of allowable costs: Wastewater Treatment Fund and Trust	18 N.J.R. 1891(a)		
7:22-6	Pinelands Infrastructure Trust Fund procedures	18 N.J.R. 1896(a)		
7:22-7	Determination of allowable costs: Pinelands	18 N.J.R. 1904(a)		
7:25-2.20	Higbee Beach Wildlife Management Area	18 N.J.R. 1511(b)	R.1986 d.437	18 N.J.R. 2123(b)
7:25-6	1987-88 Fish Code	18 N.J.R. 1644(a)		
7:26-1.4, 2, 2A, 2B, 5, 12.11, 12.12	Disposal of solid waste	18 N.J.R. 883(a)		
7:26-1.4, 7.5, 7.7, 8.13	Waste oil	18 N.J.R. 878(a)		
7:26-2.6, 2.7	Disposal of asbestos waste	17 N.J.R. 2719(a)	R.1986 d.388	18 N.J.R. 1932(a)
7:26-2.9	Closure and post-closure of sanitary landfills	18 N.J.R. 252(a)		
7:26-2.9	Closure and post-closure of sanitary landfills	18 N.J.R. 924(a)		
7:26-6.5	Interdistrict and intradistrict solid waste flow	18 N.J.R. 1773(a)		
7:26-8.1, 8.2, 8.19, 9.3, 9.7, 12.2	Hazardous waste management	17 N.J.R. 2941(a)		
7:26-8.1, 8.2, 8.19, 9.3, 9.7, 12.2	Hazardous waste management: extension of comment period	18 N.J.R. 254(a)		
7:26-8.3, 8.4, 8.13, 8.15, 10.5-10.8, 11.1, 11.5, 11.6, 12.2	Dioxin-containing waste	18 N.J.R. 879(a)	R.1986 d.387	18 N.J.R. 1933(a)
7:26-8.14, 8.15, 8.16	Hazardous waste criteria, identification and listing	18 N.J.R. 1037(a)		
7:26-8.16	Waste code numbers for hazardous constituents	18 N.J.R. 792(a)	R.1986 d.371	18 N.J.R. 1798(a)
7:26-8.17	Hazardous waste delisting procedure	18 N.J.R. 1335(a)		
7:26-17	Scales at solid waste facilities	18 N.J.R. 1154(a)		
7:27-16	Air pollution by volatile organic substances	17 N.J.R. 1969(a)	R.1986 d.379	18 N.J.R. 1936(a)
7:27-16.1, 16.3	Air pollution control: Stage II vapor recovery	18 N.J.R. 1867(a)		
7:27B-3	Determination of volatile organic substances from source operations	17 N.J.R. 2194(a)	R.1986 d.377	18 N.J.R. 1800(a)
7:28-14	Therapeutic radiation installations	18 N.J.R. 1157(a)		
7:28-42.1	Workplace exposure to radio frequency radiation	18 N.J.R. 1166(a)		

## (TRANSMITTAL 45, dated August 18, 1986)

**HEALTH—TITLE 8**

8:21-5	Foods, drugs, cosmetics, devices: order to remove from sale and recall	18 N.J.R. 1361(b)		
8:21-5	Order to remove from sale and recall of foods, drugs, cosmetics, and devices: extension of proposal comment period	18 N.J.R. 1715(b)		
8:31-25.1	Mobile intensive care: administration of medications	18 N.J.R. 602(a)		
8:31-30.1	Health facilities construction: plan review fees	18 N.J.R. 795(a)		
8:31B-2.2, 3.51, 3.57, 3.73, 4.40	Hospital reimbursement: Same Day Surgery services	18 N.J.R. 1908(a)		
8:31B-3.27, 4.42	Hospital reimbursement: capital facilities allowance	18 N.J.R. 1912(a)		
8:31B-3.38, 3.58, App. II, 4.66	Hospital reimbursement: malpractice costs	18 N.J.R. 1911(a)		
8:31B-3.72	Hospital reimbursement: periodic adjustments	18 N.J.R. 1917(a)		
8:31B-3.76-3.82	Hospital reimbursement: URO performance evaluation; post-billing denial of payments	18 N.J.R. 150(b)		
8:31C-1	Residential alcoholism treatment facilities: cost accounting and rate evaluation	18 N.J.R. 1918(a)		
8:33F-1.2	Continuous ambulatory peritoneal dialysis	18 N.J.R. 1241(a)	R.1986 d.372	18 N.J.R. 1816(a)
8:33H-2.1, 3.2, 3.3, 3.5, 3.8, 3.10	Long-Term Care Policy Manual	18 N.J.R. 2095(a)		
8:33I	Megavoltage radiation oncology services	18 N.J.R. 1436(a)	R.1986 d.417	18 N.J.R. 2010(a)
8:39-3.11	Availability of information at long-term care facilities	18 N.J.R. 1241(b)	R.1986 d.384	18 N.J.R. 1955(a)
8:41-8	Mobile intensive care: administration of medications	18 N.J.R. 602(a)		
8:43E-1	Hospital Policy Manual	18 N.J.R. 825(a)		
8:43G	Hospital capital policy	18 N.J.R. 1242(a)	R.1986 d.375	18 N.J.R. 1817(a)
8:51-1—6	Standards for local boards of health	18 N.J.R. 1690(a)		
8:52	Standards for local boards of health	18 N.J.R. 1690(a)		
8:57-1.14	Reporting of AIDS and AIDS Related Complex	18 N.J.R. 1245(a)	R.1986 d.408	18 N.J.R. 2011(a)
8:59-1.3, 1.5, 2.1, 3.13, 5.1, 5.5, 6.2, 7.1, 7.2, 8.1, 8.2, 8.5-8.12, 10.3	Worker and Community Right to Know Act	18 N.J.R. 1363(a)	R.1986 d.373	18 N.J.R. 1821(a)
8:60-1.1, 4.2-4.8, 5.2, 5.4-5.7, 6.1, 6.3, 6.11	Asbestos licenses and permits	18 N.J.R. 156(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
8:61-1.1	Children and adults with HIV infection and school attendance	18 N.J.R. 1512(a)	R.1986 d.407	18 N.J.R. 2014(a)
8:65-10.1, 10.2	Reschedule Dronabinol from Schedule I to II	18 N.J.R. 1774(a)		
8:65-10.4	Controlled substances: Quazepam and Midazolam	18 N.J.R. 1166(b)	R.1986 d.374	18 N.J.R. 1827(a)
8:71	Generic drug list additions (see 18 N.J.R. 417(a), 984(b), 1102(b), 1382(a), 1463(a), 1957(b))	17 N.J.R. 2842(a)	R.1986 d.442	18 N.J.R. 2208(a)
8:71	Generic drug list additions: public hearing (see 18 N.J.R. 1381(a), 1463(b), 1957(a))	18 N.J.R. 537(a)	R.1986 d.406	18 N.J.R. 2015(a)
8:71	Generic drug list additions (see 18 N.J.R. 1955(b))	18 N.J.R. 1167(a)	R.1986 d.443	18 N.J.R. 2208(b)
8:71	Generic drug additions	18 N.J.R. 1775(a)		
8:71	Interchangeable drug products	18 N.J.R. 2100(a)		
8:71	Interchangeable drug products	18 N.J.R. 2101(a)		

## (TRANSMITTAL 42, dated August 18, 1986)

**HIGHER EDUCATION—TITLE 9**

9:2-5	Management of computerized information	18 N.J.R. 799(a)		
9:4	Policies and procedures for community colleges	18 N.J.R. 1439(a)		
9:7-3.1	Tuition Aid Grant Program: 1986-87 Award Table	18 N.J.R. 1713(a)	R.1986 d.435	18 N.J.R. 2124(a)
9:11-1.2	Student residency	18 N.J.R. 1777(a)		
9:12-1.5, 2.3	Educational Opportunity Fund Program	18 N.J.R. 801(b)		

## (TRANSMITTAL 33, dated August 18, 1986)

**HUMAN SERVICES—TITLE 10**

10:2	County Human Services Advisory Councils	18 N.J.R. 1777(b)		
10:12-3	Referral of handicapped students for adult educational services	18 N.J.R. 1997(a)		
10:36-1	Patient supervision at State psychiatric hospitals: public hearing	18 N.J.R. 20(a)		
10:36-2	Clinical review procedures for special status psychiatric patients	17 N.J.R. 2951(a)	R.1986 d.449	18 N.J.R. 2209(a)
10:51-1, App. B, C	Pharmaceutical services manual	18 N.J.R. 1780(a)		
10:51-1.14, 5.16	Pharmaceutical services: ineligible prescription drugs	17 N.J.R. 2730(a)		
10:51-2.2, 2.3, 2.6	Pharmaceutical Services Manual: pharmacy claims	18 N.J.R. 1674(a)		
10:52-1.5, 1.17	Out-of-state inpatient hospital services	18 N.J.R. 538(a)		
10:56	Dental Services manual	18 N.J.R. 1337(a)	R.1986 d.385	18 N.J.R. 1958(a)
10:61-1, 2	Independent laboratory services	18 N.J.R. 540(a)		
10:62-1, 2, 3	Vision Care Manual	18 N.J.R. 1246(a)		
10:63-3.2, 3.4, 3.5, 3.6, 3.8, 3.10-3.15, 3.18, 3.19	Long-term care facilities: CARE Guidelines	18 N.J.R. 257(a)		
10:66-2, 3	Independent clinic services	18 N.J.R. 541(a)		
10:66-3	Independent clinic transportation services: HCPCS codes	18 N.J.R. 1053(a)	R.1986 d.369	18 N.J.R. 1827(b)
10:66-3	Independent clinic transportation services: HCPCS codes	18 N.J.R. 1252(a)		
10:68-2	Chiropractor billing procedures	18 N.J.R. 810(a)		
10:81-3.17, 3.18, 5.9, 5.10	PAM: AFDC eligibility, WIN status, LLR reevaluation	18 N.J.R. 1513(a)	R.1986 d.440	18 N.J.R. 2211(a)
10:81-3.34	PAM: temporary absence of child from home	18 N.J.R. 1675(a)		
10:81-3.38	PAM: transfer of resources	18 N.J.R. 1168(a)	R.1986 d.397	18 N.J.R. 2015(b)
10:81-7.21—7.29	PAM: funeral and burial payments	18 N.J.R. 1168(b)	R.1986 d.428	18 N.J.R. 2125(a)
10:82-1.8, 1.9, 2.14, 2.20, 3.1, 3.2, 4.4, 4.6, 4.15, 4.17, 5.3, 5.10	ASH: conformity with Federal regulations	18 N.J.R. 260(a)		
10:82-2.3, 2.4, 4.3	ASH: AFDC eligibility requirements	18 N.J.R. 928(a)		
10:85-3.3	GAM: Medically Needy eligibility	18 N.J.R. 1781(a)		
10:85-4.6	GAM: emergency assistance	18 N.J.R. 1343(a)	R.1986 d.389	18 N.J.R. 1962(a)
10:85-4.8	GAM: funeral and burial payments	18 N.J.R. 1170(a)	R.1986 d.427	18 N.J.R. 2125(a)
10:85-8.4	GAM: information concerning PAAD	18 N.J.R. 1343(b)		
10:87-5.4, 5.5, 12.3, 12.4, 12.7	Food Stamp Program: maximum income limits	18 N.J.R. 1490(a)	R.1986 d.395	18 N.J.R. 2015(c)
10:87-12.1, 12.2	Food Stamp Program: income deductions and maximum coupon allotments	Emergency	R.1986 d.436	18 N.J.R. 2137(a)
10:89-2.2, 2.3, 3.4	Home Energy Assistance	18 N.J.R. 1676(a)		
10:94-4.2, 4.3	Medicaid eligibility and nonliquid resources	18 N.J.R. 542(a)		
10:100-3.6, 3.7	Special Payments Handbook: funeral and burial payments	18 N.J.R. 1171(a)	R.1986 d.426	18 N.J.R. 2125(a)
10:121-2	Adoption subsidy	18 N.J.R. 24(a)		
10:121A-2.2	Certification period for adoption agencies	18 N.J.R. 1923(a)		
10:132	Youth and Family Services: court actions and proceedings	18 N.J.R. 1924(a)		

## (TRANSMITTAL 43, dated August 18, 1986)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
<b>CORRECTIONS—TITLE 10A</b>				
10A:3	Security and control	18 N.J.R. 1057(b)	R.1986 d.410	18 N.J.R. 2016(a)
10A:4-4.1	Inmate prohibited acts: correction to Administrative Code			18 N.J.R. 2138(d)
10A:5	Close custody units	18 N.J.R. 1067(a)	R.1986 d.409	18 N.J.R. 2027
10A:9	Classification of inmates	18 N.J.R. 1649(a)		
10A:16	Medical and health services	18 N.J.R. 1662(a)		
10A:17-9	Referral of handicapped children for adult educational services	18 N.J.R. 2102(a)		
10A:31-3.12, 3.15	Medical screening of new inmates in county facilities: public hearing	17 N.J.R. 2955(b)		

## (TRANSMITTAL 13, dated August 18, 1986)

<b>INSURANCE—TITLE 11</b>				
11:1-16	Filing of rate decreases	18 N.J.R. 1998(a)		
11:1-20, 22	Cancellation and nonrenewal of property and casualty/liability policies	17 N.J.R. 2956(a)		
11:1-20.1, 20.2, 20.3, 22.1	Cancellation and nonrenewal of commercial policies	18 N.J.R. 1445(a)		
11:1-24	Credit cards and payment of insurance premiums	18 N.J.R. 1999(a)		
11:2-19.2	Continuing education	18 N.J.R. 44(a)		
11:2-20	License renewal: continuing education requirement	17 N.J.R. 2962(a)		
11:3-8	Nonrenewal of automobile policies	18 N.J.R. 1079(a)	R.1986 d.418	18 N.J.R. 2039(a)
11:3-16	Pre-proposal: Private passenger automobile rate filings	18 N.J.R. 1083(a)		
11:3-17	Rating organizations: private passenger automobile filings	18 N.J.R. 1171(b)	R.1986 d.419	18 N.J.R. 2045(a)
11:3-22	Automobile coverage option survey	18 N.J.R. 1344(b)		
11:4-16.6	Daily hospital room and board coverage	18 N.J.R. 608(a)		
11:4-16.8	Medicare information brochure	18 N.J.R. 2103(a)		
11:4-20	Coverage of the handicapped	18 N.J.R. 44(b)		
11:4-21	Limited death benefit policies	18 N.J.R. 1085(a)		
11:4-23.8	Medicare information brochure	18 N.J.R. 2107(a)		
11:5-1.3	Real estate licensing qualifications	18 N.J.R. 1782(a)		
11:5-1.15	Advertising by real estate licensees	18 N.J.R. 1679(a)		
11:5-1.16	Obligations of real estate licensees	18 N.J.R. 1677(a)		
11:5-1.16, 1.23	Public hearing: Obligations of real estate licensees	18 N.J.R. 2113(a)		
11:5-1.23	Obligations of real estate licensees	18 N.J.R. 1680(a)		
11:5-1.23	Obligations of real estate licensees	18 N.J.R. 2112(a)		
11:5-1.25	Sales of interstate properties	18 N.J.R. 1678(a)		
11:5-1.28	Certification as approved real estate education instructor	18 N.J.R. 1681(a)		
11:5-1.30	Sponsoring of real estate license applications	18 N.J.R. 2000(a)		
11:12	Legal services insurance	18 N.J.R. 1182(b)		
11:12	Pre-proposal: Legal services insurance	18 N.J.R. 1183(a)		
11:17-1	Surplus lines insurance guaranty fund surcharge	18 N.J.R. 1173(a)		

## (TRANSMITTAL 40, dated July 21, 1986)

<b>LABOR—TITLE 12</b>				
12:15-1.3	Unemployment compensation and temporary disability: 1987 maximum weekly benefits	18 N.J.R. 1787(a)		
12:15-1.4	Unemployment compensation: 1987 taxable wage base	18 N.J.R. 1787(b)		
12:15-1.5	Unemployment compensation: 1987 contribution rate for governmental entities	18 N.J.R. 1788(c)		
12:15-1.6	Base week earnings for claim eligibility	18 N.J.R. 1787(c)		
12:15-1.7	Alternate earnings test	18 N.J.R. 1788(a)		
12:16-19.1	Charging of unemployment benefits to employer's account	18 N.J.R. 1682(a)		
12:16-20.1	Work relief and work training programs: exempt employment	18 N.J.R. 1683(a)		
12:17-2.2, 2.4	Unemployment compensation claims and verification of Social Security numbers	18 N.J.R. 1683(b)		
12:17-3.1, 4.1, 4.2	"Week of partial unemployment" defined	18 N.J.R. 1684(a)		
12:17-7.1, 7.2	Unemployment compensation and temporary disability: disclosure of information	18 N.J.R. 1447(a)	R.1986 d.420	18 N.J.R. 2127(a)
12:235-1.6	Workers' compensation: 1987 maximum weekly benefit	18 N.J.R. 1788(b)		

## (TRANSMITTAL 32, dated August 18, 1986)

<b>COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A</b>				
12A	Departmental rules; small business set-aside contracts	16 N.J.R. 1955(a)	R.1984 d.421	16 N.J.R. 2683(a)
12A:100-1	Commission on Science and Technology: Innovation Partnership Grant Program	18 N.J.R. 1175(a)	R.1986 d.350	18 N.J.R. 1828(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
<b>LAW AND PUBLIC SAFETY—TITLE 13</b>				
13:27	Rules of Board of Architects	17 N.J.R. 2851(b)		
13:30-2.16	Continuing education in dental hygiene and dental assisting	18 N.J.R. 2113(b)		
13:30-8.6, 8.15	Practice of dentistry and referral fees	18 N.J.R. 1515(a)		
13:30-8.16	Dental X-rays and use of lead shield	18 N.J.R. 2113(c)		
13:31-1	Board of Examiners of Electrical Contractors	18 N.J.R. 2113(d)		
13:35-6.10	Ambulatory care facilities: advertising and solicitation practices	18 N.J.R. 1788(d)		
13:37-6.2	Delegation of selected nursing tasks	18 N.J.R. 1448(a)	R.1986 d.431	18 N.J.R. 2128(a)
13:37-6.3	Nursing procedures: administration of renal dialysis treatment	18 N.J.R. 398(b)		
13:39A-1.4	Licensure of physical therapists: fees and charges	18 N.J.R. 1177(a)		
13:39A-2.2	Authorized practice by physical therapist	18 N.J.R. 1177(b)		
13:39A-2.2, 3.3	Electromyographic testing by licensed physical therapist: public hearing	18 N.J.R. 1684(b)		
13:39A-3.3	Physical therapy: unlawful practices	18 N.J.R. 1178(a)		
13:39A-5.2—5.4, 5.6—5.9	Physical therapy educational credentials and examination standards	18 N.J.R. 1179(a)		
13:39A-6	Temporary licensure of physical therapists	18 N.J.R. 1179(b)		
13:42-6	Reimbursement for psychological services: disclosure of patient information	18 N.J.R. 817(a)	R.1986 d.438	18 N.J.R. 2129(a)
13:44-2.5	Veterinary practice and referral fees	18 N.J.R. 1515(b)	R.1986 d.414	18 N.J.R. 2048(a)
13:45A-2	Motor vehicle advertising practices	17 N.J.R. 2861(a)		
13:45A-6.2	Unlawful automobile sales practices	18 N.J.R. 2115(a)		
13:45A-24	Sale of grey market merchandise	17 N.J.R. 2866(a)		
13:46-1A.1, 1A.2, 5.19, 12.4	Boxing: weight classes, age limitations, health safeguards	18 N.J.R. 1789(a)		
13:46-3.1	Bandage specifications for boxer's hands	18 N.J.R. 1924(b)		
13:46-4.7, 4.25	Licensure of boxers	18 N.J.R. 1924(c)		
13:46-8.19	Point system scoring in boxing contests	18 N.J.R. 1515(c)	R.1986 d.444	18 N.J.R. 2211(b)
13:46-8.25, 11.10	Compensation for boxing referees, judges and timekeepers	18 N.J.R. 1925(a)		
13:46-21.2	Compensation of wrestling referees	18 N.J.R. 1790(a)		
13:47-6.19	Prohibited prizes in games of chance	18 N.J.R. 1180(a)		
13:47-14.3	Rental of premises for bingo	18 N.J.R. 1180(b)		
13:47B-1.22	Approaches for vehicle scales	18 N.J.R. 2116(a)		
13:54	Regulation of firearms businesses	18 N.J.R. 51(a)	R.1986 d.413	18 N.J.R. 2048(b)
13:70-1.17	Thoroughbred racing: policing requirements	18 N.J.R. 819(a)	R.1986 d.354	18 N.J.R. 1829(a)
13:70-3.42	Thoroughbred racing: workmen's compensation insurance	18 N.J.R. 2116(b)		
13:70-3.47	Thoroughbred racing: Coggins test	18 N.J.R. 401(a)		
13:70-3.47	Thoroughbred racing: Coggins test for track entrance	18 N.J.R. 1448(b)	R.1986 d.416	18 N.J.R. 2054(a)
13:70-29.56	Thoroughbred racing: Super Six	18 N.J.R. 1619(a)	R.1986 d.411	18 N.J.R. 2054(b)
13:71-5.1	Harness racing: policing requirements	18 N.J.R. 820(a)	R.1986 d.358	18 N.J.R. 1830(a)
13:71-6.1	Harness racing: workmen's compensation insurance	18 N.J.R. 2117(a)		
13:71-6.24	Harness racing: Coggins test	18 N.J.R. 402(b)		
13:71-6.24	Harness racing: Coggins test for track entrance	18 N.J.R. 1448(c)	R.1986 d.415	18 N.J.R. 2055(a)
13:71-21.8	Harness racing: purse deductions	18 N.J.R. 1516(a)		
13:71-27.53	Harness racing: Super Six	18 N.J.R. 1619(a)	R.1986 d.412	18 N.J.R. 2055(b)

(TRANSMITTAL 45, dated August 18, 1986)

**PUBLIC UTILITIES—TITLE 14**

14:10-5	Inter LATA telecommunications carriers	17 N.J.R. 2012(a)	R.1986 d.368	18 N.J.R. 1830(b)
14:18-1.2, 3.9	Cable TV: service outages	18 N.J.R. 619(a)	R.1986 d.376	18 N.J.R. 1831(a)
14:18-1.2, 11.21, 3	CATV: franchise renewals	18 N.J.R. 1181(a)		

(TRANSMITTAL 28, dated July 21, 1986)

**ENERGY—TITLE 14A**

14A:3-4.4	Energy Subcode: thermal efficiency standards	18 N.J.R. 1926(a)		
14A:6-2	Business Energy Improvement Subsidy Program	18 N.J.R. 1347(a)	R.1986 d.367	18 N.J.R. 1833(a)
14A:21-1.2, 2.2, 2.3, 3.4—3.7, 5.2, 6.1, 6.2, 7.1, 7.2, 7.5—7.7, 8.1—8.3, 9.4, 10.1, 11.2, 11.3	Home Energy Savings Program	18 N.J.R. 2001(a)		

(TRANSMITTAL 20, dated August 18, 1986)

**STATE—TITLE 15**

15:3-2.15	Microfilm standards: correction to Administrative Code			18 N.J.R. 1623(b)
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(TRANSMITTAL 17, dated July 21, 1986)

N.J.A.C. CITATION  
PUBLIC ADVOCATE—TITLE 15A

PROPOSAL NOTICE  
(N.J.R. CITATION)

DOCUMENT  
NUMBER

ADOPTION NOTICE  
(N.J.R.CITATION)

(TRANSMITTAL 1, dated March 20, 1978)

TRANSPORTATION—TITLE 16

16:27	Bureau of Traffic Engineering	18 N.J.R. 1184(a)	R.1986 d.352	18 N.J.R. 1835(a)
16:28-1.10	Speed limits on U.S. 46 in Morris County	18 N.J.R. 2117(b)		
16:28-1.44	Speed limits on Route 27 in Middlesex County	18 N.J.R. 2117(c)		
16:28-1.92	Speed limits on Route 169	18 N.J.R. 1790(b)	R.1986 d.446	18 N.J.R. 2212(a)
16:28-1.98	Speed limits on Route 52 in Cape May and Atlantic Counties	18 N.J.R. 2118(a)		
16:28A-1.7, 1.36	No parking zones along U.S. 9 in Little Egg Harbor and Route 57 in Mansfield	18 N.J.R. 1517(a)	R.1986 d.400	18 N.J.R. 2056(a)
16:28A-1.23, 1.27, 1.51, 1.71, 1.106	No parking zones along Routes 33, 38, 168, 67 and Truck Route U.S. 1 and 9	18 N.J.R. 1350(a)	R.1986 d.361	18 N.J.R. 1836(a)
16:28A-1.33	Parking along Route 47 in Cape May County	18 N.J.R. 1491(a)	R.1986 d.391	18 N.J.R. 2056(b)
16:28A-1.47	Parking on Route 147 in Cape May County	18 N.J.R. 2118(b)		
16:28A-1.61	Bus stop zones on U.S. 9W in Englewood Cliffs	18 N.J.R. 1351(a)	R.1986 d.362	18 N.J.R. 1836(b)
16:29-1.26, 1.63	No passing zones on Route 72, Ocean County, and Route 45, Gloucester County	18 N.J.R. 2119(a)		
16:29-1.36	No passing zones on Route 147 in Cape May County	18 N.J.R. 2119(b)		
16:29-1.56, 1.58, 1.59	No passing zones along U.S. 9W, U.S. 202, and Route 77	18 N.J.R. 1449(a)	R.1986 d.394	18 N.J.R. 2056(c)
16:29-1.60	No passing zones along Route 54 in Atlantic County	18 N.J.R. 1449(b)	R.1986 d.392	18 N.J.R. 2057(a)
16:29-1.61-1.64	No passing zones along Routes 17, 24, 45 and 48	18 N.J.R. 1450(a)	R.1986 d.393	18 N.J.R. 2057(b)
16:29-1.65	No passing zones on Route 166 in Ocean County	18 N.J.R. 2119(c)		
16:30-1.8	One-way on Route 57 ramp in Warren County	18 N.J.R. 1517(b)	R.1986 d.402	18 N.J.R. 2057(c)
16:30-2.11	Stop-intersections along Route 57, Warren County	18 N.J.R. 1517(c)	R.1986 d.401	18 N.J.R. 2057(d)
16:30-3.4	Bus and HOV lane on U.S. 9 in Middlesex County	18 N.J.R. 1518(a)	R.1986 d.403	18 N.J.R. 2058(a)
16:31-1.4	No left turn on Route 35 in Sayreville	18 N.J.R. 1352(a)	R.1986 d.363	18 N.J.R. 1837(a)
16:31-1.14, 1.21	No left turns along Route 15 in Morris County and Route 57 in Warren County	18 N.J.R. 1518(b)	R.1986 d.404	18 N.J.R. 2058(b)
16:32-1.2, 1.3, 3	Designated routes for double trailers and wide trucks	18 N.J.R. 1184(b)		
16:41-8.9	Outdoor advertising permit fees for vegetation control	18 N.J.R. 625(b)	R.1986 d.378	18 N.J.R. 1837(b)
16:49-1.3	Transportation of hazardous materials	18 N.J.R. 933(a)		
16:49-1.3, 1.4, 1.5, 1.6, 2.1	Transportation of hazardous materials	18 N.J.R. 1791(a)	R.1986 d.447	18 N.J.R. 2212(b)
16:51	Pre-proposal: Practice before Office of Regulatory Affairs	17 N.J.R. 2867(a)		
16:53-3.5, 3.19, 6.28, 6.29	Autobus specifications	18 N.J.R. 1519(a)	R.1986 d.399	18 N.J.R. 2058(c)
16:74	NJ TRANSIT: claims of destructive competition	18 N.J.R. 1255(a)	R.1986 d.434	18 N.J.R. 2133(a)
16:79	NJ TRANSIT: background checks on prospective employees	18 N.J.R. 1685(a)	R.1986 d.433	18 N.J.R. 2134(a)

(TRANSMITTAL 43, dated August 18, 1986)

TREASURY-GENERAL—TITLE 17

17:1-1.17	Administrative expenses proration among retirement systems	18 N.J.R. 1686(a)	R.1986 d.425	18 N.J.R. 2135(a)
17:1-2.37	Alternate Benefit Program: transmittal of employee contributions	18 N.J.R. 1256(a)		
17:1-4.35	PERS: purchase of temporary service credit	18 N.J.R. 1450(b)	R.1986 d.390	18 N.J.R. 2059(a)
17:2-6.1	PERS: application for retirement	18 N.J.R. 1451(a)	R.1986 d.432	18 N.J.R. 2135(b)
17:3-5.5	Teachers' Pension and Annuity Fund: optional purchases of eligible service	18 N.J.R. 2120(a)		
17:3-6.1	Teachers' Pension and Annuity Fund: filing of retirement application	18 N.J.R. 1517(b)		
17:4-6.1	Police and Firemen's Retirement System: retirement applications	18 N.J.R. 1795(a)		
17:5-5.1	State Police Retirement System: filing of retirement application	18 N.J.R. 1520(a)	R.1986 d.439	18 N.J.R. 2216(a)
17:5-5.12	State Police disability retireant rule	17 N.J.R. 2746(b)		
17:6-3.1	Consolidated Police and Firemen's Pension Fund: administrative change	_____	_____	18 N.J.R. 1624(a)
17:7-1.4	Prison Officers' Pension Fund: election of commission members	18 N.J.R. 1352(b)		
17:7-3.1	Prison Officers' Pension Fund: retirement applications	18 N.J.R. 1796(a)		
17:9-6.1	State Health Benefits Program: "retired employee" status	18 N.J.R. 1451(b)	R.1986 d.423	18 N.J.R. 2135(c)
17:9-6.6	State Health Benefits Program: coverage for surviving dependent	18 N.J.R. 1452(a)	R.1986 d.424	18 N.J.R. 2135(d)
17:16-17.1, 17.3	State Investment Council: limitations on common and preferred stock and convertible issues	18 N.J.R. 1353(a)	R.1986 d.356	18 N.J.R. 1838(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
17:16-37.1	State Investment Council: repurchase agreements	18 N.J.R. 1353(b)	R.1986 d.357	18 N.J.R. 1838(b)
17:20-4.4, 5.1, 6.2, 6.4	Lottery Commission rules	18 N.J.R. 1927(a)		

(TRANSMITTAL 40, dated June 16, 1986)

**TREASURY-TAXATION—TITLE 18**

18:7-4.5, 4.6, 5.5	Corporation business tax: indebtedness, interest, and offsets	18 N.J.R. 2004(b)		
18:7-11.16	Corporation business tax: returns filed by S corporations	18 N.J.R. 1686(b)		
18:24-1.2	Sales and Use Tax: "periodicals"	18 N.J.R. 1928(a)		
18:26-8.7	Transfer inheritance tax waiver	18 N.J.R. 1520(b)	R.1986 d.441	18 N.J.R. 2216(b)

(TRANSMITTAL 37, dated July 21, 1986)

**TITLE 19—OTHER AGENCIES**

19:8-1.8	Bus use of Parkway service areas	18 N.J.R. 2120(b)		
19:8-2.12	Emergency service rates on Parkway	18 N.J.R. 2120(c)		
19:12	Mediation, fact-finding, arbitration	18 N.J.R. 1357(a)	R.1986 d.354	18 N.J.R. 1838(c)
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